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The Honorable Harry Whittal Venn, M.L.C.+ 
* Resigned, 26th August, 1897.
+ From 26th August, 1897.
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The Right Honorable CHARLES CAMERON KINGSTON, P.C., Q.C., M.P.,
Premier, South Australia.

Chairman of Committees:
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Members of the Convention.
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   K.C.M.G., M.P.
7. Brown, The Honorable Nicholas John, M.P.
10. Clarke, Matthew John, Esquire, M.P.
12. Crowder, The Honorable Frederick Thomas, M.P.+
17. Fraser, The Honorable Simon, M.P.
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28. Holder, The Honorable Frederick William, M.P.
30. Isaacs, The Honorable Isaac Alfred, M.P.
31. James, Walter Hartwell, Esquire, M.P.
32. Kingston, The Right Honorable Charles Cameron, P.C., Q.C., M.P.
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36. Lyne, William John, Esquire, M.P.
37. McMillan, William, Esquire, M.P.
38. Moore, The Honorable William, M.P.
40. Peacock, The Honorable Alexander James, M.P.
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41. Quick, John, Esquire, LL.D.
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43. Solomon, Vaiben Louis, Esquire, M.P.
44. Symon, Josiah Henry, Esquire, Q.C.
Taylor, The Honorable John Howard, M.P.*
45. Trenwith, William Arthur, Esquire, M.P.
47. Venn, The Honorable Harry Whittal, Esquire, M.P.+
49. Wise, Bernhard Ringrose, Esquire.
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E.G. BLACKMORE, Esquire, Clerk of the Legislative Council and Clerk of the Parliaments, South Australia.

* Resigned, 26th August, 1897. + From 26th August, 1897.
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Amendment by the Hon. E. Barton: to omit the figures 24, and to insert the words "and in relation thereto," agreed to, 1085. Sub-clause, as amended, agreed to, 1085.

Money Bills.

Clause 54 "Proposed laws having for their main object the appropriation of any part of the public revenue of moneys, or the imposition of any tax or impost, shall originate in the house of representatives," 467. Amendment by the Council and Assembly of New South Wales, to omit the words "having for their main object," 467; agreed to, 469. Amendment (the Right Hon. G. H. Reid) omitting the words "the appropriation of" and inserting the word "appropriating," 469; agreed to, 476. Amendment by the Assembly of Victoria omitting the words "the imposition of" and inserting the word "imposing," 476; agreed to, 476. Amendment by the Assembly of Tasmania: That a proposed law which provides for the imposition and appropriation of fines, or for the demand of payment and appropriation of fees or licenses, or for services, and does not otherwise impose any tax or appropriate any part of the public revenue, may originate in the house of representatives or the senate, 476; amendment amended verbally, 480; amendment by Mr. Glynn to insert after the word "services" the words "or as incidental to its policy of salaries," 480; negatived, 481; amendment by the Hon. E. Barton inserting after the word "revenue" the words "or moneys," and omitting the words "either in the house of representatives or," 481; agreed to, 481; amendment, as amended, agreed to, 481. Clause, as amended, agreed to, 481.

Clause 55 ( Appropriation and tax bills), sub-clause 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 or 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 change or burden on the people." Amendment by the Council of Western Australia, omitting "laws imposing taxation and," 481; negatived by 28 to 19, 537; amendment by the Assembly of New South Wales, omitting "the necessary supplies for the ordinary annual services of the government," and inserting "any part of the public revenues or moneys," 538; negatived, 538; amendment by the Council of South Australia, providing that the senate may not amend any proposed law in such a manner as to increase any proposed charge or burden on the people, 538; negatived, 538; sub-clause 1, as read, agreed to, 538. Sub-clauses 2 and 3 agreed to, 539. Amendment by the Council and Assembly of Tasmania, providing that the law which appropriates the supplies for the ordinary annual services of the Government shall deal only with the appropriation of such supplies, 539; agreed to, 540. Sub-clauses 4 and 5 agreed to, 540. Clause, as amended, agreed to, 540.

Clause 56 (Recommendation of money votes) agreed to, 541.

New clause by the Assembly of New South Wales: "57 (a.) 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 fails to pass without
amendment, within thirty days after receiving the same, in the second session, or within such period passes,

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with any amendment not agreed to by the house transmitting the proposed law, the provisions of the following sections of this part shall apply. (b.) The proposed law passed and transmitted in the second session may include an amendment agreed to by both houses in the first session. The house in which the proposed law originated may pass 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. 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. 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 the House to which it has been transmitted has passed the same. Such vote shall be taken in each state separately, and if the proposed law is affirmed by 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," 541-Amendment by the Right Hon. Sir. John Forrest to omit the first word "If," 708; negatived by 30 to 15, 709. Amendment by Mr. Symon, that after the first word, "If," in the proposed new clause the following words be inserted:- "the senate reject or fail to pass any proposed law which has passed the same with amendments with which the house-of representatives will not agree, and if the governor-general should dissolve the house of representatives and if, within six months after the said dissolution the house of representatives by an absolute majority again pass the said proposed law in the same, or substantially the same, form as before, and with substantially the same objects, 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-general may dissolve the senate and the house of representatives, and thereupon all the members of both houses of the parliament shall vacate their seats," 710; amendment, on the amendment, by Mr. Walker, to omit the words "and the house of representatives, and thereupon all the members of both houses of the parliament shall vacate their seats," 711; withdrawn, 711; amendment amended by Mr. Symon (by leave) omitting the words "and the house of representatives, and thereupon all the members of both houses of the parliament shall vacate their seats;" amendment, as amended, agreed to by 27 to 22, 738; amendment by Mr.
Lyne to add to the words last agreed to: "If after a dissolution of both houses of the federal parliament as above provided, the subject-matter of the contention that led to such dual dissolution is again passed by the house of representatives, and again rejected by the senate, such measure shall be referred to the electors of the commonwealth by means of a national referendum, and, if resolved in the affirmative, shall become law," 733; amendment on the amendment by the Right Hon. Sir George Turner to omit the first word "If" with the view of inserting the words "provided that in lieu of dissolving the house of representatives the proposed law should be referred to the direct determination of the people, as hereinafter provided," 743; further amendment by Mr. Wise, providing that in lieu of dissolving the house of representatives alone in the first instance, both houses of parliament may be dissolved simultaneously, and if after each dissolution the proposed law fails to pass with or without amendments the proposed law may be referred to the direct determination of the people by a referendum, 758; proposed new clause and all amendments suggested for the prevention of deadlocks postponed, 778; reconsidered, 807. Amendment by Mr. Wise proposed: That after the words "house of representatives," in the Right Hon. Sir George Turner's amendment, the following words be inserted:-"I alone in the first instance, both houses of parliament may be dissolved simultaneously: Provided that the senate shall not be dissolved within a period of six months immediately preceding the date of the expiry by effluxion of time of the duration of the house of representatives. And if after each dissolution the proposed law fails to pass with or without amendment," 923. Mr. Wise's amendment agreed to by 25 to 20, 924. Question then proposed as follows:-That the following words be inserted in lieu of the word "if":-"Provided that, in lieu of dissolving the house of representatives alone in the first instance, both houses of parliament may be dissolved simultaneously, provided that the senate shall not be dissolved within a period of six months immediately preceding the date of the expiry by effluxion of time of the duration of the house of representatives. And if after such dissolution the proposed law fails to pass with or without amendment the proposed law may be referred to the direct determination of the people as hereinafter provided," 924. Amendment by Mr. Lyne:

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That the words "by a national referendum to" be inserted after the word "referred," line 12, 926. Mr. Lyne's amendment negatived by 36 to 10, 928. Amendment by the Right Hon. Sir George Turner: that the words "by a dual referendum" be inserted after the word "referred," line 12, 928. The Right Hon. Sir George Turner's amendment negatived by 27 to 18, 930. Amendment by Hon. J. H. Carruthers: that the words "to the direct determination of the people as hereinafter provided" be omitted with the view to insert in lieu thereof the following words:- "The members of the two houses deliberating and voting together thereon, and shall be adopted or rejected according to the decision of a majority of three-fifths of the members present and voting on the question," 930. Amendment by the Hon. J. H. Howe: That the word "three-fifths" be omitted with the view to insert the word "two-thirds," 931; negatived by 28 to 13, 974.
Amendment by the Right Hon. C. C. Kingston: That the word "the," at the beginning of Hon. J. H. Carruthers' amendment, be omitted with a view to inserting the following words: "A referendum of the people of the commonwealth in the case of national questions and to a referendum of the people of the commonwealth and a referendum of the people of the states when state interests are involved," 967; negatived by 30 to 11, 967. Hon. J. H. Carruthers' amendment agreed to by 29jority of those present and voting to pass a resolution praying the governor-general to refer the proposed law to a general vote of the electors of the commonwealth, and, upon such resolution being presented to the governor-general, he may direct that such vote of the electors be forthwith taken," negatived by 27 to 13, 980. Amendment by the Hon. E. Barton: "That the remaining words of the proposed new clause 57A be struck out," agreed to, 980. New clause, as amended, agreed to 981.

Royal Assent.

Clause 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," 779. Amendment suggested by the Legislative Assembly of Victoria: Line 5. After "constitution" insert "and to her Majesty's instructions." Amendment negatived; clause agreed to, 779.

Clause 58 (Disallowance by Order in Council of law assented to by governor-general) agreed to, 779.

Clause 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," 779. Amendment suggested by the Assembly of South Australia: Line 2, omit "not." Amendment negatived, 782. Amendment suggested by the Council of South Australia negatived: Omit "two years," insert "one year," 782. Clause agreed to, 782.

Chapter II.-The Executive Government.

Clause 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," 782. Amendment by the Right Hon. G. H. Reid: That the word "exercised" be omitted with a view to the insertion of the word "exercisable," agreed to, and clause, as amended, agreed to, 782.

Clause 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," 782. Amendment
suggested by the Legislative Council of South Australia: After "council," line 1, insert "of six." Amendment negatived, and clause agreed to, 792.

Clause 62 (Application of Provisions referring to governor-general) agreed to, 792.

Clause 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

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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. 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," 792. Amendment suggested by the Assembly of South Australia: Omit "Governor may from time to time appoint," line 3, with a view to insert "parliament may elect." Amendment suggested by the Council of South Australia: Omit first and second paragraphs. Amendments negatived, 793. Amendment suggested by the Assembly of Tasmania: Omit the last paragraph; insert "every minister of state shall, during his tenure of office, have the right of entrance to and audience in both houses of the parliament, but shall not be entitled to vote in either house, unless he has been duly elected a member thereof," negatived by 21 to 14, 799; clause agreed to, 709.

Clause 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," 799. Amendment suggested by the Legislative Council of Victoria: After "seven," line 4, insert "of whom two at least shall be members of the senate," negatived by 19 to 13, 802. Amendment by the Hon. H. Dobson: That the following words be inserted after the word, "seven," line 4 "of whom one shall be in the senate when there are five ministers, two shall be in the senate when there are more than five ministers," negatived by 20 to 12, 804; clause agreed to, 806.

Clause 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," 806. Amendment by the Hon. Dr. Cockburn: That the words "the sum of," line 5, be omitted with the view to the insertion in their place of the words, "a sum not exceeding," agreed to, 806. Amendments suggested by the Council of Tasmania: That the word "twelve" be omitted, negatived, and clause, as amended, agreed to, 806.

Clauses 66 (Appointment of civil servants), 67 (Authority of executive), and 68 (Command of military and naval forces), agreed to, 806.

Clause 69 (Immediate assumption of control of certain departments) postponed,
Clause 70 (Powers under existing law to be exercised by governor-general with advice of executive council), 806. Amendment by the Right Hon. G. H. Reid: That after the words "vest in the governor-general with" the words "or without" be inserted, and that after the words "federal executive council" the words "as the case requires" be inserted, agreed to, 807. Clause, as amended, agreed to, 807.

Chapter IV.-Finance and Trade.
Clause 88 (Uniform duties of customs), 35; postponed, 222.
Remaining clauses of the bill and the schedule postponed, 986.
Progress reported, 1091. Bill reconsidered in Committee, 1104. Resolved on motion by the Hon. E. Barton: that the Committee do now agree to the suggested amendments of the Drafting Committee, 1105. Progress reported, and leave obtained to sit again on the 20th January next, 1107.

CONFERENCE OF COLONIAL PREMIERS:
Motion by Dr. Quick: That there be laid before the Convention a copy of the report of the late conference of Colonial Premiers with the right hon. the Secretary of State for the Colonies, agreed to, 1103.

CORRECTION OF SPEECHES:
Observations respecting by the Right Hon. Sir John Forrest, the Hon. Sir Joseph Abbott, Mr. Symon, 283.

DELEGATES, ELECTION OF:
Proclamation notifying election of Western Australian delegates, read, 1.

DIVISIONS:
Appointment of Drafting Committee, 27.
COMMONWEALTH BILL (In Committee).
Chapter I - The Parliament.
Part I.-General.
Clause 3(Governor-General). Amendments by Council and Assembly, South Australia—that the salary of the Governor-General be, respectively, £8,000 and £7,000 (instead of £10,000, as proposed)—negatived, 254.

Part II-The Senate.
Clause 9 (The Senate). Paragraph 1. Amendment by Council, New South Wales—to omit the provision that the senate should be composed of "six senators for each state," with the view of providing that it should consist of "members representing the states in proportion to their population"—negatived, 355.

Paragraph 2. Amendment by Mr. McMillan—making the Paragraph read as follows:—The senators shall be directly chosen by the people of the state, and until Parliament otherwise determines, as one electorate"—agreed to, 390, 391.

Paragraph 4. Amendment by Assembly, Victoria—providing that, as regards the equal representation of states in the senate, an exception should be made "in the case of new states which after the establishment of

DIVISIONS (continued):
the commonwealth are admitted thereto or established thereby upon other terms and conditions"—agreed to, 415.

Paragraph 5. Amendment by Assembly, South Australia—to provide that "The
senators shall be elected in all the federated states on the basis of one adult one vote"-negatived, 417. Amendment by Council and Assembly, Tasmania-omitting the words "and if any elector votes more than once he shall be guilty of a misdemeanor"-agreed to, 419.

Clause 15 (Qualifications of member). Amendment by Council, Victoria-to provide that a senator "must be of the full age of 30 years"-negatived, 990.

Part III.-The Home of Representatives.

Clause 24 (Constitution of house of representatives). Amendment by Assembly, New South Wales-to omit the words "as nearly as practicable, there shall be two members of the house of representatives for every one member of the senate "-negatived, 452.

Part IV.-Provisions relating to the houses.

New clause(44A). Proposed by Council and Assembly, Tasmania-"A member of a house of the Parliament of a state shall be incapable of sitting in either house of the parliament of the commonwealth"-negatived, 1011.

Clause 45 (Disqualification of members). Amendment by Mr. Glynn-to provide that the disqualifications mentioned in the clause should be in force "until parliament otherwise provides"-negatived, 1015.

Clause 47 (Disqualifying contractors and persons interested in contracts). Paragraph 3, as amended, that the disqualification to be a member of either house should not extend to a member of an incorporated company, consisting of more than twenty-five persons, an amendment by Mr. Glynn further providing that the member of the company in question must hold less than onetwentieth of the capital of the company -was negatived, 1028.

Clause 48 (Place to become vacant on accepting office of profit). Paragraph 2. Amendment by Council, New South Wales-to omit the paragraph which provides that, until the parliament otherwise determines, no member should, within six months of his ceasing to be one, be qualified or permitted to accept or hold any office the acceptance or holding of which would, under this clause, render a person incapable of being chosen or sitting as a member-agreed to, 1034.

Part V.-Powers of the Parliament.

Clause 52 (Legislative powers of the parliament). Amendment by Assembly, Victoria, adding to sub-clause I (the regulation of trade and commerce), the following words:-"Provided that all fermented, distilled, or other intoxicating liquors or liquids transported into any state or territory or remaining therein for use, consumption, sale, or storage therein, shall, upon arrival in such state or territory, be subject to the operation and effect of the laws of such state or territory, to the same extent and in the same manner as though such liquors or liquids had been produced in such state or territory"-agreed to, 1058.

Sub-clause 5. Amendment by Assembly, South Australia-to add words providing that the power of the federal parliament to legislate in regard to postal, telegraphic, telephonic, and other like services, should be limited to such services "outside the limits of the commonwealth"-negatived, 1069.<

Sub-clause 12. Amendment by Council, South Australia-to provide that the federal parliament, in addition to having power to legislate in reference to
"fisheries in Australian waters beyond territorial limits," should have power to legislate in regard to fisheries "in rivers which flow through or in two or more states"-negatived, 1073.

Clause 55 ( Appropriation and tax bills). Amendment by Council, Western Australia -to omit the exception as to laws imposing taxation, sub-clause 1, so that the senate should have equal power with the house of representatives in regard to such laws-negatived, 537.

New Clause (57A) ( For prevention of deadlocks), suggested by Assembly, New South Wales, as follows:- "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 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." Resolved that the word "if" at the beginning of the paragraph stand part of the clause, 709; amendment by Mr. Symon-"That the following words be inserted in the proposed new clause after the word "if" in line 1:-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-general should dissolve the house of representatives, and if, within six months after the said dissolution, the house of representatives by an absolute majority again pass the said proposed law in the same or substantially the same form as before, and with substantially the same objects, 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-general may dissolve the senate" -agreed to, 738; amendment by Mr. Wise on amendment by the Right Hon. Sir George Turner so as to make it read as follows:-Provided that, in lieu of dissolving the house of representatives alone in the first instance, both houses of parliament may be dissolved simultaneously, provided that the senate shall not be dissolved within a period of six months immediately preceding the date of the expiry by effluxion of time of the duration of the house of representatives. And if after such dissolution the proposed law fails to pass with or without amendment the proposed law may be referred to the direct determination of the people as hereinafter provided"-agreed to, 924; amendment by Mr. Lynn-to insert, after "referred" in the previous amendment, the words "by a national referendum"-negatived, 928; amendment by the Right Hon. Sir George Turner-to insert, after "referred," the words "by a dual referendum"-negatived, 930; amendment by the Right Hon. C. C. Kingston-to provide for "A referendum of the people of the commonwealth in the case of national questions, and a referendum of the people of the commonwealth and a referendum of the people of the states when state interests are involved"-negatived, 967; amendment by the Hon. J. H. Howe-to omit "three-fifths" and insert "two-thirds" in amendment by the Hon. J. H. Carruthers-
negatived, 974; amendment by the Hon. J. H. Carruthers-so as to make the last part of the amendment the Right Hon. Sir George Turner and Mr. Wise read as follows:--"and if, after such dissolution, the proposed law fails to pass, with or without amendment, the proposed law may be referred to the members of the two houses deliberating and voting together thereon, and shall be adopted or rejected according to the decision of three-fifths of the members present and voting on the question-agreed to, 974; question-That the following words be added to Mr. Symon's amendment:-"Provided that in lieu of dissolving the house of representatives alone, in the first instance, both houses of parliament may be dissolved simultaneously. Provided that the senate shall not be dissolved within a period of six months immediately preceding the date of the expiry by effluxion of time of the duration of the house of representatives. And, if after such dissolution the proposed law fails to pass with or without amendment, the proposed law may be referred to the members of the two houses deliberating and voting together thereon, and shall be adopted or rejected according to the decision of three-fifths of the members present and voting on the question-resolved in the affirmative, 980.

Chapter II.-The Executive Government.

Clause 63 (Ministers of state). Amendment by Assembly, Tasmania-to omit the words 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," with a view to insert in lieu thereof the words "every minister of state shall during his tenure of office have the right of entrance to and audience in both houses of the parliament, but shall not be entitled to vote in either house unless he has been duly elected a member thereof"-negatived, 799.

Clause 64 (Number of ministers). Amendment by Council, Victoria-to provide that two ministers at least should be members of the senate-negatived, 802; amendment by the Hon. H. Dobson-to provide that if there were five ministers one should be in the senate, and if there were more than five ministers two should be in the senate-negatived, 804.

DRAFT CONSTITUTION

Motion by the Hon. E. Barton: That the consideration in Committee of the draft constitution together with the suggested amendments forwarded by the various legislatures, be an order of the day for Friday, September 3, agreed to, 2.

DRAFTING COMMITTEE:

Motion by the Hon. E. Barton: That the Hon. Sir John Downer, the Hon. R. E. O'Connor, and the mover, be re-appointed a Drafting Committee, debated by Mr. James (who moved the addition of the names of the President, Mr. Symon, and the Hon. I. A. Isaacs), the Hon. A. Douglas, the Hon. Sir Richard Baker, 22; the Right Hon. G. H. Reid, the Hon. I. A. Isaacs, the Right Hon. Sir E. Braddon, 23; the Hon. J. H. Howe, the Hon. H. Dobson, 24; Mr. Symon, 25, Mr. Clarke, 26; the Hon. J. R. Gordon; amendment negatived, motion agreed to, 28.

FINANCIAL CLAUSES OF DRAFT BILL:

Motion by the Hon. E. Barton: That Chapter IV of the draft constitution be referred to a select committee for consideration and report, and that such
committee consist of the Right Hon. G.H. Reid, the Right Hon. Sir George Turner, the Hon. F.W. Holder, the Hon. Sir Phillip Fysh, and the Right Hon. Sir John Forrest, debated by the Right Hon. Sir George Turner, 5; the Hon. Sir Phillip Fysh, 7; Mr Symon, 9; the Hon. S. Fraser, 10; the Right Hon. Sir George Turner, Mr Walker, 11; the Right Hon. Sir John Forrest, 12; Mr. Glynn, 13; the Hon. E Barton, Mr. Trenwith, 13; Mr. McMillan, Mr. Lynne, 15; the Hon. Sir John Downer, 17; the Hon. Sir Joseph Abbott, 18; the Hon. E. Barton, in reply, 19; motion amended and agreed to, 21.

FINANCE COMMITTEE

Observations respecting by the Hon. E. Barton, 33; motion by Mr. McMillan: That the minutes of the proceedings of the Finance Committee appointed at Adelaide be printed; observations by the Hon. E. Barton;- motion agreed to, 641; evidence of the Railway Commissioners of New South Wales, Victoria, and South Australia, taken before the Finance Committee at its sittings in Adelaide, laid on the table, 932.

HIGGINS, MR.:

Personal explanation as to statements in news. papers, 282.

HOUR OF MEETING:

Motion by the Hon. E. Barton: That unless otherwise ordered, the Convention meet daily at 10.30 a.m., Saturdays and Sundays excepted, agreed to, 2.

INSTRUCTIONS TO COMMITTEE:

Motion by the Hon. E. Barton: That it be an instruction to the Committee of the Whole on the Commonwealth Bill that they have power to reconsider all clauses already considered before considering the clauses not yet considered, and to accept the suggested amendments of the Drafting Committee by one resolution, and that the standing orders be suspended to enable the Committee to do so, 1094; debated by the Right Hon. Sir John Forrest, 1095; Mr. Lyric, 1096; the Hon. E. Barton, in reply, motion agreed to, 1097.

NEXT MEETING OF THE CONVENTION:

Motion by the Hon. E. Barton: That the Convention at its rising stand adjourned until 12 o'clock noon, on Thursday, the 20th January, and that the sitting of the Convention be then held in Parliament House, Melbourne; debated by the Right Hon. Sir John Forrest, 985; motion agreed to, 986.

OFFICIAL RECORD OF DEBATES:

Motion by the Hon. E. Barton: That an official record of the debates of the Convention be made by the Parliamentary Debates Staff of New South Wales, agreed to, 2.

PAPERS PRESENTED:

Showing population and number of electors in each electoral district for the Legislative Assembly of New South Wales, 282. Re financial and statistical facts relating to Western Australia, 356. Report by Government actuary of Western Australia upon the Draft Constitution Bill, 356. Return Showing the population, revenue, and expenditure of each of the Australian colonies and Tasmania during the last financial year, 641. Relating to the cost of certain public works, 932. Evidence of Railway Commissioners before the Finance Committee at Adelaide,
932. Plan showing the flood and low water levels of the Darling and Murray rivers, 1091. Showing estimated cost of properties proposed to be transferred to the federal government, 1092. Report from the Railway Commissioners, 1692. Reply sent to Queensland by direction of Convention, 1103.

PETITIONS:
From Presbyterians in the town of Orange, 4.
From the Moderator of the Presbyterian Church in South Australia, 4.
From the Adelaide Ministerial Association, 33.
From the Australasian National League (in South Australia), 33.
From the New South Wales Local Option League, 155.
From the Australasian National League, 539.
From the Synod of the Church of England at Adelaide 641.
From the Grand Lodge of New South Wales of the Independent Order of Good Templars, 1092.

PLAN:
Motion by the Hon. E. Barton: That the Clerk be authorised to return to Mr. Glynn the Plan laid upon the table showing the levels of the Murray and Darling rivers, agreed to, 1103.

POPULATION AND ELECTORAL RETURNS:
Motion by Dr. Quick: That a return be laid on the table showing the population and number of electors in each electoral district for the Legislative Assembly of New South Wales and the Legislative Assembly of Victoria, agreed to, 34; return laid on the table, 282.

PROCEDURE:
Observations respecting by the Right Hon. Sir George Turner, 356; the Hon. Sir Richard Baker, the Right Hon. G. H. Reid, 357, 360; Mr. Wise, 357; the Hon. Sir Richard Baker, the Hon. R. E. O'Connor, the Hon. Sir Joseph Abbott, the Hon. E. Barton, 358 the President, 360.

QUEENSLAND, COMMUNICATION FROM:
Telegram received from the Acting-Premier of Queensland submitting a request for the consideration of the Convention to the effect that in the opinion of the Legislative Assembly of Queensland the Acting Chief Secretary should request the Convention not to conclude its work until Queensland had an opportunity of being represented at the Convention by representatives directly appointed by the electors of the colony. Motion by the Hon. E. Barton: That the communication received by the President from the Acting-Premier of Queensland be recorded on the minutes of this Convention, and that the President be authorised to acknowledge the same, and to intimate in reply that this Convention has received it with gratification, and will give the request which it conveys the best consideration; observations by the Right Hon. Sir George Turner, the Right Hon. Sir John Forrest, the Right Hon. G. H. Reid, 774, the Hon. E. Barton, 775; motion agreed to, 776; observations by the President, 807; Dr. Quick, the Hon. E. Barton, the Hon. F. W. Holder, 1091. Motion by the Hon. E. Barton: That the Convention desires to express its gratification at the announcement contained in the Hon. Sir Horace Tozer's communication, and its fervent hopes that representatives of the
people of Queensland will take part in its adjourned deliberations; debated by the Hon. Sir Joseph Abbott, 1097; the Right Hon. Sir Edward Braddon, Dr. Quick, 1099; the Hon. Sir John Downer, Mr. Walker, 1100; the Hon. J. N. Brunker, the Right Hon. Sir John Forrest, 1101; the Hon. H. Dobson, the Hon. E. Barton, in reply, 1102; motion agreed to, 1103.

QUESTIONS:
Federation of the Railways-Mr. Wise, 155.
Finance Committee-The Hon. J. H. Howe, 539.
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Thursday 2 September, 1897

Election of Delegates - Address to her Majesty the Queen - Standing Orders - Amendments of Legislatures - Suspension of Standing Orders - Hours of Meeting - Official Record of Debates - Draft Constitution - Victorian Delegates - Adjournment.

THE delegates met in the Legislative Assembly Chambers, Sydney, at 12 noon, pursuant to the adjournment of the Convention on 5th May, 1897.

The PRESIDENT took the chair.

ELECTION OF DELEGATES.

The Right Hon. Sir JOHN FORREST (Western Australia) presented copies of the Government Gazette of Western Australia notifying the election to the Convention of Henry Briggs, M.L.C., Frederick Thomas Crowder, M.L.C., Harry Whittall Venn, M.L.C., and Andrew Harriot Henning, M.L.C.

The CLERK having read the proclamations notifying their election, the delegates signed the roll.

ADDRESS TO HER MAJESTY THE QUEEN.

The PRESIDENT informed the Convention that, agreeably with its resolution at its session in Adelaide, he had the honor to present to her Majesty the Queen, at Windsor Castle, on 7th July, the Convention's address of loyalty and congratulation, and that her Majesty had been graciously pleased to accept the same, and to make the following reply:—

I request you to convey to the members of the Federal Convention, the expression of the sincere gratification with which I receive this, assurance of their loyalty and devotion, and of the warmth of their congratulations on the completion of the sixtieth year of my reign. I have already made known to the Governor of South Australia the deep interest with which I regard the proceedings of the Convention; but I am glad to take this opportunity of offering again my best wishes for the success of its deliberations.

[The delegates received her Majesty's reply to the Convention's address standing in their places.]

Motion (Hon. E. BARTON) agreed to:

That her Majesty's reply to the loyal address of this Convention be recorded upon its proceedings.

STANDING ORDERS.

The PRESIDENT informed the Convention that, as its proceedings were guided by the standing orders of the House of Assembly of South Australia, he had caused copies of those orders to be supplied for the
information of delegates.

AMENDMENTS OF LEGISLATURES.

The President called upon the senior representatives of the different colonies represented to present the amendments suggested by their respective legislatures in the draft constitution for the consideration of the Convention.

The Hon. E. Barton (New South Wales):

I present a schedule of the amendments in the draft constitution desired by the houses of legislature in New South Wales, and I have the honor to move:

That the amendments be printed.

I submit these amendments, together with a copy of the bill, as required by the statute.

The Hon. Sir P.O. Fysh (Tasmania):

I present a copy of the amendments desired by the houses of legislature of Tasmania.

The President:

I have to make a similar presentation on behalf of South Australia.

The Right Hon. Sir John Forrest (Western Australia):

Under our enabling act it is provided that each House shall nominate some member of the Convention to present its amendments. Accordingly I was nominated by the Legislative Assembly to present the amendments of that House, and my hon. friend, Mr. Hackett, was nominated by the Legislative Council to present their amendments. I beg to present the amendments suggested by the Legislative Assembly.

The Hon. J.W. Hackett (Western Australia):

I beg to present the amendments suggested by the Legislative Council of Western Australia.

The President:

I understand the senior representative of Victoria is absent, and will not be present until to-morrow. I understand the leader of the Convention to move that all the amendments be printed. The motion now is that all the amendments before the House be printed.

Question resolved in the affirmative.

SUSPENSION OF STANDING ORDERS.

Motion (Hon. E. Barton) agreed to:

That so much of the standing orders be suspended as will enable certain motions to be made without notice.

HOURS OF MEETING.
Motion (Hon. E. BARTON) agreed to:
That, unless otherwise ordered, this Convention do meet daily at 10.30 a.m., Saturdays and Sundays excepted.

OFFICIAL RECORD OF DEBATES.
Motion (Hon. E. BARTON) agreed to:
That an official record of the debates of this Convention be made by the "Parliamentary Debates" Staff of New South Wales.

DRAFT CONSTITUTION.
The Hon. E. BARTON (New South Wales):
I beg to move:
That the consideration in the Committee of the Whole Convention of the draft constitution, as passed prior to the adjournment of 5th May, 1897, together with the suggested amendments which have been forwarded by the various legislatures, be an order of the day for to-morrow, Friday, September 3rd.

I move this motion in order to have it placed as an order of the day on the notice-paper. Of course I do so without prejudice to any steps that may be decided upon before we meet again.

The PRESIDENT:
I understand that the object of the leader of the Convention is not to carry this at once, but to make it an order of the day for to-morrow.

Question resolved in the affirmative.

VICTORIAN DELEGATES.
The Hon. A. DEAKIN (Victoria):
It may not be unknown to members of the Convention that, owing to the necessities of local politics, the Premier of Victoria and his two Ministerial colleagues who are members of the Convention can only arrive here by to-morrow's express. That will not enable them to attend at 10.30 a.m., which has been fixed by the sessional order as the hour of the daily meetings of the Convention. Under these circumstances, I do not think I will be asking an undue concession on the part of the delegates when I suggest that there may be an alteration of the hour of meeting until, say, the hour of noon to-morrow. That is the earliest time it will be possible for them to be present, and any earlier meeting might involve the raising of questions which would have to be delayed, so that the proceedings are not likely to lose by any such concession.

The Hon. E. BARTON (New South Wales):
I quite appreciate what has been said by my hon. friend, Mr. Deakin. The difficulty perhaps might be met in such a way as to avoid conflicting motions as to procedure if the, President, when he takes the chair at half-
past 10 o'clock, adjourns until 12 o'clock noon, so as to allow the hon. member's colleagues to be in their places. I think the Convention would entirely approve of that course.

The PRESIDENT:
If I understand that that is the wish of the Convention, I shall be glad to take the course suggested. It will be necessary for hon. members to be present for the purpose of forming a quorum to enable me to take that course.

The Hon. F.W. HOLDER (South Australia):
I hope that course will not be followed. There would be no conflict between the motion already carried and a motion to adjourn until noon to-morrow. The motion we have agreed to contains the words "unless otherwise ordered."

The Hon. E. BARTON (New South Wales):
I will move that the Convention at its rising adjourn until noon to-morrow.

ADJOURNMENT.
The Hon. E. BARTON (New South Wales):
I beg to move:
That the Convention do now adjourn until 12 noon to-morrow.

I may explain, as regards the motion for the reference of Part IV of the Constitution Bill, relating to finance and trade, to a committee consisting of the Treasurers, I have taken that step, not with a view of prejudging the question of procedure. I think the question as to whether we resolve ourselves at once into Committee of the Whole, or whether we wait until we receive a report on that particular part of the bill, is a matter that can be well considered later on. In putting the notice of motion on the paper, I do not desire to prejudge in any way the proceedings of the Convention. In anything I propose I will be guided as much as possible by the wishes of hon. members.

Question resolved in the affirmative.
Convention adjourned at 12.19 p.m.
Friday 3 September, 1897


The PRESIDENT took the chair at noon.

REPORTS AND PAPERS.

Mr. GLYNN (South Australia):
I wish to ask the Premiers of the various colonies which are represented in the Convention and in the case of South Australia the Treasurer of that colony, whether, for the purpose of helping the deliberations of the Convention, they will lay on the table copies of all reports presented to their respective governments on the question of the finances of the proposed federation, the financial clauses of the draft bill, and the federal control or ownership of the railways? If necessary, sir, I will give, notice of the question.

The PRESIDENT:
Are the Premiers prepared to answer the question at once, or do they desire notice of it to be given?

The Right Hon. G.H. REID:
I think it would be more regular if notice were given of such a question.

Mr. GLYNN:
I give notice of the question for Monday.

SUGGESTED AMENDMENTS.

The Right Hon. Sir G. TURNER (Victoria):
I desire to present the amendments suggested by the Legislative Council and the Legislative Assembly of Victoria in regard to the Federal Constitution Bill. I move:
That the document be printed.
Question resolved in the affirmative.

PETITIONS.

Mr. WALKER (New South Wales):
I have the honor to present a petition from certain Presbyterians in the town of Orange praying that there may be a recognition of God in the preamble of the constitution, and also that the proceedings of the Federal
Parliament may be commenced daily with prayer.

The Hon. F.W. HOLDER:
I have a similar petition to present from the Moderator of the Presbyterian Church in South Australia.

Petitions received.

NOTICE OF MOTION.

Dr. QUICK (Victoria):
I beg to give notice that at the next meeting I will move:
That a return be laid before this Convention, showing according to the latest available information:
(1.) The population and number of electors in each electoral district for the Legislative Assembly of New South Wales; and
(2.) The population and number of electors in each electoral district for the Legislative Assembly of Victoria.

NOTICE OF AMENDMENTS.

The Right Hon. Sir JOHN FORREST (Western Australia):
I beg to give notice that in Committee on the bill I will move that the following two clauses be inserted:-

In each state of the commonwealth there shall be a governor, who shall be appointed by the governor-general in council, and shall hold office during the pleasure of the governor-general, but for no longer than six years in any one state at any one time.

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.

The PRESIDENT:
I do not think it will be necessary in all cases for notices of amendments to be given. If they are banded in, they will be printed and appear on the order-paper.

The Right Hon. Sir JOHN FORREST:
In some cases it might be more convenient if notice were given orally.

The PRESIDENT:
I do not take the slightest objection to the course which the hon. gentleman has pursued.

PERSONAL EXPLANATION.

The Hon. N.J. BROWN (Tasmania):
Before the notices of motion are proceeded with, I desire, with the permission of hon. members, to make a short personal explanation. In yesterday's Sydney Morning Herald there appears a paragraph beaded
"Amendments made by the Tasmanian Parliament." The part of the paragraph to which I refer relates to the vote given by me and two of my colleagues-Mr. Henry and Mr. Lewis-at Adelaide, with regard to the powers of the senate in dealing with money bills. It will be remembered by hon. members who were present at Adelaide that when I announced my intention to give that vote I carefully guarded myself from being committed to adhere to the view I then took on any future occasion. This paragraph, in so far as it conveys an impression that there is any intention on my part to adhere to that course absolutely, or in so far as it conveys the impression that there has been any compact entered into between Mr. Henry, Mr. Lewis, and myself, is quite incorrect. I have the assurance of my hon. friend, Mr. Henry, that, so far as that view is concerned, the paragraph is entirely misleading. There is no compact whatever between that hon. gentleman, Mr. Lewis, and myself in regard to the matter, nor am I committed to adhere to the position I took up in Adelaide.

FINANCIAL CLAUSES OF DRAFT BILL.
The Hon. E. BARTON (New South Wales) rose to move:

(1.) That Chapter IV of the draft constitution be referred to a select committee for consideration and report, with power to send for persons and papers.

(2.) That such committee consist of Mr. Reid, Sir George Turner, Mr. Holder, Sir Philip Fysh, and Sir John Forrest.

He said: Hon. members will recollect, that in Adelaide a committee consisting of the Treasurers of the colonies there represented, with the exception of the Right Hon. Sir John Forrest, who, I think, had then taken his departure for Western Australia, was appointed for the purpose of considering what should be the financial proposals of the bill. They brought up a report, and the result of their deliberations was included, practically in their own words, in the bill. Since that time there has been a lapse of four months during which criticism by the public and by the press has been abundant, and during which time also the financial clauses have undergone the criticism and been made the subject of suggestions by the various legislatures. Inasmuch as the financial provisions of the bill are probably the most important with which we will have to deal, and inasmuch as they must be dealt with with a very great deal of deliberation-I do not say for a moment that every portion of the bill will not receive great deliberation, but this, perhaps, will be specially entitled to it-it has seemed to me that it would be a wise thing to reappoint this committee. I
understand from several gentlemen whose names are mentioned in the motion that they will be prepared, in the event of such committee being appointed, to devote considerable time to it, apart from the time which will necessarily be engaged in our debates. I may mention further that it has been suggested that additions should be made to the committee. Inasmuch as my right hon. friends, Mr. Reid, Sir George Turner, and Sir John Forrest, have been away in England during part of the time which has been spent in criticism and suggestion, it might be wise to add some other members to the committee, perhaps not exceeding one from each colony represented. That is a suggestion which I leave to the wisdom of the Convention, only saying this: If it seems good to the Convention to make these additions I would suggest that in order that the committee may not be so large as to be unwieldy, the additions to it should not exceed one from each colony. If that is the general sense of the Convention I will accept an amendment to my motion for the purpose of carrying out this proposal.

Question proposed.

The Right Hon. Sir G. Turner (Victoria)[12.11]:

With regard to this motion I cannot approve of it, for this reason: The committee will simply meet to discuss the work which they themselves did some months ago, and, while we are doing that, we shall be doing it in the dark. The majority of us have been away, and I confess that I am not at all acquainted with the proposals which have been made, or the suggestions which have been offered so that a better scheme might be prepared for submission to the Convention. What I would suggest is this: Now that we are assembled here, let us discuss all those proposals. Let us have the benefit of hearing the various views which may be brought forward. Let us take into consideration and try to learn the reasons for the various suggestions which have been made, and, after we have gained the, greatest amount of information possible, then it might be wise to ask the Treasurers of the several colonies to meet together for the purpose of endeavouring to place the various suggestions which will be made here in a form in which they can be submitted afterwards to the Convention. But I feel that if we are to meet, as we will, absolutely in the dark, the work will take us a very long time, and we shall not have the benefit of hearing the views of our colleagues. Therefore, I should prefer to see this matter discussed fully here, and then we should be able to deal with it in a satisfactory manner. If we adopt the proposal submitted, I for one would not be in a position to deal with it in a manner satisfactory to myself or to the Convention. And in regard to this matter, I desire to take the earliest opportunity to point out a great difficulty in which the representatives of the colony of Victoria
would be placed. When we adjourned some time ago to the 2nd September we were certainly under the impression that the work to be done at the adjourned Convention could easily be carried through in two or three weeks. We have seen now what has occurred in the various colonies, and the immense number of suggestions which have been made touching the most vital points in the proposed constitution, and we must realise that it will be utterly impossible for this Convention, unless it is prepared to sit for at least a couple of months, to deal with the question in a manner that will be at all satisfactory. We, in Victoria, unfortunately will have in four or five weeks a general election, and it will be utterly impossible for the representatives of Victoria, and especially those who hold ministerial positions, to remain here longer at the outside than some three weeks. I feel perfectly certain that members of the Convention would not desire to discuss and deal with important questions in the absence of the representatives of the colony of Victoria. If we were to deal with this financial matter—seeing the entertainments we are expected to attend in the evenings, and that we shall not be sitting in the evenings—that would probably take us a fortnight to discuss, and by that time we should probably have got to the bottom of all the proposed amendments, and should be in a position to deal with that one important question, which is the most important of the whole. Then I doubt if any members of the Convention are prepared now to deal in a proper way with the various suggestions which have been made. There are varying suggestions from every colony, and I do not think there are many, if any, who are present here to-day who know what those suggestions really mean, or the reasons which have been adduced in the various colonies for their adoption. Those of us who have been away certainly are not in that position. It will be difficult enough for us to find out exactly what has been done in our own colony, and I feel that we ought not to attempt to rush the work through on this occasion. On the last occasion, from circumstances over which we had no control, we bad to rush the work through; but, seeing that we are now about to take the final step, so far an the Convention is concerned, in formulating a constitution which will practically have to last for all time - because it will be very difficult indeed to amend it - we must be prepared to know exactly what we are doing, to see exactly where we are going, and to devote a very large amount of time for the purpose of doing our work properly and satisfactorily. I trust the members of the Convention will give the matter careful consideration - not alone looking at it from the point of view of the difficulty in which the representatives of Victoria are placed, but looking at it also in view of the grave
importance of the whole subject. We are not at the present time sufficiently educated with regard to the proposed suggestions to deal with them, and I trust we will endeavour to take up, say, the financial matter, and thresh that out at our leisure, then leaving it to the committee to deal with it hereafter. But with regard to the other important questions I trust we shall not attempt to deal with them hurriedly here and that for the reasons I have given—suit the convenience of the colony of which I am one of the representatives, and to enable us to make ourselves fully acquainted with all the proposed amendments—we will allow the other work of the Convention to stand over until, say, February or March. These are the views I hold. I have thought the matter over carefully. I feel, as I said before, that the Convention ought not to proceed with important matter in the absence of the representatives of the colony of Victoria, and I know we cannot remain here at the outside more than three weeks. Under these circumstances I trust that the representatives present will endeavour to devise some means by which we may be present at all the discussions, and by which all of us may have greater opportunities than we have hitherto bad of ascertaining exactly what the suggestions mean and what we are about to do. I have taken the opportunity of bringing this matter forward so that I might bear the views of representatives of other colonies with regard to the suggestion I have made. Of course, if we are in the minority we shall have to stop and do the beat we can as long as we can, and then we shall have to leave the other matters to be dealt with by the representatives of the other colonies. But I am afraid that will not be satisfactory to us nor satisfactory to those whom we represent, and it may place us in a very difficult position when we come to deal with this bill in either recommending it or otherwise to the people of the colony. Therefore I would throw out the suggestion that we should take the opportunity of endeavouring to thresh out this one question—the financial question—that we then leave that to the committee, adjourn, give them ample time to look fully into the matter, and meet later on, say, in February or March, when we shall be seized of all the various matters and be able to deal with them satisfactorily.

The Hon. Sir P.O. FYSHER (Tasmania)[12.19]:

I am sure it must come to the representatives present as a great surprise that our right hon. friend who has just resumed his seat should say, after members of the Convention have been considering these subjects since the year 1891, and probably a period long anterior to that, that we are not now, in the year 1897, sufficiently educated on the subjects to give that due attention to them to bring them to a fruition now. I am surprised exceedingly. I should have presumed that those who attended only our
former Convention in April last, and who have kept themselves in touch with all that has been written by the press, discussed in our Hansards, and spoken at our firesides, would have been prepared, at any rate, now, to consider every one of the questions, difficult though they may be of solution. Now that we have met, the people of Australia, I believe-certainly may speak for the people of Tasmania; and I have it on record on my passage here that the people of Victoria, also, are looking to this Convention, not to adjourn at an early date, but to continue their sittings until this work shall be completed. Therefore, I am surprised that my right hon. friend from Victoria, who represents a body of people strongly imbued with the federal spirit, be himself also being strongly imbued with that spirit, and having an earnest desire to see the end of this work, should consider it to be his duty now to ask for a considerable delay.

I speak thus, notwithstanding that I am with him, and not at issue with him. It is most important that Victoria should be represented throughout in the Convention, and that we should not deal with any important subject in her absence. I believe, however, that if we are really intending to federate-intending to perfect the measure commenced in 1891, nearly adopted in the present year, admitted generally to have laid the foundation of nine-tenths, at any rate, of the measure which must ultimately be accepted as the Commonwealth Bill-we must proceed to do so without delay. After many interesting discussions, our late, or present parliaments now sitting in session, have submitted to us a very considerable number of amendments. I think we might deal with the greater portion of those amendments in the course of a few hours, and leave the important amendments for that mature consideration which every one of them demands; and I know there are none of them that demand more consideration than those which deal with finance. The financial question has ever been a difficulty—and I am a little surprised to find that some of the parliaments of Australia have considered it to be so great a difficulty that we, who are charged with the solution of it, are to have withdrawn from us the consideration of that solution—that it is to be left to the future; and that it has been said by some of our parliaments that this body, specially elected by the people to solve that and all the other difficult questions of federation, is not capable of doing it, but that they believe that there will be, in the future, a body of men rising up, to be known as the federal executive and federal parliament, who will be able to solve it. I think a goodly number of the representatives present to-day are not at all unlikely to have thrown upon them the responsibility of the solution of this problem in the future, even if this Convention does not
solve it. I am going to urge, therefore, whenever I have an opportunity, that we shall undertake the discharge of the duty which is committed to our care, and if we fail to solve the problem satisfactorily there will be ample opportunity—having given to the future commonwealth or executive our solution of the difficulty—for them hereafter, if needs be, to seek an amendment of the constitution in that particular direction. I find, however, that the Premier of Victoria addressed himself to this question of finance, not so much with the idea of dealing with it, as with the idea of putting forward his own proposal with respect to an early adjournment of the Convention. I do not know what early means, but I presume a week means early, and if so, I sincerely hope hon. gentlemen will not be induced to entertain his idea, but that our friends from Victoria will give to us the longest possible time at their disposal. We thought that, coming here, they would give us three weeks of their time. Bearing in mind what took place in April—that for nearly two weeks we were discussing resolutions, and that those resolutions are now disposed of, and that we are no longer likely to have any second reading speeches—let us address ourselves properly to the question.

Hon. MEMBERS:

Hear, hear!

The Hon. Sir P.O. FYSH:

The response which comes from hon. gentlemen to that remark is an indication to me that we can get on with our work promptly.

The Hon. Sir W.A. ZEAL:

Then let us get on with the work!

The Hon. Sir P.O. FYSH:

I am very glad to hear my hon. friend say that.

The Hon. Sir W.A. ZEAL:

The hon. gentleman is not giving us the chance!

The Hon. Sir P.O. FYSH:

Under the circumstances, I will not further prolong my observations. I may say I am not at issue with hon. members. I am satisfied with, and I shall support, the proposal of our leader, Mr. Barton, to the effect that the committee shall not consist merely of the four Treasurers; but that they shall be supported by the addition of at least one other representative of every colony. We shall then find that when the work of the committee comes before us, we shall more readily get on with our proceedings.

Mr. SYMON (South Australia)[12.25]:

I entirely agree with the suggestion of the hon. member, Mr. Barton, with
regard to the desirability—if the Convention thinks fit—of adding to the committee which is to consider the financial question. I feel—and I think my right hon. friend, Sir George Turner, will also feel—that there is really no difficulty so far as regards the labours of the proposed Finance Committee are concerned, if we treat that committee, as I understand it is to be treated, as one for the consideration of the financial question. It is not intended, I think, by Mr. Barton, that the Financial Committee when constituted shall immediately proceed to deal with the financial question, unless they are possessed of the necessary material to enable them efficiently to do so. Therefore, I take it, that it will be competent for the committee, when appointed, to either assume their duties at once or to wait until the Convention itself has considered any of the amendments which may have been suggested by the legislatures of the different colonies. My idea is that the Financial Committee will not derive very great assistance from the suggestions of the various legislatures. The provisions embodied in the Draft Commonwealth Bill were dealt with by them, and were subjected to considerable criticism. But, after all, so far as my recollection goes, they were treated with what I may call very short shrift. I think I am correct in stating that, in Victoria, no other provisions were substituted for those provided in the Draft Commonwealth Bill.

An Hon. MEMBER:
That is quite wrong; there were several suggestions!

Mr. SYMON:
I understand that in one instance the provisions included in the Draft Commonwealth Bill, as they left the Adelaide Convention, were struck out, and no complete scheme was inserted in their place for dealing with the financial question. Therefore, I am sure that the appointment of the committee now, simply as a finance committee, will not create any of the difficulties suggested by the Premier of Victoria. It will be left to the committee to settle the question with the materials before them. Under those circumstances, I shall support the proposal; but with the concurrence of the Convention I shall seek to add additional names. I hope hon. members will believe me when I say that I shall not mention those additional names with any idea of suggesting that they are superior in financial knowledge or capacity to the already suggested members of the committee. My opinion is that the financial question is one of the most difficult, one of the most troublesome—the hardest nut to crack—in the path of a scheme for a federal constitution. It constitutes the bargain that is to be entered upon by the different states. When I recollect that the original committee was a very large one, that it dealt very exhaustively with the
whole of the subject, and that its proposals were considered by the Convention in Adelaide to be insufficient, and when I recollect that that was followed by the smaller committee of the various Treasurers, then I think it would be well that we should have on this committee some additional help—some new blood—with the view of dealing, not with the proposals as they were originally framed, but with the suggestions of the different parliaments. I, therefore, suggest that there shall be added to the committee the names of Mr. J. Henry (Tasmania), Mr. P.M. Glynn (South Australia), Mr. W. McMillan (New South Wales), and Mr. J.T. Walker (New South Wales).

An Hon. MEMBER:
Dr. Quick for Victoria!

Another Hon. MEMBER:
Western Australia!

Mr. SYMON:
I do not like to make any invidious suggestions with regard to Victoria.

The Hon. E. BARTON:
Would it not be wise to leave that matter to the Treasurers who are appointed to the committee to name colleagues?

Mr. SYMON:
I am perfectly willing. Whichever is the better course, I am perfectly willing to adopt it. I would very much rather not make any nomination, but leave the matter as my hon. and learned friend, Mr. Barton, suggests. I do feel that there ought to be some additional members on the Finance Committee, with the view, if possible, of arriving at a final and satisfactory solution of this very difficult question. I should like to say a few words in regard to the second part of my right hon. friend, Sir George Turner's speech in which he shadowed forth the possibility of an adjournment with only part of our work done. It would be absurd to think of our going through our labours or attempting to complete them without the presence of the representatives of Victoria. We must all feel that. Therefore it is our bounden duty—if it were not, in addition to that, a satisfaction to us—to do everything in our power to meet the wishes and convenience of my right hon. friend and the other representatives of Victoria; at the same time, I do hope that we shall not, at any rate at this early stage, either contemplate or put into shape any proposal for an adjournment. I think that the solution of the whole question is that offered by the Right Hon. Sir George Turner
himself. Let us stay here and do the very best we can in the time at our disposal, and, if the necessities of the case should render an adjournment unavoidable, th

The PRESIDENT:
I ask the hon. member if he moves an amendment, and, if so, would he kindly let me have it in the shape he desires?

Mr. SYMON:
No; I yield to the suggestion of the hon. and learned member, Mr. Barton.

The Hon. E. BARTON (New South Wales):
May I make a suggestion? It is that each delegation should select whom it considers the most desirable member to add to the Finance Committee, and, when that has been done, I shall be prepared to amend the motion so as to cover that selection.

An Hon. MEMBER:
Why not select two?

The Hon. E. BARTON:
It would make the committee too large.

The Hon. S. FRASER (Victoria)[12.34]:
I am sorry that I cannot agree with all that my right hon. friend, Sir George Turner, said. I think that we should get to work. When the time arrives when we have to adjourn or prorogue, that will be the proper time to say whether our work is or is not completed.

Mr. MCMILLAN:
This discussion of an adjournment is not in order.

The Hon. S. FRASER:
No. I would urge that we should get to work and see what can be done in the meantime.

The PRESIDENT:
It has been suggested that the discussion now proceeding is not in order. I think it is in order, because the suggestion is that instead of going on with the business we should adjourn. Under these circumstances I should not be justified in ruling the discussion out of order.

The Right Hon. Sir G. TURNER (Victoria)[12.35]:
That is not the position I desire to take up at the present time. What I suggested was that we should go on discussing this financial matter, and let the Convention put before those who may form the Finance Committee various views in connection with the matter. I thought that that would
probably occupy us for a fortnight, and that, having spent a fortnight profitably on that work, we could very easily adjourn, knowing that we had laid the foundation of some good work. The committee would have ample time at their disposal afterward to discuss the whole matter, and when the adjourned Convention met some months hence we would have the proposals of the committee before us, and would be able to work in the light of fuller knowledge. I do not desire to adjourn now. I have no wish at all that the Convention should adjourn; but I do say that the committee when they meet will be working in the dark unless they know the views of the various representatives here.

The PRESIDENT:

After the statement made by the Right Hon. Sir George Turner, I ask hon. members to adhere more closely to the subject before them.

Mr. WALKER (New South Wales) [12.37]:

I rise to offer a few remarks in regard to the motion of the hon. and learned member, Mr. Barton. I think that there cannot be two opinions as to whether we should have a larger Finance Committee than the five Treasurers; but, with regard to the composition of the committee, I hold very strong views. We have already had committees appointed by delegations. The first intimation I had that I had been appointed a member of the Judiciary Committee was through the newspapers.

Mr. SYMON:

That was a great compliment!

Mr. WALKER:

I look upon it as a compliment, and I admit that it was courteous on the part of the chairman and other hon. members of the committee to consider, as they did, any little suggestions that the only laymen on the committee—the Chief Secretary of Victoria and I—had to offer. I recognise that it was an honor to be on that committee; but I was not sent into this Convention to take part specially in the proceedings of a judiciary committee. I am, I fear, incompetent to offer suggestions worthy of being listened to by that committee. However, my object is not to speak of any grievance, if I have any, but to suggest that the additional members of the committee should be elected by ballot of the Whole House, because the system of allowing delegations to appoint members is, in my opinion, a provincial system, whereas we should encourage a federal spirit. We came here as representatives of different colonies; but, once here, we are all on the same level, and we should appoint on special committees those hon. members who have special qualifications. Personally, I have interests in all the colonies, except Tasmania; therefore, my sympathies are not confined to any one colony. I do trust that, if we appoint additional members to the
Finance Committee, we will recognise the fact that all the Treasurers ought to be on it, but that the additional members should be elected by a ballot of the Whole House.

The PRESIDENT:

Does the hon. representative move an amendment?

Mr. WALKER:

No. I merely make the suggestion that the additional members should be elected by the whole Convention, irrespective of which colony they come from.

The Right Hon. Sir JOHN FORREST (Western Australia)[12.39]:

I have listened attentively to what has been said by our right hon. friend, Sir George Turner, and I express my regret that he should find himself in the position he does in regard to pressing matters which will require his attention in his own colony in a short time. I myself, as a representative of Western Australia, was in a similar position when the Convention met at Adelaide; but I do not intend to mete out to him as little sympathy as he extended to me at that time. All my endeavours to elicit the sympathy of hon. members fell very flat, and, as they all know, the representatives of Western Australia had to go away and leave the Convention to deal with the bill in their absence. Of course, I recognise fully at once that the absence of the representatives of Western Australia was not nearly so important a matter as the absence of the representatives of Victoria would be. I recognise that for us to continue our deliberations without the presence of the representatives from Victoria would not be at all what we should desire. But, if the representatives from Victoria will pardon me for concurring in the suggestion of Mr. Symon, I think the best course for us to pursue is to go on with the bill now, and I am sure that when the time comes beyond which the representatives of Victoria find it impossible to remain, they will not appeal in vain to the Convention to meet their wishes in every possible way. I think we shall do well if we go on with the consideration of the amendments suggested by the various legislatures at once. With regard to the financial question, while I am quite of opinion that the appointment of a committee of Treasurers and some other members would be very useful and desirable, I think that before that committee meets these gentlemen would like—at all events, speaking for myself, I should like—to hear the views of the members of the Convention in regard to the suggestions which have been made by the various legislatures.

The Hon. E. BARTON:

That is a matter the members of the committee could regulate for
themselves!
The Right Hon. Sir JOHN FORREST:
The only way in which we could regulate it would be to postpone our meetings, or, at any rate, our decisions, until we have heard the observations of the members of the Convention in regard to these suggestions. For my own part, at the present time I do not know what suggestions have been made. I have not even seen the suggestions. We shall have to consider them, however, and we must hear what other members of the Convention have to say in regard to them. As I said before, I quite sympathise with the representatives from Victoria, though I do not think that at Adelaide they sympathised with me to the same extent.
The Hon. A.J. PEACOCK:
Did I not second the motion there?
The Right Hon. Sir JOHN FORREST:
Not only do I sympathise with the representatives from Victoria, but when the time comes I shall be willing to assist them in every way possible. I do not think, however, that it would be wise for us to begin this business with the intention of not completing it. My opinion is that we should do as much as we can, and, if we find that we cannot finish the work before the time arrives when the delegates from Victoria will have to return, we can then consider the question of an adjournment. I am sure that upon this matter the members of the Convention will be willing and anxious to meet their wishes in every way possible.

Mr. GLYNN (South Australia)[12.43]:
I intend to move the addition of the following words to the motion:-

That it be an instruction to the committee to have the evidence given by experts or statisticians to the committee printed, and that copies of such evidence and of any statistics or reports furnished to the committee be laid on the table of the Convention.

I never could see what good object was served by the secrecy in which the committees conducted their deliberations at Adelaide. The true precedent in this matter was set to us by the Convention itself in having its deliberations published in the full light of day, hon. members being of opinion that our judgments upon circumstances are likely to be clearer when they are not formed in secret. It is a strange thing that copies, of the evidence taken at Adelaide by the principal committee-the Finance Committee-have never been supplied to the members of the Convention. We were asked to accept the conclusions drawn by members of that committee without examining the premises upon which they were based. I
submit, however, that it is a very difficult matter to arrive at correct conclusions without having an opportunity to consider the evidence on which those conclusions ought to be based. If there is one thing more than another which approximates to certainty in regard to the work of the Convention it is that neither of the sets of clauses which contain the solution suggested by the Finance Committee and the Committee of Treasurers could be accepted as they stand. The first solution which was brought forward by the committee was practically stillborn.

An Hon. MEMBER:
Not stillborn!

Mr. MCMILLAN:
That was not the fault of the committee; it was the fault of the Convention!

Mr. GLYNN:
I do not know whose fault it was; but this is the time to give the necessary directions. The upshot of the committee's deliberations was that when their conclusions were sent to the Convention the clauses which they had framed could not be accepted. The first set of clauses were practically stillborn, or rather, their mortality was soon settled by the shafts of criticism directed against them by the members of the Convention. The second set of clauses suggested, notwithstanding their ingenuity, were not such that we could accept them as a solution of the difficulty. They have been keenly criticised by the press and by the members of the Convention and of the various legislatures, and the conclusion all have come to is that these clauses cannot be accepted as a solution of the matter, or be embodied as part of the ultimate constitution regulating the financial affairs of the commonwealth. I think that the fullest information should be given to the members of the Convention by allowing the publication of the evidence as the sittings of the committee take place. In this way we may hope to obtain the co-operation of the members of the Convention, of the outside public, of the press, and of the members of the various parliaments. In this way we may get a solution which, if not perfect, will be based upon a recommendation generally regarded as the best obtainable.

The Hon. E. BARTON:
I would suggest that the amendment first suggested should be put before that motion proposed which would come at the end of the resolution, and I propose to move it in this form:

That the following words be added to the motion:- "That another representative of each colony shall be chosen by the representatives thereof."
Mr. TRENWITH (Victoria):

It appears to me that there is a good deal of misapprehension in regard to the suggestion thrown out by the Right Hon. Sir George Turner. It seems to me that he dissents from the motion submitted by the leader of the Convention that a committee should now be appointed to prepare a financial scheme for submission to the Convention on the ground that the members named to form the committee have all of them, except the hon. member, Mr. Holder, been absent from the colonies during the period in which important discussions have been taking place in the various parliaments and in the press. The Right Hon. Sir John Forrest has, it seems to me, added valuable testimony as to the wisdom of the Right Hon. Sir George Turner's objection. He has pointed out that he is utterly ignorant of what has taken place in the colonies since our last sitting at Adelaide.

The Right Hon. Sir JOHN FORREST:

I said that I was ignorant of the suggestions which have been made by the various legislatures!

Mr. TRENWITH:

Yes, exactly. While I indorse as heartily as any person can the desirability of expedition in connection with our labours, I feel that we want something more. We want the assurance that we shall have ample time to do thoroughly the work we have undertaken. The misfortune of the work which has been done so far is that it was done under the high pressure of a knowledge that we must adjourn at a certain time, and not be able to meet again for the purpose for which we were then sitting. We are not in that position now. We have whatever time we choose to take, if arrangements can be made by which the time can be taken at a season convenient to the various colonies. The Right Hon. Sir George Turner has pointed out that it is impossible for the delegates from Victoria to remain here now more than three weeks; but it is not necessary to conclude our labours in three weeks, or in three years, if the interests of federation would be jeopardised thereby. It is, however, necessary to do this work effectively, to do it so thoroughly, so completely and well, that when submitted to the people of Australia it will be adopted. We should lose that certainty of ultimate success which would result from complete and well-done work if we were to adopt the suggestion of the hon. member, Mr. Symon, of hurrying as much as we can now.

The Hon. F.W. HOLDER:

There was no suggestion to hurry!

Mr. SYMON:
I did not say that we should hurry!

Mr. MCMILLAN:
Why debate the matter at all?

Mr. TRENWITH:
Because it hinges upon the resolution before us.

Mr. MCMILLAN:
Not at all!

Mr. TRENWITH:
The resolution is that the financial question be relegated to a committee at once. The suggestion of my right hon. friend, the Premier of Victoria, is that the question should be first discussed by the whole Convention in Committee, and that it should be subsequently referred to the Finance Committee for report.

Mr. GLYNN:
There is no objection to the appointment of the Finance Committee now!

Mr. TRENWITH:
No; but it does seem to me that very sufficient reasons have been given why the Finance Committee, when appointed, should have the advantage of a discussion in the full Convention upon the broad general principles of finance in order that they may learn from the delegates here, in a better way than they could do by reading the Hansard reports of the various parliaments, what has been said and done in the respective colonies, and also the general character of the criticism which has been advanced upon the work of the Convention. The assumption, however, that the delegates from Victoria require an adjournment at so early a period as one week, as suggested by one hon. member, arises from a misapprehension. We have no idea that we should do anything but sit here and, as industriously as we can, although not hurriedly, discuss and consider the matter for three weeks at any rate; for we think we can devote that time to the work, and we feel that we can, and ought to do that which we have to do thoroughly and properly.

Mr. MCMILLAN (New South Wales) 12.54):
It seems to me that the time has come when we should get practically to business. The question is—are the Treasurers of the colonies who have all the information in their hands, and who fill a particular position in connection with finance to be formed into a committee of investigation which can carry on its work at any time during the sittings of this Convention so as to be useful in affording information, and in consulting together as to the general work before us? It does not follow that even if this Committee is appointed we should not deal with these financial clauses
in the ordinary way, or that the committee should report to the Convention until they have had the benefit of any debate which may take place in the full committee. It seems to me that the main object of the committee of five Treasurers is that every possible statistical information bearing upon this great subject may be put in such a clear and concise form that those who are dealing with the question of finance as it relates to what has been termed the bargain between the colonies will know exactly what they are doing. We were at great difficulty in the Finance Committee in connection with the Convention in Adelaide in getting clear and reliable information. There was a want of definiteness in the statistical work which I hope will not be repeated now. It would be better I think under all the circumstances to carry this motion in its original form, and, then, if this committee of Treasurers desires to have others added to its body, or desires to examine other peculiar experts, as they may be considered, they can do so. The great difficulty in connection with the last Finance Committee lay in its numbers. Personally, I should prefer to see the the original motion carried. As far as I myself am concerned, I may tell my hon. friend, Mr. Walker, that, if it does come to a question of one delegate being appointed from each colony, there will be no difficulty about his inclusion in the committee.

Mr. LYNE (New South Wales)[12.56]:

The motion which has been made by the leader of the Convention has taken me rather by surprise. I had no knowledge of it until I heard of it yesterday. The hon. member proposes to revert to the system which was carried out in South Australia of electing committees, for the purpose of really doing the work of the Convention. Now, having been a member of the Finance Committee in South Australia, I must say that I do not look with much favour upon the proposal made by the hon. member. If we look to the result of the Finance Committee appointed on the last occasion, I do not think it will be found that much benefit was derived from it. If we go a little further, and look at the result of the committee of Treasurers, I think we shall find still less benefit.

The Hon. E. BARTON:

The hon. member will admit that the subject is a difficult one?

Mr. LYNE:

I admit that.

An Hon. MEMBER:

The hon. member himself was a member of the Finance Committee!

Mr. LYNE:

I have already said that I was. As far as the present committee are
concerned, if, as the hon. member, Mr. McMillan, suggested, my hon. friend, Mr. Walker, is anxious to be a member of the committee, he certainly will have my vote. Having regard to my experience in connection with the last Finance Committee, I have not the slightest desire to be on the committee which it is now proposed to appoint. If the business of this committee is to be conducted as the business of the last committee was conducted, that is, in secret, I do not think it will be productive of any good at all. I certainly agree with the hon. member, Mr. Glynn, in thinking that a huge mistake was made in South Australia in conducting the business of this committee in secret. It would assist us in educating—if I may use the term—the public mind to have the deliberations of the committee in public, and, if its appointment be agreed to, I hope the mover of the amendment will press his proposal, and will obtain the consent of the Convention, if possible, to having the deliberations of the committee, not only in public, but also published. At the present time we are having submitted to the public only little scraps and bits of the evidence taken by the Finance Committee in Adelaide on various important matters. I thought then that the whole of the evidence taken should have been submitted to the public. It would have had considerable effect, I am satisfied, in guiding the public mind in a determination as to what should be done at the present time, and it would also have guided the minds of members of the Convention who had not the privilege of hearing the evidence given.

Mr. SOLOMON:
There was no evidence except that of the Railway Commissioners!

Mr. LYNE:
But why was it not published?

Mr. SOLOMON:
It was published!

Mr. LYNE:
We heard nothing about it in New South Wales until the publication of some of it in one of the newspapers a short time ago.

[The President left the chair at 1 p.m. The Convention resumed its sitting at 2 p.m.]

Mr. LYNE:
With regard to the appointment of this committee, I should like the hon. member, Mr. Barton, to explain what the committee is really intended to do—if it is intended to conduct its discussions and obtain its evidence in secrecy, and simply bring up a bald report to this Convention, or if it is for the purpose of guiding the decision of this Convention on the all-important
question of the finances of the commonwealth. If the latter is the object, probably there may be some wisdom in appointing the committee. But, as I said at the outset, I am opposed, to a very large extent, to the appointment of a committee of this kind on the present occasion. The question of finance is, no doubt, one of vast importance, and, in the past, it has been one of the great difficulties we have had to contend with; but I do not agree with the Right Hon. Sir George Turner, that it is the most important question this Convention has to deal with. It is one that can be dealt with, and, probably, satisfactorily, in the future. The greatest question we have to deal with is that of equal state rights, and not the question of finance, because the financial question may adjust itself in a few years, whereas the difficulties of the question of state rights may increase in the course of time. With regard to the adjournment suggested by the Premier of Victoria, if we agree to an adjournment in three weeks time, what will happen at the next meeting of the Convention? The next meeting will probably take place just before the elections in New South Wales, and then we shall have to adjourn for those elections. Some other matter may also crop up to cause further delay and adjournment. While I should certainly like to fall in with any proposal to accommodate the Victorian representatives, I would point out that the dissolution in that colony takes place on the 4th of next month. I suppose the seats of all the gentlemen present are so safe that they do not want to go amongst their electors very much, and it would be better for them to wait until the 4th of next month, or thereabouts, and then I suppose they will have three or four weeks before the election takes place. They will thus have ample, time to consult their constituents.

Mr. HIGGINS:
Will the hon. member Stump the country for us?
Mr. LYNE:
If hon. gentlemen are in favour of the policy I advocate, I will be glad to do so. They are, however, quite capable of doing that for themselves. I was rather amused by the few remarks that fell from the Premier of Western Australia about the short shrift he got in South Australia. Why, the business of the Convention was turned topsy-turvy to meet the desires of the hon. gentleman. To oblige him we gave prior consideration to several clauses at the end of the bill. We all felt that we should give every facility to those hon. gentlemen who came so far to attend the Convention, and we did so. I think on that occasion the Western Australian representatives wanted to go away because an election was about to take place there. If you take it step by step, you will find that the best thing we can do on the
present occasion is to carry out the suggestion made by several members of the Convention, and particularly, I think, by the hon. and learned member, Mr. Symon, to discuss with r

Mr. SYMON:

And efficiently!

Mr. LYNE:

And discuss the suggestions made to us by the various parliaments. That is one of the great objections to appointing a committee which is to sit in secret. It would be really, throwing the whole of the suggestions of the parliament into a pool, and they would not receive full discussion in the light of day, which suggestions coming from such important bodies as the legislatures ought to receive at the hands of this Convention. I hope that those recommendations will receive proper consideration at the hands of the Convention. I trust the learned members of this Convention will restrain themselves a little, and to a greater extent than they did in South Australia, because we might reasonably say that the learned members of this Convention occupied most of the time in the discussions. I think we could get through a great deal of work in three or four weeks. I believe that if we devote ourselves heartily to the work, in four weeks time from now, we shall be very near the end of the discussion. I sincerely trust we shall not be called upon to agree to another adjournment, and that before we separate we shall have something licked into shape which we shall be able to submit to the people of the country.

The Hon. Sir JOHN DOWNER (South Australia)[2.8]:

I do not think the proceedings of the Convention will be helped very much by adjourning at the earliest possible moment. It is rather a pity that there is any necessity to discuss the matter, because I take it that it prevents us from going on with very important business. I do not know what these proposals are which the Right Hon. Sir George Turner referred to as being before us. There have been many proposals in the newspapers, but I know of no proposals that have been before the Convention. If we examine the parliamentary records, we shall find very few proposals. They are generally objections to the present proposals rather than suggestions as to any possible way out of the difficulty. I am entirely in favour of the appointment of the committee which has been moved. At all events, they can bring up in some form the proposals that are in the air, but which are not before us. On, the other hand, if we leave the question to chance, for each hon. gentleman to ventilate some particular well or ill-considered scheme be may have in his mind, I agree with the Right Hon. Sir George Turner, that we shall take many months before we even arrive at what it is we are talking about, and before we know substantially what we have to
consider. We have come here after an adjournment, having practically undertaken to the whole of Australia that we shall settle this question before we adjourn. We adjourned before out of consideration for certain hon. gentlemen, who thought that they had a duty to perform, and I agree that it was a duty. But when the Convention consented to that adjournment it was on the distinct understanding that when they returned the Convention should meet again, and the question should be finally determined. To adjourn again, and to keep the matter dangling before the public, would be simply to lend assistance to the adversaries of the great cause, and to justify them in thinking that though earnestness was in our words, it was not in our hearts. I distinctly object to the suggestion that we should have an adjournment unless it is inevitable. I also protest against my right hon. friend's statement that the proceedings in Adelaide were hurried. We worked very hard; we sat very long hours. Men do not always work any the worse for having to work hard, and at great pressure men are capable of doing much greater things than when they are working in a mere dilettante fashion, when they can adjourn from time to time and from place to place. I hope we shall act regardless of our own time and convenience, and will study in every way we can reasonably the cause which we have to support, and the duty which we owe to ourselves and those whom we represent. I hope we shall sit, not merely every day, but every night, if necessary, so as to ensure the fullest consideration. I utterly disagree with the suggestion that if we do that the result must be that our resolutions will be less well considered than if we take more time about them, and bring our energies to them in a more intermittent manner. I think if we proceed with a whole-heartedness to do the work, not to scamp it—perhaps in three weeks we may do it well enough, and even this great financial question might be found not so very difficult to deal with as some hon. members who wish the matter not to be hurried seem to anticipate. As far as I sat here listening to the debate, I hope the result will be an endeavour on the part of every member of the Convention to do all be possibly can to satisfy the whole continent of Australia that we are here with a whole-heartedness and determination to carry out this work before we adjourn, unless indeed it be found to be impossible.

The Hon. Sir JOSEPH ABBOTT (New South Wales):

I was under the impression, Sir, that the motion before the Convention was the appointment of a committee; but listening to the debate one would imagine that the question was the adjournment of, the Convention. With all respect to those who say that there was no hurry in Adelaide, I am one of those who believe that there was a great deal of hurry in Adelaide, for the
Premiers had to go away to England, and many of the New South Wales representatives had to come back here to meet their own Parliament. What we have to consider, and to give a great deal of consideration to, is the question of public sentiment. It must not go abroad that anything done by this Convention was done in a hurry or without due consideration, otherwise whatever conclusions we may come to we shall be charged with having come to those conclusions hurriedly, and without sufficient consideration. We do not want the enemies of federation to be able to say that, under any circumstances or under any conditions, we did not give ample and due consideration to any suggestion which had been made by the various parliaments. But at the same time, I think no one will question the advisability of the motion made to refer these matters to a select committee; and will it not be time enough when the necessity arises to consider the question of adjournment? I am one of those who believe that every consideration should be shown to those members who, through no fault of their own, may be called away, as was shown to the Western Australian representatives, who were allowed to take a certain part of the bill by reason of the fact that they had to leave early. I confess I was not one of those who gave them that consideration; but, nevertheless, the Convention as a whole did. When the time comes we should consider the reasons for an adjournment; but at present I think we are wasting time in discussing that question.

The Hon. E. Barton (New South Wales)[2.15], in reply:

In deference to the suggestion which has been made I wrote down the following words as an amendment to the second paragraph of the motion:-

And one other representative of each colony to be chosen by the representatives thereof."

The time for amending the motion has passed, unless hon. members express their concurrence in this amendment in such a way that I can ask Mr. President, by concurrence, to add it to the motion. Of course, if I find any expression of opinion from hon. members against that I will leave the motion as it stands.

Hon. MEMBERS:

Add it!

The Hon. E. Barton:

As that seems to be the general view, I would ask, Sir, that the motion be amended by adding the words:

and one other representative of each colony to be chosen by the representatives thereof.
Motion, by leave, so amended.

The Hon. E. BARTON:

I do not wish to detain the Convention at any length. My right hon. friend, Sir George Turner, seems to think that if this select committee were to begin their labours early they would be working in the dark. Not only are there two of the gentlemen named who have been in the colonies all the time, but the other members whose names are to be added have remained in the colonies for the whole time, so that seven out of ten members of the committee will have had all the opportunities which are available for knowing what has been said and written on the subject of federal finance. In addition to that, there will be in the hands of hon. members to-morrow a tabulated statement of all the amendments suggested by the various legislatures made out in such a form that the sequence of them in the clauses will be seen at a glance, and the Finance Committee thereby, with that information before them, will know at once, and in a very easy form, exactly what has been done by the various legislatures. That, I think, will also meet the view of my right hon. friend, Sir John Forrest, who said that we have not seen the suggestions of the various legislatures. They have now all been laid on the table, and although some of them arrived rather late, they will be all embodied in a tabulated statement which will be in the hands of hon. members to-morrow. I quite agree, with the hon. member, Mr. Trenwith, in deprecating anything like hurry; but I do not think while we decline to hurry we are therefore bound to take such a course as will bang up the proceedings of this Convention for several months. I think the common-sense of that matter was really put by the hon. and learned member, Mr. Symon, that is, let us do our work industriously, determinedly, not with any hurry, but in such a way as to show that we are not paltering with the matter, and if we then find that three weeks is insufficient for this work, if we find at the end of three weeks that there is an absolute necessity for our friends from Victoria, to leave, then will be time enough for us to consider the question of adjournment. In answer to what my hon. friend, Mr. Lyne, has said about the secrecy of select committees, I would like to point out to him that the object of the committee is not finally to decide anything; that the whole purpose of a select committee of this kind is to formulate proposals for discussion; and, therefore, that publicity which would accompany any debate, the object of which

[P.20] starts here

is to come to a final determination, is not necessary in a case of a select committee, while it is absolutely necessary in the case of the debate which follows. There is no one member of this Convention who desires, I take it,
that our proceedings should be conducted with closed doors, but when there is a necessity for negotiations and discussion between hon. members constituting a select committee for the purpose of arriving not at a conclusion but at some proposal to be laid before the Convention until they finish their labours the whole of that matter is in a state of flux. These matters are mere suggestions or proposals, and it is not until they come before us in the shape of a report by the committee that the Convention can deal with them by way of final decision. That is the time when, of course, the public will naturally expect to be present, and there is not one member of this Convention who would for an instant deny their right to be present. That discussion can take place between the members of the committee without the necessity of having a press report of their proceedings is to me such an obvious thing that I think reflection demonstrates to us that we cannot adopt a proceeding of that kind in any way. If we are to leave the proceedings of the select committee open to reporting by the press at every stage of their proceedings, the result would be that there would be such accounts and such criticisms taking place on the various stages of that discussion as would tend, not to enlighten but to mislead the public mind, and as would tend to cause the members of the public to come to a conclusion upon the intentions and the work of that committee which would not be the real conclusion to be gathered from their final work.

Mr. GLYNN:
The amendment does not suggest that!

The Hon. E. BARTON:

I was not referring to the amendment of the hon. gentleman, but was replying to certain remarks made by Mr. Lyne. I understood that the objection to any select committee proceedings at all was because the whole of this discussion should take place in public, and I was pointing out the difficulty of that course. I should like to say also that, with a Convention of fifty members discussing a matter which really belongs to financial experts, there is much greater difficulty in coming to a sound conclusion without having some proposals formulated by those experts than there would be if we had their suggestions before us in a concrete form. I am not of the opinion that there was any undue hurry about this matter in Adelaide. The Finance Committee, no doubt, found this a very difficult nut to crack; but that committee sat for about ten days, and the other committee who revised their labours - the Committee of Treasurers - sat for several days in addition.

Hon. MEMBERS:

   No!
The Hon. E. BARTON:
They sat for two or three days from the time they were appointed.

The Right Hon. G.H. REID:
During odd hours!

The Hon. E. BARTON:
I think Mr. Holder will bear me out that it was some days from the time he made the suggestion that they should sit together for this purpose and the date when they presented the clauses which were afterwards laid before the Convention. No doubt those clauses commended themselves to the Convention more rapidly for the reason that they were at that time the best proposals put before them. Because they have received some criticism since, it does not follow that even now they may not emerge from the fire of criticism in this Convention not very much modified. All I have to say about it is this: that not being skilled in finance, I prefer to leave the formulation of proposals to those who know more about these matters than I do, I hope that none of the remarks I have made were uncalled for, and I trust that my right hon. friend, Sir George Turner, will find as we go on with our discussions that there is a general spirit in the Convention to avoid any undue waste of time and delay. I am quite sure we shall all co-operate to that end, that none of us will make speeches which we consider unnecessary; that while there are matters for due discussion, that discussion will be to the point, and that our labours will be directed to the doing of good work, because the very best work in the world can sometimes be done without any unnecessary delay. If we avoid unnecessary delay, and at the same time apply our best faculties to the work we have before us-and it may be of course that in doing that we shall have to forego some of the festivities intended for us-if we act in that way there is then a chance of our completing our work in the three weeks, and if we fail to do that I am quite sure every consideration will be extended to my right hon. friend, Sir George Turner, and those who accompany him.

Amendment agreed to.

Resolved: (1) That Chapter IV of the Draft Constitution be referred to a select committee for consideration and report, with power to send for persons and papers.

(2) That such committee consist of Mr. Reid, Mr. George Turner, Mr. Holder, Sir Philip Fysh, and Sir John Forrest, and one other representative of each colony, to be chosen by the representatives thereof.

(3) That it be an instruction to the committee to have the evidence given by experts or statisticians to the committee printed, and copies of such evidence and of any statistics or reports furnished to the committee, be laid
The Hon. E. BARTON (New South Wales) rose to move:

That Sir John Downer, Mr. R.E. O'Connor, and the mover be reappointed a drafting committee.

He said: It will be clear to hon. members that there will be a considerable necessity for drafting as we go on with the various proposals and suggestions that will be before us, including the proposals which have been made by the various legislatures, and it can scarcely be expected of any of us that amendments we shall adopt in the course of debate will exactly be in the strict form in which we should like to see them in the bill. It is therefore advisable for us to have the assistance of a committee. I have mentioned the names of the previous Drafting Committee in this motion, because I think, from what I have heard from various quarters, that the Convention is fairly satisfied with the way in which they performed their duties. It has been suggested to me that additional names might be added. The members of the Drafting Committee, I am sure, would welcome assistance; but the only question is whether, when you have a committee consisting of four or five members, the work of that committee would be shortened by the addition of other gentlemen engaged in such a work as drafting. Whatever is done in that regard, it must be at once understood, will not be viewed with the slightest jealousy by any member of the Drafting Committee.

Mr. JAMES (Western Australia):

This Drafting Committee, I understand, was appointed by the Constitutional Committee, in April last. This is the first opportunity the Convention, as a whole, have had of dealing with the question, and I venture to think that this committee, by being enlarged, will be considerably strengthened. I do not for one moment desire to take up a position which would suggest that members of this Convention are competent to criticise in detail the drafting of the 1897 bill. But the impression produced on my mind is that the drafting is not an improvement on the drafting of the 1891 bill. It does not appear to me to be so clear cut as the bill of 1891 was. For that reason I think it would be advisable that there should be some new minds on this committee, not only for the purpose of giving us, perhaps, a better bill, but also for the purpose of saving, not the time of the Drafting Committee, but the time of the Convention. In this, the last stage of the bill, the eminent lawyers, we have in the Convention will feel that their names will be, to a large extent, bound up with the drafting of the bill, although they themselves are not on
the Drafting Committee. They will feel therefore bound to deal with these
details more than they did at our meeting in April last. Hon. members will
no doubt remember that several objections were taken then, some of which
were argued at length, and most of them were left to the Drafting
Committee to settle. If we have members of the Convention who are well
qualified to take a position on the Drafting Committee, discussing all these
details in the Convention, we shall have the time of the Convention
considerably taken up in that way. It is far better that these matters should
be discussed across a table by members of a committee than that they
should be discussed here in open Convention. In common with the rest of
the Western Australian delegates I left early on the last occasion. I think
when we left in April last we had simply dealt with the question of money
bills. If I remember rightly, we had a very long argument, almost at the
first section brought before the Convention, on a mere question of
draftsmanship. Such arguments are likely to be increased considerably
unless we have on the Drafting Committee those men, who by virtue of
their attainments, are entitled to be there, and who, feeling that their names
and reputation are bound up with the draftsmanship of the bill, will
consider that they are bound to take every objection which strikes them as
being a good objection against any defect of draftsmanship. With that
object I desire to move as an amendment:

That the following names be added to the motion:- "The President, Mr.
Symon, and Mr. Isaacs."

Amendment proposed.

The Hon. A. DOUGLAS (Tasmania)[2.30]:
I do not think we can improve on the proposal before the Convention.
We shall do more harm than good by enlarging the committee. I think it
would be best to leave the matter in the bands of the gentlemen named in
the motion.

The Hon. Sir R.C. BAKER (South Australia)[2.31]:
I join with my friend from Tasmania in submitting that the smaller the
Drafting Committee the better, and the more expeditiously will it do its
work. I am perfectly certain there is not one member of the Convention
who will venture to object to the three names suggested. In yourself, Mr.
President, Mr. Symon, and Mr. Isaacs we have three of the most qualified
men in Australia so far as draftsmanship is concerned. But that is not the
question. The question is, "Is it advisable to make the Drafting Committee
too large?" We are all under great obligation to the Drafting Committee
who acted in South Australia. Their work was most arduous. They not only
had to take a leading part in the debates of the Convention itself, but they
had to work all through the night almost, in some instances; and the fact
that the bill is not drafted in, perhaps, the best possible manner, is not due to any fault on their part, but is due to the fact that the Convention itself made alterations in their drafting. In every bill which comes before any legislature, when amendments are moved in Committee, and those amendments are not finally submitted to the draftsman of the bill, defects will occur; and the defects which occur in this bill, I take it, are due, not to any fault or want of ability on the part of the Drafting Committee, but to those circumstances to which I have referred, which rendered it impossible for them to review their own work. I do not wish to make any remark which can possibly be construed into a want of appreciation of your great talents as a draftsman, Mr. President, and of the undoubted ability of Mr. Symon and Mr. Isaacs in that respect; but I do think it will be a mistake to make the Drafting Committee too large.

The PRESIDENT:

May I be permitted, as my name has been mentioned, to say that I think the old Drafting Committee are entitled to our hearty thanks, our loyal support, our generous aid; and whether or not I have the honor of being officially associated with them, they can command my humble services in any capacity.

The Right Hon. G.H. REID (New South Wales) [2.34]:

No one has a higher feeling than I have of the efficiency of tile work of the gentlemen who composed the Drafting Committee in Adelaide, and I am very glad to see that we shall have a chance of enjoying the benefit of their labours now. Now that we are approaching a final settlement of this measure, it is, to my mind, a matter of the very greatest importance that we should strengthen this committee. I absolutely believe that the inclusion of the names suggested will be it wise step. I absolutely believe it will strengthen the hands of our three friends who have had this burden cast upon them, and that the results in the end will be more satisfactory to them and to us; and if we can hope for the benefit of the services of the three gentlemen named, I, for one, will most cordially and heartily support the amendment which has been moved.

The Hon. I.A. ISAACS (Victoria)[2.35]:

As I am one of the gentlemen whose names have been mentioned, I desire to say that, in this and in all other matters, I am only too willing to give my services to the Convention, and I feel extremely obliged for the remarks which have been made by some of my hon. friends. At the same time I cannot help thinking that three is quite large enough a number for the Drafting Committee, and I think we should act wisely in not
augmenting that number. Those hon. gentlemen have had a great deal of
trouble in doing the work they have done, and they know that they can
confidently rely on the assistance of every member of the Convention at
any time and in any manner they desire. Therefore, I think, having the
fullest regard for the undoubtedly strong arguments which have been urged
on one side, the balance of convenience and advisability will be not to
increase the number of the Drafting Committee beyond three.

The Right Hon. Sir E. BRADDON (Tasmania)[2.37]:
I think it is impossible to close our eyes to the fact that the appointment
of any additional members of the Drafting Committee will seem something
like a slur upon the existing committee.

Hon. MEMBERS:
No, no!

The Right Hon. G.H. REID:
It is not a personal matter!

The Right Hon. Sir E. BRADDON:
I will put it that it will convey the idea that we regard as necessary a
further strengthening of the committee, and I think none of us would desire
to convey that idea. I am informed on the best authority that Sir Reginald
Frederick Palgrave, clerk of the British House of Commons, has expressed
the highest sense of the statesmanship and draftsmanship of the bill as it
has been prepared. The great bulk of the work of drafting has been
completed-completed, we must all admit, with most excellent results; and
whilst those gentlemen who have been mentioned as additional members
of the committee would no doubt add to the strength of any committee
chosen for that particular purpose, they have told us that they are quite
prepared to give their assistance wherever may be called

for in the preparation or completion of the draft bill. I hope we shall
continue to support the more limited committee which has done its work so
well, and which is the most convenient committee as to numbers we could
very well have.

The Hon. J.H. HOWE (South Australia)[2.39]:
I agree entirely with the last speaker. I think, so far as I am able to judge
as a layman, that the bill drafted in Adelaide is as plain as it possibly can
be. One may read it as he runs. I do not think the worthy representative
from Western Australia has done that credit to the draftsmen of the bill
which they deserve. I am quite willing to believe that the hon. gentleman is
a judge in regard to that upon which be has expressed his opinion. I
recognise that he is the leader of the bar in the colony from which he
comes, and which he ably represents; but, at the same time, I do not think he told us that the bill could bear any comparison, for its clearness and distinctness, with the bill of 1891. I have heard opinions passed by eminent men, and I have also read them in the public prints, to the effect that the bill, as drafted by the Adelaide Convention, is a decided improvement on the bill of 1891, and small credit would it be to those who had the benefit of the earlier work if they could not have perfected it. I have heard that the hon. member has had certain promises of support.

Mr. JAMES:

Nothing of the sort

The Hon. J.H. HOWE:

Well, then, I have been incorrectly informed. I beg the hon. member's pardon. I was going to remind the hon. member that, if he were to take a few more hon. members into his confidence before amendments were sprung upon this Assembly it would, perhaps, facilitate business. Although I hail from South Australia, I recognise that the amendment means that South Australia will have three members on the Drafting Committee—that is, half the number. We all admit their ability, and I am glad we do; in fact, over the length and breadth of Australia they are recognised as eminent men in their profession. I, as a representative of South Australia, would regard it as a great compliment if those gentlemen were elected; but, as the hon. member, Sir Richard Baker, has

The Hon. H. DOBSON (Tasmania)[2.41):

I hope that this will be the last time during the sittings of this Convention that, when a suggestion is made to strengthen a committee or to help forward the most important work that we have in hand, hon. members will be charged with having a want of confidence in others. I think that anything of that kind is altogether to be deprecated. We want to do our work in the best possible way, and I am one of those who agree with the hon. member, Mr. James, that the Drafting Committee can be strengthened, and that, when the whole thing is over, the committee will thank us for having added to their number, and that the Convention also will thank us for having done so. I think that it is an idle waste of time to discuss this matter. We all have the greatest possible confidence in the Drafting Committee who served us in Adelaide. I think we were all astonished at the marvellous way in which they put into shape the ideas—even the inconsistent ideas—which we gave them. I suggest that we should add to the Drafting Committee for this reason alone: If the Drafting Committee, consisting of three members, sit at the table drafting every clause and every amendment, I take it that you want at least two other members to receive from them their draft as they settle it, and to go through the bill line by
line, separately and by themselves, to see if they can find
mistakes in it; and I will undertake to say that they will find mistakes in it—perhaps only one or two trivial mistakes—which hon. members, devoting hours to it, will, perhaps, not perceive, but which those hon. gentlemen, devoting their fresh minds to it, will see.
The Right Hon. G.H. REID:
A mistake of one word might make it read ridiculously!
The Hon. H. DOBSON:
That is true. The Drafting Committee have borne the heat and burden of the day. I suggest that you, Sir, should be added to the committee, and that the two other hon. members should keep themselves in reserve to take from the committee the sheets as they complete them, and go through them with infinite pains, in a separate room, to see if they can find any mistake. Every lawyer knows that when a mistake is made in a deed or an act it is, in two out of three cases, done when making an alteration. You make an amendment and do not see the effect of it on some clause perhaps ten pages off. For that reason, I think that the Drafting Committee might be assisted in their labours by the addition of two or three hon. members.
Mr. SYMON (South Australia)[2.44]:
As my name has been associated with this amendment, may I be permitted to say a few words? I rather deplore the effort which seems to have been made to create some kind of personal feeling, or some sort of personal irritation in relation to a matter with which every one of us is concerned—to see that the best is done for the object we have in view. If I thought, for one moment, that the object of the mover of the amendment was to cast any reflection on the old Drafting Committee, or to deplore in the slightest degree the able and splendid work which they did for us in Adelaide, I should immediately desire leave to intimate the withdrawal of my name. But I do not view it in that way at all. I was not aware until I heard my name mentioned by the hon. member who moved the amendment that it was intended to increase the strength of the Drafting Committee in the way suggested, nor that my name was to be associated with it in any way whatever, and I think that that fact may be accepted as a testimony that my hon. friend from Western Australia certainly did not act in collusion, if I may so express it, with any of the lawyers whose names have been mentioned. I will only say this further: I do not, believe that in any assembly in the world, or in any body of the profession, you would be able to find three men of greater capacity for the work which they undertook than the three members of the Drafting Committee selected in Adelaide. That is my deliberate opinion, and, although I also feel that it is undesirable
to make comparisons, I do not agree with my hon. friend who moved the amendment that the result of their labours will not bear comparison with the bill of 1891. I think, in all humility, quite the opposite. But that is not the point. The point is, whether our labours will be brought to a better issue, and more easily and readily, by strengthening the Drafting Committee. I am not going to argue either in favour of or against it; but I will recall to the recollection of the Convention the fact that, in Adelaide, after we had come together in Committee of the whole, a number of suggestions were made—my hon. and learned friend, Mr. Isaacs, made some, and other hon. members made others, and they were met by the remark, "Oh, these are mere drafting amendments, and it is hardly worth while taking up the time of the Committee upon them." I think that—I do not say for certain, but possibly—the enlargement of the Drafting Committee might prevent that result. I do not know whether it would or would not. But, at any rate, I may say that I have the most implicit confidence in the Drafting Committee as already constituted. Their work does them and the Convention infinite credit. My hon. friend who moved the amendment did so, as I thought, with the most perfect courtesy, although he expressed his own individual opinion upon one or two matters, and I think it is our duty—at least, I feel it to be my duty, as one of those whose names have been mentioned—to submit myself to the general opinion of the Convention, and whether the committee is or is not enlarged and strengthened, I shall always be delighted, as it is my duty, to lend every assistance to those gentlemen, whoever they may be, who constitute the Drafting Committee, and to be of whatever service I can in making the bill of such a character that it will redound to our credit in the shape of a measure so framed that he who runs may read.

Mr. CLARKE (Tasmania) [2.49]:

It was stated by my right hon. friend, the Premier of Tasmania, that if we were to increase the number of the members of the Drafting Committee we should cast a slur upon them, and be showing them discourtesy. I should like to point out that we have just increased the number of members who have to consider Chapter IV of the draft constitution. No member of the Convention ventured to suggest that we were casting a slur upon the members of that committee when we increased its number from five to ten.

An Hon. MEMBER:

There were originally twenty members on the Finance Committee, and the number has been reduced to ten!
Mr. CLARKE:

The Finance Committee originally consisted of twenty members, but was reduced to five at Adelaide. We remitted the consideration of the financial question to a committee consisting of the Treasurers of all the colonies, and, so far as I am aware, none of the colonies has more than one Treasurer. To-day we increased the number of the committee to ten. Inasmuch as no member of the Convention considered that in agreeing to that amendment we were showing discourtesy to the Treasurers of the different colonies, I do not think it is right to suggest now that if we increase the number of the Drafting Committee we shall be showing discourtesy to the three able gentlemen who formed that committee in Adelaide. I should like to say that I always considered it a misfortune that you, Mr. President, were not selected as one of the Drafting Committee at Adelaide, because your labours in connection with the bill of 1891 eminently fitted you to act on that committee. With regard to the Attorney-General of Victoria, I regret that there was not a single delegate from Victoria appointed to the Drafting Committee at Adelaide. I think that was a great mistake, and the learned Attorney-General of Victoria showed us, by his able criticism of the bill as drafted in Adelaide, how competent he is to form a member of the Drafting Committee. I therefore think that the inclusion of his name will add strength to the committee. With regard to the other gentleman whose name has been mentioned—Mr. Symon—I should like to say that he was chairman of the Judiciary Committee and is responsible for the drafting of all the clauses in the bill which relate to the judiciary. These clauses have been criticised rather severely by no less an authority than Sir Samuel Griffith, and I think it would be an advantage to the Convention if Mr. Symon's name were added to the list of the committee in order that he might show why these clauses should stand in the form in which they are at present. I support the addition to the committee of the gentlemen who have been named, and, but for the argument that we should not make the committee too large, I should like to see upon it another representative from Victoria. Before I sit down, I should like to refer to a remark of the hon. member, Mr. Howe, who deprecated the action of the hon. member, Mr. James, in springing the amendment upon the Convention without first submitting it to other hon. members. I do not know that there is a rule binding members of the Convention to show their amendments to Mr. Howe or to anyone else, to secure their approval before moving them. I consider that Mr. James acted correctly in not submitting his amendment to Mr. Howe. As
Mr. James is one of the youngest members of the Convention, and as I am another very young member, I wish to say that, throughout the sittings of the Convention, I shall retain to myself full authority to submit any amendment without showing it to any other hon. member.

The Hon. J.H. GORDON (South Australia)[2.53]:

As I undertook to second the amendment, I should like to say, in order to remove any impression that this is a caucus movement, that I believe that I am the only member of the Convention to whom Mr. James has spoken upon this matter, and lie is certainly the only member to whom I have spoken of it. If there is an impression that this motion is going to be generally supported, I can assure hon. members that it will be supported because it appeals to the appreciation of the Convention that there should be some addition to the number of the Drafting Committee—not because of any doubt as to the ability of the gentlemen who formed the committee at Adelaide, and whose arduous labours have been fully appreciated by every member of the Convention, and by every colonial legislature.

An Hon. MEMBER:

Still that doubt is implied!

The Hon. J.H. GORDON:

I do not think that it is implied. If I thought that the slightest suggestion of a reflection upon the members of the Drafting Committee were implied in this proposal to increase the number of the committee, I would ask leave sit my hon. friend, Mr. James, to withdraw my promise to support him. I do not think that there is. I do not think that there is an idea in the minds of any member of the Convention which could be construed into an imputation upon the Drafting Committee, whose labours have been well described by Mr. Symon as most admirable; but I am sure that hon. members will see that it is proper that, at any rate, a representative from the great colony of Victoria should be a member of the committee, especially since among the Victorian representatives there is so eminent a member of the bar as Mr. Isaacs. Your own qualifications, Mr. President, as has been very well put by Mr. Clarke, and your labours in connection with the bill of 1891, apart from your general reputation as a draftsman, certainly entitle you to be one of the Drafting Committee. The name of Mr. Symon can only strengthen any committee that has to deal with legal work. I appeal to members of the Drafting Committee to take my assurance—and I believe that I can speak for every member of the Convention—that there is not the slightest suggestion of a reflection implied.

The Hon. E. BARTON:

I have nothing to say in regard to the discussion which has taken place,
except that those hon. gentlemen who were associated with me in the drafting of the bill at Adelaide will, as a matter of delicacy, abstain from voting, as I shall.

Question-That the words proposed to to be added (Mr. James' amendment) be so added-put. The Convention divided:

Ayes, 20; noes, 21; majority, 1.

AYES.
Briggs, H. Henry, J.
Brunker, J.N. Holder, F.W.
Carruthers, J.H. Lewis, N.E.
Clarke, M.J. Lyne, W.J.
Cockburn, Dr. J.A. Moore, W.
Crowder, F.T. Quick, Dr. J.
Dobson, H. Reid, G.H.
Gordon, J.H. Walker, J.T.
Grant, C.H.
Hackett, J.W. Teller,
Henning, A.H. James, W.H.

NOES.
Baker, Sir R.C. Higgins, H.B.
Berry, Sir G. Isaacs, I.A.
Braddon, Sir E.N.C. Lee-Steere, Sir J.G.
Brown, N.J. Peacock,
Deakin, A. Solomon, V.L.
Douglas, A. Trenwith, W.A.
Forrest, Sir J. Turner, Sir G.
Fraser, S. Venn, H.W.
Fysh, Sir P.O. Zeal, Sir W.A.
Glynn, P.M. Teller,
Hassell, A.Y. Howe, J.H.
Question so resolved in the negative.
Original question resolved in the affirmative.

RETURNS: POPULATION, REVENUE, &c.
Ordered (on motion by Mr. WALKER): That the following returns be prepared and laid on the table:-

(1.) Population of each colony on 30th June, 1897.
(2.) Revenue for customs and excise for the year ending 30th June, 1897, showing separately the receipts from intoxicants and narcotics.
(3.) Revenue received during year ending 30th June, 1897, under the
other branches proposed to be transferred to the commonwealth.

(4.) Expenditure in each colony during year ending 30th June, 1897, under each branch proposed to be transferred to the commonwealth.

(5.) Approximate value of properties to be transferred to the commonwealth.

The returns to include, and to show separately, the figures of each colony represented at this Convention, with the totals also, and the figures for Queensland finally added. Expenditure to be taken from the estimates if exact figures are not available. If the population or any other figures are not available, estimates to be made. The returns to be completed as quickly as possible.

COMMONWEALTH OF AUSTRALIA BILL.
The Hon. E. BARTON (New South Wales)[3.4]:

I move:

That the President do now leave the chair, and that the Convention resolve itself into Committee of the Whole to reconsider the Commonwealth Bill, together with the amendments suggested by the various legislatures.

In making this motion, I think hon. members will agree with me that, inasmuch as a properly tabulated statement of the suggested amendments is not yet in their hands we should not, in the absence of that document, make very much progress this afternoon. I suggest, therefore, that we should simply go into Committee pro forma, and wait until Monday before proceeding with the reconsideration of the bill. All information as to the suggested amendments will then be in our hands. I am sure I can rely upon hon. members to give their utmost attention to the amendments in the time available between now and our next meeting, in which event the course now taken will be a saving instead of a loss of time. I would ask hon. members to consider another question, that is, in view of the difficult position, in one sense, occupied by the Victorian delegation in having so limited a time at their disposal, whether it might not—I do not say it would—be a desirable thing for the Committee to proceed at once with the more important questions involved in the bill, that is to say, such questions as representation in the senate, the money powers of the houses, the questions of railways and rivers, and so on. It occurred to me that it would, perhaps, be a fair concession to make to my hon. friends from Victoria to deal with these principal matters first, and then to take up the other clauses which are less important, in the hope that we might have made such progress by the end of three weeks as would enable them to see that the clauses left for discussion would be merely those which were not the subjects of any suggested amendments. If we can arrive at that position, so much the
better; if not, then the question must be seriously considered whether we should adjourn, and if so, for how long. It is with a view of consulting the convenience of hon. gentlemen from Victoria that I throw out this suggestion.

The Right Hon. Sir G. TURNER (Victoria): [3.7]

In seconding the motion,

I would say that if it be my hon. friend's desire to consult the views of the representatives of Victoria, he will deal first with the most important of all questions, that of finance; for there can be no doubt that the whole matter will rest upon this Convention devising some financial scheme which will be acceptable to all the colonies.

The Hon. E. BARTON:

It is necessary to appoint a select committee to deal with the financial clauses, and if we deal with them in the full Committee, what will be the position of the select committee?

The Right Hon. Sir G. TURNER:

I think the probabilities are that there will be so many suggestions made by hon. gentlemen relating to the question of finance that we shall not be able in the Convention to pick out the best one from among them, whereas the Finance Committee, having all the necessary information, and having the advantage of the views of representatives as expressed in the Committee of the Convention, may be able to pick out one, or to adopt a mixture of two or more of the schemes which might prove satisfactory.

The Hon. E. BARTON:

Do I understand that the right hon. gentleman would prefer a discussion upon these clauses in the full Committee of the Convention without any conclusion on the part of the select committee?

The Right Hon. Sir G. TURNER:

Personally, I undoubtedly would. There can be only the one representative from each colony, in addition to its Treasurer, upon this Finance Committee; and I am sure there is more than one member of each delegation who considers that he has a scheme which is perfect in itself. Therefore, I certainly would like to hear the views of every representative who has any suggestion to put before us which may help us out of the difficulty. I think the proper course would be to have a discussion upon the financial question before the Finance Committee proceed to formulate any definite conclusion. I would also like the leader of the Convention to say, whether he proposes that we should sit at night. We have received a large number of invitations to entertainments, and want to know whether we are to accept these invitations, or to say that, in consequence of our duties here
occupying our time, we shall be unable to do so. As far as I am personally concerned, I feel very strongly that when a body of men come together for the purpose of doing work, if they are to have a great portion of their time taken up by attending entertainments, they cannot give their minds to what they have to do. When we have a spare evening the members of each delegation would like to have an opportunity of quietly talking over matters, and of thinking over what we ought to do next day when we meet. If the hon. member proposes to sit at night I shall be glad to support him. That course might, perhaps, enable the representatives of Victoria to get out of the difficulty which we now see staring us in the face. Whatever may be done I would ask my hon. friend to consider whether it would not be advisable on Monday to let it be understood that we shall have a discussion on the whole financial question, and then when other matters, perhaps not so important, are being discussed by the Convention, members of the Finance Committee may be able to meet and formulate some scheme.

The Hon. E. Barton (New South Wales): I shall give my best consideration to the suggestion made by the right hon. gentleman. If there is any way of facilitating the views of the hon. member I shall be very glad to do so.

Question resolved in the affirmative.

In Committee:

Clause 1 (Short title).

The CHAIRMAN: Before I put this clause I think it would perhaps be a fitting time to inform the Committee what procedure it is intended to adopt. Of course, every member of the Committee is aware that this is not an ordinary bill, and that the suggested amendments made by the various legislatures of the different colonies are not ordinary amendments. We sit here in pursuance of the provisions of an act of Parliament of New South Wales called the Federal Enabling Act. By that measure it is the duty of this Convention to consider the suggested amendments made by the various legislatures. It, therefore, seems to me as a matter of law that we are bound to consider those suggestions. I consequently propose to put the various suggestions made by the local legislatures, without motion by any member of the Committee, and to put them in the order of sequence in which they come in each clause. That will prevent the necessity of members asking leave to withdraw amendments which they have proposed in order that prior amendments may be moved. Of course, as we have to
reconsider the whole bill, it will be competent for any member of the Committee to move any amendments even though they have not been suggested by any of the local legislatures, or to move amendments on the amendments which have been suggested by such legislatures. This general rule, however, namely, that all these suggested amendments must be put, will be subject, to certain limitations-those limitations which standing orders and common-sense alike provide. There are three cases which may arise when I shall feel it my duty not to put the suggestions made by the local legislatures. Supposing the same or substantially the same amendments have been suggested by two or more legislatures. If one of these is carried it will not be necessary to put the others. If one of these is negatived it will not be possible to put the others, because of the rule which prevents the Committee at one and the same stage arriving at irreconcilable conclusions; so that hon. members when they take any course as to whether they will or will not adopt a suggestion which is practically identical with that made by another legislature, must bear in mind that they are settling that question, at all events as far as this Committee in its present stage is concerned. There is another case that will arise; that is, where some suggestion has been adopted, an irreconcilable suggestion which is identically the opposite of it cannot be considered. With these limitations, I propose, subject to any instructions given by this Convention, to put in the order in which they arise the suggestions made by the various parliaments. A schedule will be presented to this Convention on Monday next, in which these suggestions will be printed in their order of sequence, which I think will facilitate the proceedings.

The Right Hon. Sir G. TURNER (Victoria)[3.16]:

Do I understand that we are not to get the amendments until Monday next?

The Hon. E. BARTON:

I think hon. members will have them to-morrow morning. There may be typographical corrections. If so they will be redistributed!

The Right Hon. Sir G. TURNER:

I hope we shall get them as early as possible. There is another matter I should like to mention with regard to the discussion of these amendments. Are we to be limited to the particular amendment which you, sir, put from the Chair, because, as you mentioned, there may be other amendments, either similar or the opposite of what may be submitted? If we are to follow strict rules, and not be allowed to refer to anything but the particular amendment, put from the Chair, we may be shut out from discussing the whole question. I would therefore suggest that as we are not sitting in the ordinary way, great latitude should be afforded to the representatives,
and that, when we are dealing with a particular suggestion, we shall have liberty to refer to other suggestions dealing with the same subject. That, I think, will facilitate the business and prevent confusion arising later on. I suggest this for consideration, so that we may give every opportunity to representatives to discuss the whole question which may be raised by one particular amendment.

The Hon. E. BARTON (New South Wales)[3.18]:

I take it that the right hon. member's suggestion is obviously the right one, because it would be extremely difficult for us to discuss the suggested amendments by any parliament unless we could give reasons, for instance, why we preferred another suggestion, and in order to do that we should be able to compare one with another. There is another question which I suppose will arise, and might be referred to. I am not sure whether it was not dealt with by you, sir, in your remarks. We are not confined to the suggestions of the legislatures, because it is the statutory duty of the Convention to reconsider the bill itself, and we must go over every line. Under these circumstances, I think it would be the duty of an hon. member, if he wishes to propose an amendment in a clause between two suggested amendments, not to wait until those two amendments are dealt with, but to propose it at the proper time as it occurs in the bill. In fact, I think that is the substance of what you, sir, stated.

The Hon. Dr. COCKBURN (South Australia) (3.19):

For the convenience of hon. members, I think it would be better to put the suggested amendments after the clause that it is proposed to amend. The clause of the bill sought to be amended should be printed first, and following that should be the suggested amendments of the various legislatures.

The Hon. N.J. BROWN (Tasmania)[3.20]:

There is one point as to which considerable difference of opinion has been expressed in the various parliaments, namely, whether the suggestions made by the legislature of a colony—that is, the suggestions agreed to by both houses of a legislature—are alone to be taken, or whether those agreed to by each house of each parliament, are to be considered? As regards the suggestions coming from the Tasmanian Parliament, sir, you will perceive that the suggestions which have been agreed to by both houses appear in one schedule, and those agreed to by each house separately are placed in another schedule.

The CHAIRMAN:

I have been asked four questions which I will answer in order of
sequence. With reference to the question of the Right hon. Sir George Turner, in my opinion the fullest, freest, most ample discussion ought to be allowed on these suggestions. The members of the Committee ought to be allowed to consider the suggestions in groups, if I may so express it. I feel sure that every member of the Convention is of opinion that the utmost deference should be paid to each suggestion of the legislature of each colony, and in order to give effect to that, I think the views expressed by the Right hon. Sir George Turner should be adopted by me as Chairman of the Committee. In reference to the question of the hon. and learned member, Mr. Barton, I think I have already indicated that if any hon. member has an amendment to move, apart from the suggestions of the legislatures, he ought to move that amendment in its proper place, either before the first suggestion or between two suggestions, as the case may be. As regards the question of the hon. member, Mr. Brown, I cannot take upon myself the responsibility of drawing any distinction between suggestions made by two houses of a legislature and suggestions made by one house. I think it would be an invidious thing to penalise those colonies where they have not had time to obtain a conference between the two houses; and therefore I will not make any difference whatever between suggestions which have been concurred in by two legislative bodies and suggestions made by one legislative body.

The Hon. Dr. COCKBURN (South Australia)[3.23]:
I do not think, sir, you have given a reply to my question!

The CHAIRMAN:
That is a matter with which I have nothing to do.

The Hon. Dr. COCKBURN:
Is it within the power of the Convention to ask you to do it? I think it would be a great convenience if it were done.

The Right Hon. C.C. KINGSTON:
Ask the leader of the Convention!

The Hon. Dr. COCKBURN:
I would ask the leader of the Convention if he would arrange, for the convenience of hon. members, that each clause should be placed in conjunction with the suggested amendments. It will save hon. members a great deal of trouble, for they will be able to hold one paper in their hand instead of having to hold a number of papers, and to refer from one to the other. It may involve a little extra printing; but I think the convenience it will afford to hon. members will be more than sufficient to counterbalance the other consideration.
An Hon. MEMBER:
   Interleaved!

The Hon. Dr. COCKBURN:
   I do not care whether they are interleaved or placed alongside one another, or whether the clauses sought to be amended are placed at the head of the suggested amendments.

The Right Hon. Sir G. TURNER:
   Will that not take a long time to get ready?

The Hon. Dr. COCKBURN:
   I do not think it will take more than a few minutes, because all that you have to do is to put at the head of each group of amendments the clauses sought to be amended. It will not take more than a few minutes to prepare it, and it will save hours of work for each member of the Convention.

The Hon. E. BARTON (New South Wales)[3.25]:
   This process which is recommended, would certainly take some time. Hon. members may rest assured that there is no disposition to spare the printer for the purpose of the Convention; but the form in which it was proposed to table these amendments was before some of us yesterday afternoon, including the President and the Chairman. The number of the clause was given in the margin, and then there were columns showing in their proper order, so that the eye could take them in at a glance, the amendments of the legislatures, and whether they were suggested by one house or two. It was conceived then that to have the bill in one's hands, and to have the tabulated statement before one also, with a reference to the number of the clause, would obviate all difficulty of reference, and on comparison it seemed so to those who considered it, and I think hon. members will find it so. They will have these things before them tomorrow, and if it is discovered that there is any difficulty of reference in that way, I will do my utmost to see if a fresh print cannot be made with the clauses in the margin.

The Hon. Dr. COCKBURN:
   If the leader of the Convention will allow me, I will hand to him a paper which shows the practice adopted in Tasmania, and in which there is no interleaving.

The Hon. E. BARTON:
   That was considered, and it was found that it would be utterly impracticable with the number of amendments made by the different houses to put them in that form. There would be no possibility of making a convenient handy print in that way. As it is, the paper will be somewhat bulky, but I hope hon. members will find it as convenient as possible. If
any inconvenience should arise, I will do my utmost to see it rectified.
Progress reported.

FINANCE COMMITTEE.
The Hon. E. BARTON (New South Wales)[3.27]:

It has been suggested to me that it will be convenient if the hon. member at the head of the representatives of each colony will state the name of the hon. member who is to assist the Treasurer on the Finance Committee. I understand that Sir James Lee-Steere has been selected by the Western Australian representatives, Sir Edward Braddon by the Tasmanian representatives, and Mr. Solomon by the South Australian representatives. I understand also that Mr. Walker will assist on behalf of New South Wales. It only remains now for our friends from Victoria to declare theirs.
The PRESIDENT:
I understand that it is the wish of the Convention that those names should be added to the Finance Committee.
Convention adjourned at 3.28 p.m.
Monday 6 September, 1897

Petitions - Report of Statistician's Department, New South Wales

The PRESIDENT took the chair at 10.30 a.m.

PETITIONS.

The Hon. J.H. GORDON (South Australia) presented a petition from the Adelaide Ministerial Association, praying for its recognition of God in the Constitution of the Commonwealth.

Petition received.

The Hon. Sir R.C. BAKER (South Australia):

I have the honor to present a petition to which twenty-seven signatures are attached. Inasmuch as the petition asks the Convention not to agree to certain suggestions made by the Legislature of South Australia, I wish it to be distinctly understood that I do not in any way identify myself with the opinions expressed. I move:

That the petition be received, and read.

Motion agreed to.

The CLERK read the petition as follows:

To the Honorable the President and Members of the Australasian Federal Convention in session assembled:

The petition of the undersigned on behalf of the Australasian National League (in South Australia) humbly sheweth:

That your petitioners are of opinion that provision should be made in the preamble of the Commonwealth Bill for the recognition of Almighty God as the Supreme Ruler and the source of all law and authority.

That your petitioners are of opinion that the power of the federal parliament to impose direct taxation should be limited so as to provide that such taxation should only be imposed in the event of foreign war.

That your petitioners are of opinion that the right of appeal by litigants from the decision of the Australasian courts to her Majesty-in-Council should still be retained.

That your petitioners are of opinion that the control and regulation of the river Murray, and the use of the waters thereof by the federal parliament, should be extended so as to include all navigable rivers within the commonwealth and the tributaries thereof.

That your petitioners are of opinion that the suggestion of the South Australian House of Assembly that the qualification of electors for the
senate, and the house of representatives should be in each of the states, one adult one vote should not be agreed to.

That your petitioners are of opinion that the suggestion of the South Australian House of Assembly that the powers of the federal parliament in reference to postal, telegraphic, telephonic and other like services should be limited to "outside the limits of the commonwealth," should not be agreed to.

Your petitioners therefore humbly pray that such amendments may be made in the Commonwealth Bill during the present session of the Convention as will give effect to the prayer of your petitioners,

REPORT OF STATISTICIAN'S DEPARTMENT, NEW SOUTH WALES.

Mr. Higgins (Victoria):
I desire to ask a question without notice. I understand that there is a report extant of the Statistician's Department of New South Wales with regard to financial matters, and I wish to know if it will be made available to members of the Convention? I understand there is a similar report in Victoria, and that there is no objection to its production.

The Hon. E. Barton (New South Wales):
I received a copy of "Notes on Federal Finance," and I think the paper has been distributed to hon. members. A number of hon. members have received copies, though some of the reports distributed may have miscarried. The matter will be inquired into, and I have no doubt the hon. member will receive a copy of the report referred to.

FEDERAL FINANCE.

Mr. Glynn (South Australia):
I beg to ask the Premiers of the colonies represented in the Convention, and, in the case of South Australia, the hon. the Treasurer, Mr. Holder, whether, for the purpose of helping the deliberations of the Convention, they will lay upon the table copies of all reports presented to, their respective governments on the question of the finances of the proposed federation, the financial clauses of the draft bill, federal control or ownership of the railways. Since I gave notice of this question, some of the papers have been presented to the members of the Convention.

The Right Hon. G.H. Reid:
I do not think there will be any objection on the part of any of the Premiers to lay upon the table any documents of the character named, which are not confidential.
The PRESIDENT:
Do any of the other Premiers desire to say anything in reply to the question?

The Right Hon. Sir G. TURNER (Victoria):
I agree with the reply of Mr. Reid.

The Hon. W. MOORE (Tasmania):
As far as the Premier of Tasmania is concerned, I think there will be no objection.

POPULATION AND ELECTORAL RETURNS.

Dr. QUICK (Victoria) rose to move:
That a return be laid before this Convention showing, according to the latest available information,—
(1.) The population and number of electors in each electoral district for the Legislative Assembly of New South Wales; and
(2.) The population and number of electors in each electoral district for the Legislative Assembly of Victoria.

He said: I would ask that the Premier of New South Wales should make this information available as early as convenient, because to be of any use it will be required in connection with the debate on the representation of the states, which will come on, apparently, very early.

The Right Hon. G.H. REID:
It will be done at once!

Question resolved in the affirmative.

COMMONWEALTH OF AUSTRALIA BILL.

In Committee:
Clause 1.

The Hon. E. BARTON (New South Wales)[10.37]:
Objection was made at the last sitting by the Right Hon. Sir George Turner that inasmuch as the financial question presented the greatest difficulties with which we should have to deal at this adjourned sitting-or at any rate it was arguable that it presented as many difficulties as any other—a discussion should be taken first on the financial clauses for the information not only of members of the Convention, but also of the select committee on finance. Such hon. members as have mentioned the matter to me since that time, appear strongly to approve of the suggestion, and I need not say, as far as I am concerned, that if it would facilitate business and meet with the convenience of hon. members, it has on that ground every reason in its favour. If, therefore, it will be a means of facilitating the consideration of this very important question, I shall have no objection to move the postponement of clauses from 1 to 88. That would include the
requirement of a uniform tariff within two years, the requirement that there
should be free-trade within the commonwealth, the basis of distribution
before the uniform tariff is imposed, and the basis of distribution
afterwards. We could then discuss the clauses from 88 to 93, inclusive, as a
whole without being restricted in any way. Of course, in moving the
postponement of clauses from 1 to 88, I shall ask that clauses like clause 84
shall, for the present, at any rate, be accepted as necessary provisions in
any federal commonwealth—that is to say, that the federation should have to
collect the customs revenue, and that there should be freedom of
intercourse between the various parts of the commonwealth. Therefore, if
the clauses I have mentioned—say, from 88 inclusive—afford us a sufficient
basis for the discussion desired, I would ask that the prior clauses be
postponed. I take it that you, Mr. Chairman, in view of the kind of
discussion which is suggested, will not ask for a vote upon any of those
clauses at present, or upon any amendments which may be proposed, but
will leave all suggestions in regard to them for future consideration. I
move:

That the consideration of the clauses, 1 to 87 inclusive, be postponed.

The Right Hon. Sir G. TURNER:

Will the hon. and learned member invite a discussion on clause 88 or
clause 89?

The Hon. E. BARTON:

I will invite it discussion on the bunch of clauses commencing with
clause 88. Let there be one discussion.

Motion agreed to.

Clause 88. Uniform duties of customs shall be imposed within two years
after the establishment, of the commonwealth.

The Hon. E. BARTON:

I understand there is some intention on the part of the several Colonial
Treasurers to make a short statement to the committee as to the position
assumed by the legislatures of their respective colonies with regard to these
clauses. That would be a very convenient way of opening the discussion.

The Right Hon. G.H. REID (New South Wales):

As the Colonial Treasurer of the colony of New South Wales, I have to
make a very short statement of the nature of the amendments suggested by
the two houses of our legislature. It is understood that in making this
statement we do not propose to indulge in any comment or argument; but
simply to give the Convention, in the shortest possible form, the substance
of the suggestions which have been made. In order to do that I must go
back to clause 84, which vents exclusive power in the parliament of the
commonwealth to impose custom duties and duties of excise, and to grant
bounties after the passing of a uniform tariff. I have to state that the Legislative Council of this colony suggests the omission of that clause. With regard to clause 86, which provides that property used in connection with state services taken over by the commonwealth, should vest in the commonwealth subject to certain provisions as to valuation and payment, both houses of this legislature suggest its omission. I may make the remark, however, that I believe that was done simply in order that some other clause of a similar character and more fully considered, should be introduced. Clause 88 provides that uniform duties of customs should be imposed within two years after the establishment of the commonwealth. Both houses suggest the omission of that clause. With regard to clause 89, which provides for free-trade amongst the federated colonies after the imposition of a uniform tariff, the Legislative Assembly suggests an amendment preserving to each federated state the power of regulating the liquor and opium traffic in accordance with the laws of the states as to the sale of such articles. The Legislative Council suggests the omission of clause 90, which provides for the keeping of accounts of the revenue and expenditure of the commonwealth, and of what is due to the states. Both houses suggest the omission of clause 91, which places limits on federal expenditure during the first three years. Clause 92 provides for the first five years of a uniform tariff, a scheme for the distribution of the surplus, and stipulates that each state should, for those five years, keep back each year at least as much as during the year preceding the imposition of uniform duties. The Legislative Council suggests the omission of that clause; but the Legislative Assembly suggests the omission of certain words and the insertion of other words, leaving the parliament of

The Right Hon. Sir G. TURNER (Victoria) [10.48]:

With regard to the colony of Victoria, no suggestions respecting financial matters have been made by the Legislative Council. The Legislative Assembly suggests, with regard to clause 84, that we should strike out the words,

and to grant bounties upon the production or export of goods.

There are consequential amendments throughout that clause. They suggest that clause 92 should be omitted altogether. I understand the reason of that is that they do not agree with the scheme, but they have not suggested any other. Then they propose a new clause (A) after clause 93, to the effect that where any goods have been imported into a state before the imposition of the uniform duties are, during the first year of uniform duties, exported into any other state, we should authorise the collection on
such exportation of the amount of the difference between the duty chargeable on such goods before the imposition of uniform duties in the state from which they are exported, and the duty chargeable on such goods before the imposition of uniform duties in the state into which they are imported, or the uniform duty, whichever shall be less. Those are the only amendments suggested by the Parliament of Victoria.

The Hon. F.W. HOLDER (South Australia)[10.50]:

The only amendment proposed by the South Australian Parliament in these clauses is to the effect that liberty should be given to regulate the opium and alcoholic imports of trade within the states. The recommendations are precisely similar to those made upon the same subject by the colony of New South Wales. All the other clauses of the Commonwealth Bill were passed as printed.

The Right Hon. Sir G. TURNER (Victoria):

I have been somewhat misled by an error in the printing of this document. On page 49 hon. members will see under the heading "Tasmania":

That the following resolution be sent to the Federal Convention as a suggestion:"That in the opinion of the Legislative Council of Victoria the finance and trade proposals of the Commonwealth Bill require further inquiry and consideration."

I did not notice that until my hon. friend, Mr. Fraser, pointed it out to me.

The Hon. Sir P.O. FYS (Tasmania)[10.51]:

I regret that I was not in my place earlier in the morning. I understand that the intention is that the Treasurer of each colony or state shall briefly announce the amendments which that state has proposed in respect to the financial provisions of the Commonwealth Bill. If that be the case, my statement may be exceedingly brief. The purpose of the amendment suggested by the Tasmanian legislature with respect to finance is, first of all, to secure the taking over of the whole of the debts of the various states by the commonwealth. It starts on the assumption that the minimum of the debts of the whole of the colonies, or of each of the states separately, is £40 per head, and it is assumed that all amounts beyond the £40 per head shall be taken over in a separate form. For the whole of the debts the interest is to be paid by the federal executive or parliament; but for such sum as each state is indebted in excess of the £40 per head, each state shall give to the commonwealth debentures or bonds. To give an example, Tasmania at the present time is indebted £47 per head. It will, then, need to give to the federal executive bonds to the extent of £7 per head of its population, and such bonds will be redeemed, as I will proceed to state. The whole of the
interest, as I have already said, is to be paid by the commonwealth or federal executive. But that portion of the interest which relates to the excess of the debt over £40 per head is to be borne separately by the state so indebted. Tasmania, therefore, in giving bonds for £7 per bond, will be responsible to the commonwealth for the interest on that £7 per head. But with respect to the excess of £40-I am following up the example of Tasmania only, and leaving the representatives to apply it to each of their own states separately-as the population increases, taking a census year by year, it is proposed that the amount of debt shall be cancelled. So that, ultimately, the commonwealth will have acquired the whole of the debts of the various states, and the various states will be relieved entirely. Now, it may be said, of course, that this may appear at first to be very much to the advantage of those who are most indebted. But I would like representatives to bear in mind that directly we have established the commonwealth it is presumed that we shall be working for the common weal, and that the revenue from customs will be divided per capita. If that revenue be revenue belonging to the states per capita, then, as the population of the various states increases, they will be contributing more and more year by year to the commonwealth, and so meet the extra expenditure incurred for interest upon their extra debt. I presume that that is all the statement that is required of me now. I understand that there will be other amendments with respect to these various proposals; but they will come hereafter, and I shall, therefore, reserve any elaboration of my remarks on this subject for the proper and more convenient season.

The Right Hon. Sir JOHN FORREST (Western Australia)[10.57]:

The amendments made by the Legislative Council and Legislative Assembly of Western Australia in regard to these clauses now under notice-clauses 88 and 98-were not very numerous, although, I have no doubt, they will require a good deal more consideration than we were able to give them during the short time at our disposal. Both the Legislative Council and the Legislative Assembly suggested that clause 88 should be struck out, and that in clause 89 the words in the third line, "throughout the commonwealth" be struck out and the words, "between the states" be inserted. The reason for that was that it was thought that the words "throughout the commonwealth" were too wide, and might relate to many things to be done by the state itself-in regard to licenses, &c.-and that the words "between the states" seemed to be quite wide enough, and to carry out what the Convention desired. An addition was made to clause 89 with regard to opium and alcohol, similar to that proposed and carried by the Legislative
Assembly of New South Wales. That was added to the clause by the Legislative Assembly of Western Australia; it was not dealt with by the Legislative Council. Clause 90 was amended by adding the word "excise" after the word "customs," so that the clause should read

Until uniform duties of customs and excise have been imposed, and for five years afterwards.

Clause 91 was struck out by both Council and Assembly. In regard to clause 92, the same alterations were proposed by both the Legislative Council and the Legislative Assembly. Sub-clauses I to V were struck out, and it was suggested that the clause should be made to read:

During the first five years after uniform duties of customs have been imposed the amount to be paid to each state shall not be less than the amount returned to each state during the year last before the imposition of such duties.

In clause 93 the words

numbers of their people as shown by the latest statistics of the commonwealth

were struck out, and the words

amount of revenue contributed to the commonwealth

inserted. That amendment provides that the distribution among the several colonies month by month shall be proportionate to the amount of revenue contributed to the commonwealth. Clause 98 was amended so as to make it obligatory upon the federal parliament to take over a proportion of the public debt of the states as it existed at the time of the commonwealth to the extent of £60 per head of the adult males residing in each state. Of course, £60 was put down in order that the matter might be discussed; but the principle there laid down was one that met with the approval of the Legislative Assembly. With regard to this matter, there was no suggestion by the Legislative Council. The word "ratable" in the third line from the bottom of the page was struck out, and in the last line but one the words "adult males" were omitted. The principle of the clause, as we amended it, is that the federal parliament shall be compelled to take over the debts of the colonies in a fixed proportion per head of the adult males in each state. Those were all the important amendments suggested by the Legislative Council and the Legislative Assembly of Western Australia.

The Hon. E. BARTON:

I think that hon. members who wish to address themselves in a broad way to the question of finance will have an opportunity to do so now before the Finance Committee commences its practical sittings.

Mr. MCMILLAN (New South Wales):[11.4]

Although it was only this morning that I understood that we were to
devote ourselves to the question of finance in the first part of our sittings, I recognise that as most of the Premiers of the colonies are also the Treasurers of those colonies, and as they have only just returned from England and have had a mass of duties to perform since, it is scarcely fair that we should call upon them at the earlier stage of this debate. I do not intend to make anything in the way of a second reading speech, because I am sure that the object which we now have in view is to be as practical as possible. Neither do I intend to address myself, with the short time I have had for preparation whilst sitting here, to any matters of mere verbal alteration. I shall confine my remarks to a few of the absolutely salient and vital questions which, if they could be settled upon some satisfactory foundation, all the others ultimately would find themselves in their proper places. We cannot shut our eyes to the fact that all the difficulties which have arisen in regard to this question of finance have arisen out of the character of the different policies into which the various colonies have drifted, owing to their separation from one another. Of course, this applies more especially to the strong line of fiscal antagonism between New South Wales and all the rest of Australia. But beside that there is another very salient fact in the finance of New South Wales, which differentiates it from the other colonies; in other words, our land revenue. If hon. members will turn to that very valuable book of Mr. Coghlan's called the "Seven Colonies of Australia" they will find on page 383 a statement of the relative position of the different colonies as regards their land revenue. They will find that New South Wales receives from every source land revenue equal to £1 11s. 7d. per head; Victoria, 6s. 11d.; Queensland, £1 4s. 1d.; South Australia, 12s. 5d.; Western Australia, £1 10s. 5d.; Tasmania, 6s. 5d.; New Zealand, 8s. 5d.

Mr. GLYNN:
Have you the proportion received as rent separate from sales?

Mr. MCMILLAN:
Yes.

The Right Hon. G.H. REID:

Mr. MCMILLAN:
In New South Wales it is about half and half. Roughly speaking, our total land revenue is about £2,000,000, of which £1,160,000 comes from land sales, and the rest from pastoral rents, &c. The exact amount received from auction and other classes of sales during the years 1895-6 was £1,158,235, and from occupation, &c., of Crown land, £859,96l.
There are scarcely any auction sales now!

Mr. MCMILLAN:

I take it that the main subdivision of land revenue is that which comes from alienation, either in the payment of instalments on conditional purchases or by auction sales, which last amount, as the right hon. gentleman says is very small now.

The Right Hon. G.H. REID:

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Mr. MCMILLAN:

No. Although this remains to some extent a diminishing quantity, it is one of the items. Two-thirds of our land is still unalienated, and for practical purposes there is no reason to suppose that because of the increased value of our lands, and increased occupation, we shall not, for years to come, have a large advantage in our land revenue over all the other colonies. The other colony which differentiates itself in many respects, because of its youth and the abnormal character of its transactions—I say nothing of those who govern it—is Western Australia. You will find its land revenue, its railway revenue, and some of its other sources of income, to a certain extent of an abnormal character. This brings us to the absolute root question of colonial finance. I honestly confess that I have tried to weigh this question in the scales. I have tried to concoct to the best of my ability scheme after scheme which might prevent us from having to face an unpleasant fact—the necessity of insuring under some scheme or other, at any rate for a limited period, some security for the different Treasurers when we come together, and give up our customs duties to the federal parliament. I feel, of course, that in dealing with this question, besides these differentiations between the colonies, we are also dealing with an absolutely unknown quantity in a uniform tariff. It is all well enough for people to talk and speculate upon that tariff but I say most decidedly that when we—those who will represent the colonies—come together in the federal parliament, when, instead of looking at this question from each particular local standpoint, we look upon it as a united Australia, then in the union of the conflicting classes of interests as arising out of one tariff instead of several, it is impossible to say what the character of that tariff will be. Now, without attempting to prophesy, but simply as a mode of throwing light on the subject, my own opinion is that when we come together we shall have to agree upon some broad revenue-producing tariff which will bring in a certain volume of revenue, and the great question whether these colonies are to live under a free-trade or protective system must, from the peculiar mode in which we differentiate, be left for some
years to come. You might have a variety of tariffs, under different circumstances. You might have either a moderate protective tariff or all round ad valorem duties, some of which would be protective in their incidence, and some of which would not. I may, at once say, in order to make clear my view on the question, that I believe no sensible man will think for one moment that revenue for the first few years of the federal commonwealth will be raised in any way except through the customs. I know that is a great admission on my part, and on the part-if he agrees with it-of the right hon. gentleman at the head of the New South Wales Government.

The Right Hon. G.H. Reid:
I certainly do not agree with it!

Mr. McMillan:

To a certain extent we are put in this position: We have to say to our people that the process of federation involves an alteration to some extent in our fiscal system. I want to be still more clear. I am dealing with this question now on the understanding that we come to some conclusion before this Convention rises, because, having come to the last stage of our operations, I consider that it is only fair to the Convention, that it is only fair to the people of this country, that having thrashed this thing out, we should come to what is the only reasonable conclusion, allowing them to decide for themselves in the full light of day whether or not union is acceptable under those conditions. There is no use in going -and I absolutely object to go-before my constituents as a member of this Convention to tell them that it is possible by some jugglery, by some means or other of which no one can conceive at present, seeing that there are four or five of the colonies whose fiscal systems are based on large customs duties, to unite as one out of these several colonies without having to alter to a certain extent our fiscal system.

Hon. Members:
Hear, hear!

Mr. McMillan:

I think it is far better in the earlier years of this federation, in the first clash of controversy, when this country may feel that it is overweighted by the opinions of the other colonies-it is far better for us to say to them now what they may expect, than for them to say to us afterwards, "You led us astray." I come then absolutely to what I consider the kernel of this arrangement. In the clauses that have been placed before us at the previous sittings of the Convention I see nothing that can be found fault with, speaking generally, up to the end of clause 92 without including the sub-
sections. I am speaking now of the mode of getting at the surplus revenue - in regard to matters which we have thrashed out previously. When we give over this great machinery of revenue-the customs, and when the federal government take credit for the expenditure on the services which are relegated to them, I take it for granted that we all assume there must be a large surplus. The question then arises how that surplus is to be dealt with. I may say that it is my present opinion-although, of course, I am open to alter it, if anyone can show me an improved scheme-that for five years after the commonwealth has produced a uniform tariff

a certain aggregate amount based upon twelve months of the old tariff should be guaranteed to them for that period.

The Right Hon. Sir G. TURNER:

In what proportion?

Mr. MCMILLAN:

When this question was debated in the Finance Committee at first the word "aggregate" was left out. Now it was very clear that New South Wales, with a tariff producing about £1,400,000, through the absolute sweeping away of all protective and other duties, and with that tariff brought into competition with the tariff of Victoria, yielding nearly £2,000,000, if the surplus for five years were divided upon the actual facts of the case, would be unfairly treated, because hon. members will see this: that whatever the uniform tariff is, we have to come in with it. Supposing that when the uniform tariff came into operation, the revenue from New South Wales was £2,000,000, instead of under her present tariff, £1,400,000, if we had to take the surplus on the basis of £1,400,000, we should be robbed, practically, by the other colonies. I think that is very clear. Therefore, the word "aggregate" was introduced so that New South Wales should be brought in equitably with the new tariff, and while she did not ask more than her neighbours, she got her proper distribution on an equitable basis.

The Right Hon. Sir JOHN FORREST:

What about Western Australia?

Mr. MCMILLAN:

I am quite willing to confess that there has been no scheme yet in which it has been possible to reconcile the equities of the case with the peculiar position and conditions of Western Australia,

The Hon. Sir P.O. FYSH:

Except interstate accounts!

Mr. MCMILLAN:

That is what I wish to avoid.
An Hon. MEMBER:
It is the only safe and equitable plan!

Another Hon. MEMBER:
The provision of the 1891 bill was all right!

Mr. MCMILLAN:
I come now to the question of dealing with the surplus in the future. I have said that I believe every hon. member in this Convention, no matter what his fiscal views may be, will agree with me that the uniform tariff is all absolutely unknown quantity, therefore we are in the first place trying to do work which is legislation in this Convention, and, in the second place, we are trying to legislate upon an unknown quantity. From my point of view, and of course I speak only for myself, I do not think-and I do not suppose that even the right hon. gentleman at the head of the New South Wales Government will doubt my free-trade principles.

The Right Hon. G.H. REID:
Hear, hear!

Mr. MCMILLAN:
Speaking for myself I say now-and I want to lose no time-that I have come absolutely to this conclusion, that this is the sacrifice of New South Wales; although I believe that even with that sacrifice, and with the hope of converting these peoples from fiscal folly to righteousness in the future, there will be probably a free-trade Australia in a shorter time than some persons imagine. But we have to do this, and I say most distinctly that if you trust this great federal parliament with a thousand and one things, if you trust it with the greatest power of taxation you can possibly conceive, if you trust it with all your rights and liberties, with all your international relations, and absolutely with your political existence, it is folly to attempt to say that you will not trust it to equitably agree upon financial matters. Now, you must recollect this, that by the modus operandi which we adopt in this bill, by declaring that a certain surplus shall be distributed during a short period-and it is only a short period-you establish a nexus be-

between the provincial and central government. As you hear a great many people talk, and by their questions you might almost imagine that it was proposed that we should band over our affairs to a foreign kingdom; whereas we are handing over our affairs exactly to ourselves. Will anybody tell me that there will not be some kind of provincial check, because each of us will have to go back if we are in that parliament to our own provinces to be elected by them? There will be the same machinery, the same check,
the same exercise of public opinion upon that central government as there is upon the governments represented here now. It is an absolute negation of the whole principle of federation and trust in each other for us to stop short of handing over that power to the federal government.

Mr. LYNE:

How would you redistribute the surplus?

Mr. MCMILLAN:

I do not think there would be any difficulty about redistributing the surplus. But the question of per capita distribution, which we fix in this bill after a certain period, commits us to too much. It is attempting to prophesy what will be the condition of these colonies under the federation, and what will be the policy of the Federal Parliament. I should be quite willing to leave all that for the ultimate determination of the Federal Parliament, because there may be great changes. We do hope now, although we are meeting here in this Convention, each watching closely and jealously the interests of his own province, that when this parliament does meet, and has been in operation for five years, a great many of the geographical lines which we now consider to be so necessary will, in their practical effect, be swept out of existence, and that while we will be still a federation, we shall have all the strength and concentration of union. Now I come to another proposal which has been made for the covering up of this surplus. It has been said by prudent economists and politicians that it is an unwise thing to place in the hands of this Parliament any surplus whatever—that you will give them a means of extravagance which will land the provincial Treasurers in debt and difficulty. There, again, we have at once the assumption that the federal parliament is not to be trusted. I want to point out this—that, even if you get a batch of debts, or a railway revenue, and put it up against that surplus, you do not touch the difficulty at all. Even supposing you believe that the railways should be given over, under certain conditions, to the federal government, it does not touch the difficulty in any way whatever. There is one scheme which might meet it; but that is surrounded at the present time by enormous, and, to my mind, insuperable difficulties. If the advocates of that scheme will pardon me for saying so, these gentlemen are very anxious to give over our railways to federal control, not, perhaps, because it is the right principle, but because it gets rid of the financial difficulty from their point of view. But I want them to keep clearly before their minds that we have not merely to pass a constitution which may be suitable to our own views, but we have to pass a constitution which will be accepted by the people of the different colonies. If you intrude into that constitution any things which are not absolutely necessary, which will weight it with responsibility, and give rise to differences of
opinion in the different colonies, and give a handle to anti-federationists, you may blow the whole scheme into atoms. Let us inquire for a moment, as a matter of enlightenment, what is the scheme of those gentlemen who want to federate the railways. The scheme is that you should give over your railways—I am speaking at any rate of one scheme—to the federal parliament, and give that parliament the exclusive management. But they do not propose to vest these railways absolutely, they do not propose to say to the federal government, "Take over all our liabilities and we will give you our assets." Nothing of the kind. They propose to keep up a system of bookkeeping by which the interest will be charged to the different colonies on the capital debt of the respective railways, by which all the losses will be charged to the different colonies. They thus give up the management of the railways but keep the responsibility. Who ever heard of such a principle? If you give up the management you must give away the responsibility. What do we mean by vesting the railways? Simply this: That whatever the arrangement it must be a complete and final transaction. These railways, the moment they are given over to the central administration, must cease to have anything to do with the different colonies. How could we do that? If the scheme is to capitalise the railways on the returns now exhibited, which may be in abnormal times, Victoria, as compared with New South Wales, would have to write off, probably, £8,000,000 of debt. Is Victoria pre

The Hon. A. DEAKIN:
I do not think that would be the result!

Mr. MCMILLAN:
I am simply arguing it in that way. I am not going to speak of the normal results of years to come. I am simply stating what the problem would be for a convention like this if we tackle it at all. If I were in the place of the Right Hon. Sir George Turner—if he will pardon me for assuming that for a moment—I would say to New South Wales, "You were down to 2 1/2 per cent on your capital some years ago. By wise administration you have raised it now, and practically the railways are paying interest on the debt.

The Right Hon. G.H. REID:
Last year they more than paid interest!

The Hon. A. DEAKIN:
Your method of keeping accounts is different from ours. Ours now pay 3 per cent.!

Mr. MCMILLAN:
I would be justified in going on to my "we hope to do the same thing under improved administration." Furthermore; the Premier of Victoria
might be justified in saying, "While you get this railway system of ours into your hands, which we are already improving, and which, at the end of five years, will pay 3½ per cent, on the debt, are we going to write off that sum of money while you will have an absolute monopoly and a magnificent asset which we could probably sell in Europe for the full amount of the debt." Is that a question that could be dealt with in this Convention? I hold that it is a question for the future. I would not say for a moment that it would not be a wise thing for a, federal treasurer, when he got all the power in his hands, when this question is looked upon as a truly federal question, when all these petty jealousies are destroyed—I do not mean to say for a moment that it would not be a great stroke of policy and of statesmanship to say, "It does not matter what the capital account is, we will take over all the railways and take the liabilities with them." But we cannot do that here. Who is going to propose a scheme at the present time to take over these railways, and to take over all the capital debts exactly as they stand at the present moment? Furthermore, while from my own, which I take to be a business point of view, and from an administrative point of view, I should like to see all these discordant elements under one strong hand, still I doubt very much whether, at the present period of our history, we are ripe for such a union. The only two colonies nearly ripe for this operation are Victoria and New South Wales. Queensland, with the exception of her grand trunk line, has absolutely an isolated system. Western Australia has an isolated system, and so

has Tasmania; and there is not a very great length of line even in South Australia. Therefore, I say, in the first place, that it is absolute folly, from my point of view, to risk the acceptance of this constitution by loading it with unnecessary things. I say, in the next place, to ask New South Wales, or any other colony, to give over practically the management and control of that great asset, and to take all the responsibility of the results, and keep all the liabilities, is an absolutely unbusinesslike proceeding. With regard to the debts—and I am only dealing with the salient facts—I hold in the same way that if they are to be dealt with at all they must be dealt with on broad federal lines, and it will only be when you have your federal parliament in operation for a certain period, at any rate when you have the central machinery, and when the federal treasurer in that Government is a great negotiator with all the other governments for some equitable arrangement that we will be able to do what will be substantially equitable. I feel that we may spend months and months in this Convention over these intricate questions, and get no nearer to a solution of them than in the beginning. Therefore, to sum up, I am of opinion that we ought simply to propose
some plan for guaranteeing for the first five years—it will not be a long period in the life of this new nation—a certain amount which will prevent the dislocation of the provincial finances, and all this matter of debt, all this matter of railways we ought to leave absolutely and entirely in the hands of the federal parliament. I am not sure that it is a wise thing to make this clause, with regard to the debts, so sweeping as to give full power to the federal parliament to act without the consent of the states. I cannot at all make up my mind that it is a fair or righteous thing to put a drastic clause in the bill by which it will be compulsory whether the states like it or not to give over the debts.

The Hon. A. DEAKIN: Are you afraid of being robbed of your debts?

Mr. MCMILLAN: No; but there are certain conditions, certain principles, on which you should take them over. This bill provides simply that the Parliament may take them over. It says nothing about the consent of the states.

The Right Hon. Sir G. TURNER: -

Mr. MCMILLAN: That may be; but you must recollect that this is, after all, purely a matter of local concern. The debt of any colony is not essentially a matter of vital concern to the federal parliament. What I want to do is to prevent anything which is essentially local from being absolutely mandatory in this constitution bill with regard to its being dealt with by the federal parliament. It practically amounts to this: that you have to arrange about your debts, if I take it rightly, if the scheme were proposed, although it seems to me that there is some omission there, because one colony may be able to bear a certain arrangement of a financial character which may press more heavily on another. These, I think, are the principal points that we have to deal with in this financial matter. There is only one thing I would like to say a word or two about, and that is the inter-state commission with regard to the railways. I want to point out to hon. members, especially to the representatives of New South Wales, what great difficulties and trouble may arise if, while we do not vest the railways absolutely, we allow a certain power in the federal parliament to deal with our rates as they think well.

The Hon. A. DEAKIN: Can we not discuss that question separately?

Mr. MCMILLAN: I think the interstate commission is a very important point. The inter-state commission comes under
the observations I have been making with regard to, I will not say a foreign element, an outside element attempting to interfere in the administration where the responsibility exists elsewhere.

The Hon. A. DEAKIN:

It can only affect state finances, not federal finance!

Mr. MCMILLAN:

We have a system of railway management in which there are what are called differential rates, and, if this bill remains as it is, I take it that in almost every matter coming under that general clause as to the equality of trade that the inter-state commission can practically dictate the mode of regulating rates.

Mr. HIGGINS:

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Mr. MCMILLAN:

Did the hon. member agree with Mr. Barton? Because I know there is a reserve power in my hon. friend which is edifying and which I would like to get out of him. We all agree as to what are called absolutely preferential rates. We all agree that two sets of rates are preferential. We all agree that the rate now levied by Victoria on goods coming into that colony from New South Wales, in which she gives a preference to outsiders over her own people, is a preferential rate. We all agree that a rate which has been levied by our people, say, from Wagga Wagga to Albury, at a greater rate per mile than from Sydney to a similar distance up country, in order to prevent trade from going to the Victorian border, is a preferential rate. But when we open up the great class of differential rates, which were originally and which in certain localities now have never had any regard to the other colonies, but are simply based on the principle of giving a helping hand to the people in the far interior of a country which has no navigable rivers, and for whose benefit these railways were constructed; if, because trade happens to trend towards another border, the whole of these differential rates are to be dislocated, and our people are not merely diverted from our markets but are also handicapped in rates for the sake of this federal connection, then I say, if that is to be the province of the interstate commission, it opens out a very large and very important question for the people of New South Wales. I would make one or two other observations in which I feel I shall not be at one with, at any rate, the legal members of the convention. I know that, by the reading of a certain clause in the Constitution of the United States, the federal parliament has got this control over private lines and has instituted an inter-state commission, because the principle is that it absolutely interferes with equality of trade.
Whether I am right or whether I am wrong, I do not for one moment consider that the question of warfare and competition in railway rates has any analogy whatever with customs duties on the different borders.

SEVERAL Hon. MEMBERS: Oh!

Mr. McMILLAN:

They are analogous up to a point. But the people whom I am answering say if you leave your present system of railway rates you may as well not have intercolonial free-trade at all. I do not believe there is any such strict analogy, and although I am not a lawyer, and have not investigated the question, I doubt very much whether it is not a great straining of the American Constitution to have the procedure which at present exists.

Mr. GLYNN:

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The Hon. E. BARTON:

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Mr. McMILLAN:

My hon. friend says that a differential rate is no infraction of free-trade; but you come to a point when the question is whether a rate is differential or preferential, and that is exactly the point where we have got from our provincial standpoint at present, where we have to safeguard the people of New South Wales, who have spent such enormous sums in the construction of railways.

An Hon. MEMBER:

The inter-state commission will represent the states!

Another Hon. MEMBER:

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Mr. McMILLAN:

That is not an analogous position to that which we are dealing with now. We take up this position as a matter of business: that if we give up our railways at all we want to get rid of the whole responsibility; but if these railways, at any rate from my point of view, are not absolutely vested so that we get rid of responsibility, and put them on a par with everything else that we give over absolutely—my hon. friend will see the difference between dealing with a thing that you retain in its connection with the provincial government and dealing with a thing that you give over for ever to the central government, because you must recollect that everything that you leave as a matter of friction between the border line of duties, between the
line where the state government comes in and the central government comes in-you leave as the seeds of trouble in the future. Therefore, it is to my mind inequitable and unbusinesslike to attempt to work this great asset, and at the same time to give over to the federal government the power of intermeddling and dealing with the railways in such a way as if they practically belonged to the commonwealth.

Mr. GLYNN:
According to the latest reports, the very power that we are giving they are asking for in America.

Mr. MCMILLAN:
Who are asking for it?

An Hon. MEMBER:
Writers in the American States!

Mr. MCMILLAN:
There is no analogy between the two positions. In America the railways are privately owned. There are a great many people who would destroy everything that belongs to private individuals. We are dealing now with our state assets, which stand practically in the same position with regard to this federal compact as our land or court-houses, and thousands of other things that we retain to ourselves; and it is no derogation of the principle of federation - it is not in any way distrusting the federal parliament-if on this question we retain the control of our railways. There is no improper conflicting interest affected between the provinces and the central government that may lead to trouble in the future.

Mr. HIGGINS:
Are you willing to stop differential rates where they become preferential?

Mr. MCMILLAN:
The hon. member is asking me a question upon which, if I wanted to decide, I would retain his special counsel to answer it. That is just the thing which it is impossible to decide. I have with some temerity opened this debate. I have tried to go straight to my views, whatever they may be worth, in order to make the discussion as practical as possible. I think that upon those matters on which I have dwelt we have the kernel of the whole difficulty, and as far as I am concerned, I see the only simple solution of it, and if that solution is now arrived at I am willing to trust the future federation of Australia to do justice to all the provinces.

The Hon. A. DEAKIN (Victoria)[11.45]:
If the hon. member who has just resumed his seat spoke with diffidence on this question, practised a financier as he is in his own calling, and an ex-Treasurer for many years of this great colony, with how much more
diffidence must I address myself to it, claiming no such experience either inside or outside of Parliament! It is only because I feel that when this discussion, as it possibly may, passes into the hands of the financial experts present, it may become too intricate that I am impelled to offer a few simple observations thus early. The hon. member, Mr. McMillan, has dealt with questions which though they affect the financial issue—and, indeed, what proposals in the bill do not affect the financial issue?—appear to me to unnecessarily enlarge the scope of the financial problem now submitted to us.

The Hon. E. BARTON:

The Hon. A. DEAKIN:

If the hon. member could have subdivided his remarks, we should have been more readily able to follow one question at a time through a prolonged discussion to its conclusion than when we have the three or four great subjects which he has broached, and which if dealt with by each speaker cannot lead us to the same clear results. For instance, an inter-state commission may have undoubtedly an influence on federal finance, and it must have an influence upon provincial finances; but the question of its utility has no relation to our present problem. I should hope that the difficulty relating to the establishment of such a body, or the neglect to establish it might be postponed. At all events, I will pass on with a single sentence or two of reference. The hon. member draws a distinction, or desires to draw a distinction, between differential and preferential rates, but I hold that such a distinction is one which depends wholly upon anti-federal conditions. It is a distinction which has no meaning apart from state boundaries. If the railways are dealt with on federal principles, why should not the rates for the same distance from any one point to another be in a general way the same over all Australia?

Mr. MCMILLAN:

Will the hon. member allow me to explain? My argument in that direction was based on the proposal to take over the control of the railways, but not to take them over absolutely. Once the railways are vested the differential rates would disappear.

The Hon. A. DEAKIN:

I quite understand that. The point is that the hon. member discusses the inter-state commission from a state standpoint. He says there are clauses in the bill under which, irrespective of an inter-state commission, preferential rates will disappear. There will no longer be power for either Victoria or New South Wales to offer any advantage to goods coming over their
railways because they are brought from other colonies and from long distances. If the hon. member looks at it a moment he will see that there need be no difference between differential rates and preferential rates, except that state boundaries intervene in the one case and not in the other. The hon. member says it means giving outsiders an advantage over the people in your own colony. But that argument might apply to cases in which an advantage is given to people in your own colony who send goods long distances over those who send them short distances. A preferential rate might be deemed a federal rate, because it is giving people outside the colony advantages that you give to people going long distances in your own colony. I do not put that forward as a full statement of the case. To me it is distinctly a better statement of the case, and a fuller statement than that urged by those who draw such a broad distinction between preferential and differential rates on professedly federal lines. We charge one rate for the first 100 miles, a lower for the second 100 miles, and a lower still for the third 100 miles, and so on. It is just as true to say that we give to a person living 300 miles off advantages over a person living 100 miles away as to say we give a person living 500 or 600 miles away in another colony still greater advantages than those who live at a lesser distance. The principle is exactly the same. The longer the distance the lower the charge. What I wish to point out is that, providing the same rate of reduction in charges is observed, there is nothing necessarily anti-federal in the existence of preferential rates. Therefore, I pass this part of the question by with the simple statement that when we come to consider the establishment of an inter-state commission I, for one, will not fall in with the contention that necessarily preferential rates are anti-federal. They may be or they may not be. It all depends upon whether they are adjusted in accordance with the scale of differential rates that you adopt in your own colony. If they are, they appear absolutely unobjectionable; but if they go beyond that they may be objectionable. Neither do I propose to detain the Committee by a discussion as to the taking over of the railways as a whole. I have already made a confession of faith on that subject, which is, that it appears to me essential to the full and perfect federal government of these colonies, that such important agencies as the railways should be taken over by the federal authorities. We are in this country, unfortunately, not possessed of the advantages of the United States of America, traversed as that country is by magnificent streams which afford natural highways for its people. Our railways in the future will have to serve, in a sense, for streams as well as for railways. They will be practically our only great means of intercommunication, and it appears to me, for reasons which I
urged at the prior meeting of the Convention, that under these circumstances federation will not be complete, will not be able to conserve those common interests of the whole of the people of Australasia—for which purpose I understand a federal government is to be created—it will not be able to conserve them or develop them, as it must and should do, without the control of the railways. That, however, I also regard as not necessarily bound up with the financial question. I am quite with the hon. member in declining to indorse the contention that, because we find ourselves under certain embarrassments as regards a financial settlement, we should throw in the railways as a make-weight on one side or the other. If it be proposed that the railways should be federalised, it must be a proposal on its own merits, and because it would be in the common interests of the whole of the people of Australia, and not simply to help us out of the financial difficulty. For that reason I propose to put such a suggestion aside. The one matter to which I desire to direct attention is the principal financial problem by which we are faced. I am perfectly aware that on this subject destructive criticism is easy, and the fact that it is easy is evidenced by the number of legislative bodies throughout Australia who have contented themselves by striking out the financial provisions, without substituting any clauses of their own. This problem appears to me to resolve itself into the discussion of two principal points. The first, alluded to by Mr. McMillan, was how to provide for the transfer to the federal government of the customs revenues of all the colonies within the federation without utterly dislocating their systems of financial administration and taxation. That is the first problem. The second problem, and one which seems to me to occupy quite a different ground, and to be, to a certain extent, a problem of our own creation, is on what plan or principle should any surplus retained by the federal government after discharging its own expenditure, paying the cost of the departments it has taken over, and the cost of any other undertakings which it might see fit to carry out-on what principle should it distribute the surplus supposed to necessarily result to it from the imposition of the federal tariff? Now I say, in the first instance, that there is no necessity for a surplus ever existing—or a surplus of any magnitude—by the action of the federal parliament; and certainly it cannot exist unless the federal parliament so desires. Whether the federal government of the future adopts a protectionist or a free-trade policy, it is perfectly within its competence to so adjust its tariff as merely to provide sufficient revenue for its own current expenses, or the federal parliament may if it pleases spend all that it receives. It is not essential, therefore, that under any tariff which the federal government may adopt there should be a
surplus of overwhelming magnitude.

**Mr. GLYNN:**

What about the current purposes of the states?

The Right Hon. Sir G. TURNER:

**Mr. GLYNN:**

We shall be taking away revenue from the states at the same time!

The Hon. A. DEAKIN:

I pointed out that there were only two aspects of the financial problem which we are immediately and at this stage obliged to face. The first of these I said related to its effect upon the states, and the second was as to the distribution of the surplus. I am now speaking of the distribution of the surplus, and I say that so far as the federal government is concerned, looking at the question wholly from a federal aspect, there is no certainty of any notable surplus.

The Hon. J.H. GORDON:

That would be inconceivable in our present conditions. It would be absurd!

**Mr. LYNE:**

Absolutely!

The Right Hon. G.H. REID:

Not inconceivable, because the hon. member is putting such a case!

The Hon. A. DEAKIN:

It is neither inconceivable, nor, with all deference, is it absurd, as I will presently endeavour to show. But perhaps it would clear the way if I dealt first with the immediate problem of the effect of the transfer of the several provincial customs revenues to the federal government, and asked hon. members to consider what evidently their minds, judging from their interjections, are much exercised about-to consider how that is to lie done without undue dislocation of the local revenues. This question, of course, list been approached from a great variety of standpoints. I would concede with Mr. McMillan, that the very first condition in considering the financial proposals is that the state treasuries should not be subject to a revolution-that there should be an undertaking and a guarantee upon which state treasurers should be able to proceed. I would go further than the hon. member did, and probably further than the hon. member would be prepared to go. In my opinion, that guarantee on behalf of the states ought to cover the whole of the revenue of which they would be deprived by the introduction of the federal system of government. Federal government might be, and in my opinion ought to be, introduced with a guarantee to each colony of the return to it of the sums it at present receives from the sources which the federal government takes over, of course deducting the
cost of the departments which the provincial governments at present pay in order to obtain the revenue; and I would make that guarantee obtain, not for five or twenty years, but for all time.

The Hon. R.E. O'CONNOR:

Suppose some of the services taken over show a loss?

The Right Hon. Sir G. TURNER:

The customs revenues will increase!

The Hon. A. DEAKIN:

I will reply first to the hon. member, Mr. O'Connor, and say that in assessing this fixed payment I would not limit the data to any particular year. It would, probably, be beat to take the net result of the last five or ten years. If there had been a loss over the whole of the five years, or on the average, then the colony would not be entitled to receive anything, because of parting with that service. Allowance, of course, could be made for exceptional circumstances in any colony, so long as the sum is fixed. I make this suggestion in view of a further proposal hereafter; but at this stage hon. members will see that, if it be competent and possible, as surely it is-we are competent to do it, and it is possible-this would at once relieve the state treasurers of all anxiety for the next few years, because they might safely reckon that, having an ascertained and certain sum placed to their credit by the federal government, there would be no dislocation of the local finances.

The Right Hon. G.H. REID:

They would make a profit out of federation!

The Hon. A. DEAKIN:

They could scarcely make a profit, because the states would only receive their average profit during the last five or ten years; as they have received that profit in the past, in my opinion, they are entitled to receive it in the future.

Mr. GLYNN:

Western Australia might object to that arrangement!

The Hon. A. DEAKIN:

So far as Western Australia is concerned, I believe some special arrangement will in the end have to be made in regard to that particular colony to do justice to its great growth, and, at the same time, to avoid doing injustice to the other colonies. But, putting aside Western Australia, I see no difficulty in giving effect to the plan. Then, in answer to the Premier of Victoria, who says that the customs revenue in the future will yield increase, I say, undoubtedly it will. The natural growth of population, the increased prosperity which we all anticipate in the different colonies after
their union, the more rapid development of their natural resources, the
greater expansion of intercolonial trade—all these will in the end react upon
the external customs and internal excise so as to produce a greater and
greater revenue. Then, I come to the next point which I wish to submit to
the Convention, and it is, that, in regard to that growth, we should follow
the suggestion of Mr. McMillan, and trust absolutely to the federal
parliament to distribute or expend it. It appears to me that this is not an
evasion of any duty we are called upon to fulfil, because, in the first
instance, the admitted failure, or, if not failure, the admitted fallibility of
every scheme which has yet been proposed for returning surpluses to the
different states is of itself an argument that all the best financial
intelligence does not find the problem soluble. Indeed, almost the whole of
the proposals of the financial experts—right down to, that admirable paper
from the Assistant Government Statistician of New South Wales which has
been placed in our hands—the whole of them, from Sir Samuel Griffith's
first criticism of the proposals of 1891 down to the proposal which was
placed by the Convention in the Adelaide draft bill, and even Mr. Nash's—
very effective articles are vitiated by a fundamental and transparent fallacy.
That fundamental and transparent fallacy has been the acceptance of a
forecast as to, the earnings of a uniform tariff, based upon the imports of
goods into different colonies under different tariffs, and upon the wild,
utterly indefensible assumption that, no matter what tariff may be imposed
in the future as the uniform tariff of federated Australia, exactly the same
quantities of goods would continue to be brought into those colonies. I
need not develop this argument—it was indicated at Adelaide; I called
attention to it at the time, and it has been very elaborately discussed here
by Mr. Pulsford in the Upper House, by Mr. Ashton in the Lower House,
and by several other members whose speeches I have had the privilege of
reading in the New South Wales Debates, and in those of other colonies.

The Right Hon. G.H. REID:

Does the hon. member say that under a uniform tariff the contributions
per head would be pretty nearly the same in all the colonies?

The Hon. A. DEAKIN:

I will come to that in a moment. I say so, with one or two reservations,
which I think will be admitted by all persons.

The Right Hon. G.H. REID:

Add ad valorem duties to our tariff, would Victoria get quite as much per
head?

The Hon. A. DEAKIN:

I will not contradict the right hon. gentleman on that

[P.51] starts here
subject, if he is granting that by our tariff we have raised up local industries of such magnitude that their production would necessarily decrease our customs returns from import duties on those articles. If he admits that, I am with him. To that extent, I admit that New South Wales, not possessing the industries which we possess, would import more goods.

Mr. McMillan: Most of us took these figures as approximate!

The Hon. A. Deakin: But I think they are not even approximate. We, in Victoria, have, perhaps, had more experience of tariff changes than most of the colonies, and nothing can be more absurd than to endeavour to convince us that they have not been followed in each instance—where the change really was a change—by a great difference in the importation of goods. As we have lowered certain duties, goods from abroad have flowed in. As we have raised them, they have ceased to come in. We have seen every alteration of the tariff followed by an alteration in regard to the import of the goods affected by it, and I assume the experience of the other colonies is the same.

The Right Hon. G.H. Reid: That is so, only your cripples would get stronger if they lived on us a bit!

The Hon. A. Deakin: Certainly, if we have any cripples we shall only be too glad that they should get stronger; but it is not of cripples that the right hon. gentleman is afraid; it is the strong whose competition he fears.

The Right Hon. G.H. Reid: And yet we have local all our borders free for two years!

The Hon. A. Deakin: New South Wales has been most generous, and I trust will always remain so. On that score the right hon. gentleman and myself will not dispute. I have been led away from the statement that this was a transparent fallacy, and that so far we have no ground which would enable us to predict what an unknown tariff will produce. We can only—as the Premier of New South Wales, with his customary quickness, at once saw—approach the problem from another side and that is in regard to the question of consumption. Then again, in that respect, consumption does not mean all consumption. It means the consumption of goods which either pay excise or customs. The paper of the Assistant Statistician of New South Wales, admirable as it is, fails to draw that distinction, since it speaks of the consumption and the spending power of the different colonies, ignoring the fact that some of the colonies, having deliberately and expressly adopted a protective tariff in order to develop their industries, and therefore to produce and consume
their own goods, do not necessarily consume less because they import less, or pay less excise. The question of consumption, so far as we can test it by customs and excise, only relates to goods that pay excise within the colony, and goods imported from abroad. Limiting it to that, and again taking Western Australia as, not a shocking, but an admirable, example, we find in that colony a population of 70 per cent of males. It is the habit of the male species to consume more narcotics and stimulants than the female. I am informed that between one-third and one-half of the customs revenue of these colonies is raised from narcotics and stimulants. We can understand, therefore, that the overflowing treasury of Western Australia is very largely due to the simple fact of the abnormal number of males in that colony, not to speak of the abnormal quantity of stimulants and narcotics consumed by them.

Mr. MCMILLAN:

Federation will cure that! The Hon. A. DEAKIN: Time will cure it. The new woman is not to be excluded from Western Australia any more than from any other colony. There is no doubt that the sex inequality which at present exists will, in course of time, be removed by purely natural causes. I understand that the Premier of Western Australia signalled, amongst many other achievements, his visit to the mother country by importing a certain number of females in order to make up for the deficiency which at present exists. Putting aside Western Australia, as separated by its present circumstances, and having some familiarity as a visitor with the rest of the colonies, it appears to me to be hard to lay the finger upon any particular cause in any particular colony which would make any great difference in the consumption of dutiable goods in that colony. I assume that the proportion of total abstainers and non-smokers is about the same in one colony as in another. Putting that aside, regarding the circumstances of the life of the people, the manner in which they live, and the appearance of their cities and country districts, I for one can discover nothing which should make any marked difference in the consumption per head. It seems to me that the only variations which really exist in the consumption per head throughout Australia arise from the fact that these are rapidly growing and expanding colonies, that all their conditions are changing, and as all their conditions are changing with great rapidity from year to year, necessarily there are some variations in consumption. But all these differences are temporary; they are all local; they all tend to disappear; and the probability is that at no distant date they will disappear altogether. Putting aside Western Australia, it appears to me that the consumption of dutiable goods would be about the same all over
Australia.

The Right Hon. G.H. Reid:

From the first?

The Hon. A. Deakin:

Not quite from the first; it takes time. The settlement and the development of great territories takes time, and during that time there will be, as I say, variations.

The Hon. E. Barton:

Will it take longer than five years?

The Hon. A. Deakin:

It may; but I should doubt whether it would take a decade.

Mr. Glynn:

There is a great deal of difference between the proceeds from the liquor traffic in the different colonies!

The Hon. A. Deakin:

There is, because in one colony people may largely drink whiskey and in another locally grown wine.

Mr. Solomon:

It may be a question of climate. The hon. member wants a little experience of Western Australian weather to know what thirst means!

The Hon. A. Deakin:

If hon. members have followed me thus far, I will now revert to the position to which that brings me. Why should we be so afflicted by the fear of trusting the federal parliament with any possible surplus we may gain—why should we be so afflicted when we consider the possible disposal of the surplus by the federal parliament any more than we should be afflicted by the possible disposal of that surplus when paid over to the several provincial parliaments? What reason have we to fear any greater extravagance on the part of the federal parliament than on the part of the provincial parliaments if the surplus were paid to them? It would come to them in the same fashion as it would come to the federal parliament, and save and except that it might be supposed that the federal parliament would be encouraged to extravagance, because it could abnormally increase the departments that had been banded over to it, and study their interests regardless of expense, so as to band back as little as possible to the provincial parliaments—if that be put aside, we have no more need to fear the disposal of the surplus by the federal parliament than by the provincial parliaments.

The Right Hon. Sir G. Turner:

In the federal parliament there would be a surplus: not in the provincial parliaments?
The Hon. A. DEAKIN:

With all deference to the right hon. gentleman, I say that would be a surplus in both. The treasurer of a state would not be justified in previously disposing of the share of the surplus that was to come to him from the federal parliament. He would not know exactly-perhaps not within a considerable margin -what it was going to be. It would therefore come to him as a surplus, and he would have the same opportunities for spending it extravagantly as the federal treasurer would.

Mr. LYNE:

How would the hon. member arrive at the fixed sum to be returned to each colony?

The Hon. A. DEAKIN:

Broadly by taking the last five or ten years' net profits which that particular colony has gained by the services in question.

Mr. LYNE:

Out of the customs and excise?

The Hon. A. DEAKIN:

Customs

Mr. LYNE:

And would you take into account the direct taxes, too? For if you do not take into account direct taxation, New South Wales will be placed in an unfair position, if you take into account the customs duties in New South Wales the last two years.

The Hon. A. DEAKIN:

Not so unfair as the hon. members seems to suppose, because the present tariff in New South Wales is not Imposed as a tariff to lose revenue, but to gain revenue. You do not measure the gain from your customs duties by their height. Raise them above a certain height, and the returns will begin to diminish. The duties of the present New South Wales tariff are, I understand, adjusted to bring in the largest possible amount of revenue from those sources.

Mr. LYNE:

They have fallen from £2,000,000 to £1,000,000!

The Right Hon. G.H. REID:

We get £1,500,000 from seven or eight articles, instead of £2,000,000 from a large number of articles!

The Hon. A. DEAKIN:

I shall leave the Premier of New South Wales to reply to that.

Mr. LYNE:
He cannot reply to it!

The Hon. A. DEAKIN:

If, as I understand would be the case, a period of ten years were taken, that would include the customs returns of New South Wales during a period when some degree of protection, at all events, was in operation; so that would be provided for.

Mr. LYNE:

Take it for the years 1893 1894, and 1895; that would be quite different!

The Hon. A. DEAKIN:

Those are the worst years for Victoria, but they would necessarily be included in a quinquennial period, and still more in a decennial period. My ideas are probably crude; but I have tried in a simple way to go to the root of the matter as it presents itself to me. The difficulties with which we are surrounded in regard to the surplus can be best settled by trusting the federal parliament to dispose of the surplus. It may be a great deal longer than hon. members anticipate before the federal parliament will have a surplus. The federal parliament, for instance, may take over the customs and excise department, and by the necessities of the case may require to raise a certain amount of revenue; but it may not necessarily require to raise more than that amount, and if it discovered that the tariff which it had adopted was bringing in more revenue than was absolutely necessary, it would always be possible to adjust it, just as it would if it found that particular items were bringing in less revenue than was needed. It is not to be supposed that the federal parliament would be capable of passing a tariff as it were in the dark, and on mere anticipation, and that, on finding that it was pouring into its treasury much more than it needed, and was imposing greater burdens on the people than were necessary, it would continue it simply because it had been passed. The federal parliament would be capable of adjusting the tariff as required, and of determining how much revenue it should receive every year, and how it should be disposed of.

Mr. HIGGINS:

How long is the guarantee to last?

The Hon. A. DEAKIN:

The fixed amount is to be paid to the states for all time, and no other amount is to be paid to them except the federal parliament direct; but it may so direct. If in the future the members of the federal parliament are of the same opinion as many hon. members here appear to be, or have been—that, if there were a surplus, it should be returned to the states—there will be nothing to prevent its carrying out the design to arrange for further annual
payments to the states as states.
The Hon. J.H. GORDON:

Is not that absolutely necessary in the present condition of things?
The Hon. A. DEAKIN:

We might arrange, for the payment of a fixed amount to the states for the first five or ten years. After that, the federal parliament would consider the situation each year, and would look at the circumstances of the time, and if it thought that it was desirable to make a return to the states as states, it could do so. But the people of Australia will be the constituents of the federal parliament -the states as, states will not be the constituents of the federal parliament, except in so far as they are defined in the second chamber; the people of Australia will be the constituents of the federal parliament, and if the federal parliament can see its way to benefit the people of Australia in the expenditure of that money, no matter in what direction, the federal parliament will be competent to undertake that expenditure. It can spend that money directly, instead of voting it to the states for them to spend it as states. The future members of the federal parliament will be perfectly free, either to spend any surplus for the benefit of the people of Australia, or to hand it over to the states, and say to them, "Spend it in this proportion as you may think best for your people."
The Hon. E. BARTON:

If they may spend it for the benefit of the people, you must give them objects on which they may spend it!
The Hon. A. DEAKIN:

That will follow, but I will not discuss it now. I believe that the federal parliament will take over the whole of the railways with the responsibility of opening up new territory by means of railway communication, and if so the federal parliament is not likely to have an enormous surplus to trouble them. If I have made hon. members understand the one or two points that I have tried to put simply before them, I have succeeded in my endeavour. I would only remind hon. members that at the formation of the United States of America exactly what I am now suggesting was done. The United States took over the debts of the old confederation.
The Hon. J.H. GORDON:

The figures were nothing like ours!
The Hon. A. DEAKIN:

Nothing whatever like ours. But, the United States took over the debts, such as they were, of the old confederation-they took over the war debt-and in return the federal government took absolutely the whole of the customs and excise. Of course it may be urged, and it is true that in later years great extravagance has been shown in the
expenditure of the surplus derived from customs and excise in the United States; but I do not think that you defend yourself from extravagance by simply giving money to the state parliaments to be extravagant with, instead of leaving it with the federal parliament. I think that one is as likely to be extravagant as the other.

The Hon. J.H. GORDON:

State control is more direct and effective than federal control!

The Hon. A. DEAKIN:

I do not think that it would be in this instance. Because, in this matter of expenditure, in so far as it is federal expenditure, there will be no states as states. There will be no state feeling in connection with it. If there is an expenditure at Dubbo, Dubbo will rejoice, and the rest of New South Wales will care little about the matter. If there is an expenditure at Goulburn, Goulburn will be satisfied, and the rest of New South Wales will have nothing to say. It will be a question, not of state interest against state interest, but of conflicting local interests. Each locality will look after its own interests, and the states as states will neither be injured nor benefited. The electors of Australia will decide. Certain localities, which it will appear to the federal parliament desirable to make the subjects of expenditure, will be benefited. In my opinion, one great advantage of this proposal is that it would tend to lessen the bargaining, the dealing, the chaffering on federal matters, between the states.

The Right Hon. Sir GEORGE TURNER:

Would that be so? What about Canada?

The Hon. A. DEAKIN:

Canada has adopted the very plan i am objecting to, making payments from the federal government per capita to the states as states. That circumstance has caused continual dissension in Canada, and at the present time is causing demands for a revision of the terms, and for more liberal payments from the federal government to the states. The payments, take this form in Canada, because there is apparently no other means-or if there be another means it has not been adopted-by which the federal government could meet the needs of the people of the states without dealing with them through the states-could meet them directly as I am now suggesting. It appears to me that if the United States plan is adopted the federal government of the future is more likely to act for and deal with the peoples of the states as people of the commonwealth than with the states as states. Anything which tends to reduce the friction between the states and their governments, and the federal government and its executive, appears to me to make for progress and peace. Any system that tends to leave the federal
expenditure just as it now is in all our colonies a question between the constituents and their representative is to be preferred. The majority of the representatives have not in any colony, taking administration over a term of years, been known to do injustice to any part of their, domain. Why then should we suppose that a federal assembly will be found any more blind to the wants of its constituents, in whatever part of the continent they may reside? What reason have we to suppose that the least populated parts of the continent will not receive the same amount of consideration as the most populated parts? In Victoria more money has been expended upon the least populous parts of the colony, where the representatives are fewest, than in the most populous and influential districts; and I believe that that is probably true of the other colonies, and would be true of the federal parliament. That parliament would be composed of members as patriotic as those of any of the provincial assemblies. It would represent the taxpayers of all Australia, and its members would not look at the artificial dividing lines which it is the purpose of this Convention to abolish.

Mr. LYNE:
If the hon. and learned member's argument means anything, it means the destruction of the states and the establishment of unification!

The Hon. A. DEAKIN:
Not in the least degree. You will have the states as states, with all the powers secured to them in this measure, and with every other power which is not expressly given to the central government. What I am proposing does not in the slightest degree affect the clauses of the measure defining the federal powers to which the hon. member has already agreed; but it would allow the federal parliament to say whether it would deal with its surplus revenue directly, or hand it over to the states.

Mr. LYNE:
That would destroy the states!

The Hon. A. DEAKIN:
Not at all. It would allow the federal parliament to decide whether it would spend its surplus through the states or give it directly to the people instead of confining its expenditure to the states. The people themselves would decide.

Mr. LYNE:
That would mean the destruction of the states!

The Hon. A. DEAKIN:
If the hon. member thinks that the states in the future are to be dependent upon the proportion of the surplus they will receive from the central
government, all I can say is that his proposal would place the several states in a position of dependance upon the central government, which would make them so much more subordinate and less powerful.

Mr. LYNE:
Not if you fixed the sum to be returned. Will the hon. member tell me how the states are to get revenue at all if we take away the power of levying customs duties, and do not return to them a certain sum of money each month?

The Hon. A. DEAKIN:
But we do. We return the fixed sum of which I have spoken. I say that they should get that fixed amount for all time. They are to get that sum, and they know that they are to get it. They get it, as the hon. member might say, out of customs and excise. They get as much more too as the people may choose to give themselves through their channel instead of through the federal channel. I do not propose to deal with the question of taking over the debts of the colonies, because, although that is a financial question, it is a different financial question from that which I am now considering. But in my opinion the fixed sum to be given to the states year by year could take no more acceptable, or definite, or desirable shape than by the assumption of such a part of each of the state debts as the interest upon which would be equivalent to the payment to be made to the states. I add that to the proposal I have just been urging. We should make the spheres of state and federal finance as distinct as they can be made. That has been done in America, and Mr. Bryce has called especial notice to the fact that in those spheres most separated in America, where there has been no overlapping of state functions and federal functions, there has been the least friction and the least disadvantage. By the means I suggest you cut the connection between state and federal finance, subject always to the power of the federal parliament at any time, on being moved by its constituents, to make any grants to the state parliaments, and, if they are of the opinion of the hon. member, Mr. Lyne, to follow the course which he desires. But it is of advantage to separate as far as possible the spheres of state and federal finance, to make a fixed arrangement for the taking over of the customs and excise duties by the federal parliament, and then to trust the federal parliament. As the hon. member, Mr. McMillan, has said, you trust the federal parliament in a hundred and one cases. They are to be trusted in the future to decide upon what measures they think best for the commonwealth and the people; and why should this matter be taken from their control, instead of its being left to be dealt with after fuller research and wider knowledge than can be obtained in this Convention but
which is sure to be enjoyed in the federal parliament!

Mr. WALKER (New South Wales)[12.29]:

I am one of those who consider that the accomplishment of federation is much more important than rigid adherence to a fiscal policy, and that it is much more easy to draft a theoretical constitution upon paper than, to manufacture one which will be equitable and acceptable to the whole of the colonies. In my opinion the main principle in a satisfactory financial scheme would be that each state should get back directly or indirectly what it contributes, less a per capita proportion of the federal expenses. I am glad to see that our Western Australian friends, judging by what I have read in the newspapers, take up a somewhat similar stand. I am aware that, amongst others, the hon. member, Mr. McMillan, objects to what he calls the book-keeping system. I do not object to it if it means doing that which is equitable and right. I admit, however, that it is desirable that it should only last for a certain time—probably for only five years—after the uniform tariff comes into vogue. At the end of that period we should have, I trust, sufficient information as to the average annual contribution from each colony to enable us to what I call capitalise the discrepancies; but if preferred it might be arranged that the respective colonies should get so much less or so much more per annum than their share of the revenue upon a mere per capita basis. In fact, our so-called prudent federationists are not far wrong in saying that the principle upon which federation should be accomplished is that each colony should pay only a per capita proportion of the expense. I do not however expect to get much assistance from them, as they look upon me as a federationist at any price. As to the difficulties to be overcome, it was proposed in the first session of the Convention that the aggregate amount to be returned to the states should be equal to the aggregate amount from customs for the year prior to the uniformity of tariff. I dissent from that idea. Intercolonial duties give us something like £1,000,000 a year, and it seems to me that if the consumers have not to pay those duties they will have the equivalent in their pockets, and it is therefore not unreasonable to suppose that each colony should make up in the best way it can its loss upon the duties. We, in New South Wales, do not want anything beyond the federal tariff, because that will give us more income than we receive from the old tariff.

The Hon. A.J. PEACOCK:

How are we going to get it?

Mr. WALKER:

If you receive less your per capita proportion will be less.

The Hon. A.J. PEACOCK:

If the amount is not obtained from customs, how would the hon. member
raise it?

Mr. WALKER:

I think we shall have to raise it by direct taxation. But upon this point I will quote the words of a member of the Victorian House of Assembly. I have not the pleasure of knowing the hon. member; but I have been struck with his common-sense views upon some subjects. The hon. member to whom I refer is Mr. Fink.

The Hon. A.J. PEACOCK:

He supports the Government. He's all right!

Mr. WALKER:

He says:

The task of readjusting tariff rates on fair lines would not be difficult. It must not be forgotten that the £1,000,000 of intercolonial duties would not really be lost. They would remain with the people, and would practically operate as an industrial and commercial incentive to the continent. Now, before I sit down I want to make one or two observations on the industrial effects of intercolonial free-trade, because after all, what we have heard upon it lately has been mere abstract or general statement. But I really think that if the matter is studied we shall see that intercolonial free-trade, judging the future by the past, and judging this country by others similarly situated, will not be the realisation of a mere sentimental idea, but the greatest boon that any legislature could confer upon a community.

Mr. Styles, who is also a man of generous federal instincts-

The Hon. A.J. PEACOCK:

Another Government supporter!

Mr. WALKER:

He says:

If we are to have a commonwealth parliament we must trust it. The man who has not full confidence in the commonwealth parliament should vote against this bill, and against every other step in the direction of federation. But the commonwealth parliament, I apprehend, will be composed probably of a good many members of this Chamber and of other well-known public men throughout Australia. We are not aware that they do anything wrong now; and I do not see why, because they become members of the commonwealth parliament, they should be expected to do anything wrong then. Instead of saying to that parliament, "You shall do this, and you shall do that," I would lay down general lines with reference to these, and other matters. How do we know what will happen in the course of three or four years after the uniform duties come in?
With regard to the book-keeping principle, we provide for book-keeping during the first two years; and I think a similar system might be carried on for the five years. I do not know how we can prophesy what the incidence of the tariff will be when we do not know what the tariff is to be. We can only judge from the present tariffs what the incidence possibly may be. The hon. and learned member, Mr. Deakin, said the experience of Victoria was that the higher the customs duties the smaller the consumption of goods.

The Right Hon. Sir G. Turner:
Not the smaller the consumption of goods, but the smaller the imports!

Mr. Walker:
As regards the draft bill, it seems to me to be a radical mistake to arrange for intercolonial free-trade during the first year of the uniform duties. That year will, in the case of New South Wales, at all events, be a bad year upon which to commence our average, because in the last year of the present tariffs naturally merchants and others will send in, through free-trade New South Wales, all the goods they can in order to escape the higher duties of the ensuing year.

The Right Hon. Sir G. Turner:
New South Wales, can prevent that easily!

Mr. Walker:
I say, that we ought to take the second, not the first year as the basis of calculation in making our average. I dissent absolutely from the idea of a sliding scale. It is inequitable, and it is generally acknowledged that it is so, so that I need not enlarge upon that branch of the question. I have already said that I look to the accomplishment of federation as being of more importance than adhesion to fiscal policy. We, free-traders, however, are willing to recognise that certain concessions must be made, that certain give-and-take principles must actuate us in this matter. Although I am a free-trader, I am not so ardent a free-trader as those who advocate no customs duties at all. My impression is that we must recognise that our policy for many years to come will be one of revenue tariff, including, possibly, duties with a slight tendency to protection. I should like, however, to see that question met by a system of bounties which would come to an end within a certain time.

The Hon. E. Barton:
The hon. member likes spending money instead of getting it!

Mr. Walker:
Mr. Nash has suggested that each state should retain the duties upon stimulants and narcotics, and that the other duties could be divided upon a per capita basis. I do not think we have sufficient statistics to enable us to say whether that would or would not be a good arrangement. Sir Samuel
Griffith suggested that the whole question should be left to the federal parliament. I look upon that as a pis aller. If we cannot do better we shall have to adopt that course. On that subject I will quote from what will be recognised as an authority on such a subject—the Australasian Insurance and Banking Record.

An Hon. MEMBER:
Who wrote it?

Mr. WALKER:
I did not. That journal says:

Another suggested mode of getting over the difficulty is to remit the whole question of federal finance to the parliament of the commonwealth, giving it a free hand. A more unbusiness-like proposal can hardly be conceived. It is equivalent to asking several men to sign a deed of partnership in blank and to settle the terms of partnership afterwards, and the terms are to be settled, it is to be presumed, by members of parliament of like calibre to the members of the convention, who have made such a dismal failure of the fiscal sections of the Federation Bill. The colonies are, however, hardly likely to enter into partnership without clearly settling the terms first.

So say I for one. In the case of South Australia, which derives considerable profit from the post and telegraph department, some special arrangement will have to be made. I do not say that it should last for all time, but an allowance of so much for the first year, so much for the next year, and so on till the fifth year would have to be made in a case like that. Again, in a case like that of Tasmania, which must have a larger revenue than a uniform tariff will give, there will be a loss for some time, and that might be made a charge on the federal government, because otherwise the tariff would have to be raised to an enormous amount to give Tasmania what she requires on a per capita basis. It would be much better to subsidise temporarily a state in that position than to take the course of unduly raising the tariff. If we could get Tasmania into line with the continent, the continent could afford to have a much lighter tariff than otherwise would be the case.

An Hon. MEMBER:
That is to give Tasmania a bonus!

Mr. WALKER:
A bonus or subsidy. I am not going to weary the Committee by going
fully into the question of the railways. The hon. member, Mr. McMillan, has referred to various schemes. He referred to one which was drafted at the Bathurst Convention. I may say that I recognise that this, Convention will not accept that scheme. At the last session, so far as I could judge from the votes, thirty-six members were against taking over the railways, so that it would be a waste of time to advocate it. I never did advocate a clear purchasing out of the railways; I advocated federation of the railways which would have left each state full permission to have its own differential rates, so that, the idea of New South Wales being robbed, as some people seem to suppose would be the case, never entered my mind. I would take all reasonable precautions against such a thing occurring. With regard to the consolidation of the debts, I have something to say. Under any system of federal finance it is evident that there will be, nominally, a large surplus, that is to say, the customs receipts will be largely in excess of the federal government expenditure. The hon. and learned member, Mr. Deakin, has in general terms said that he was inclined to think that the surplus going to each state might take the form of the federal government paying so much interest on behalf of that state, and taking over, therefore, so much of the debt. Of course right through I have been a believer in the conversion and the consolidation of the debts, if it can be done without perpetrating a wrong. I am aware that you cannot have a federation of the railways at the present time; but is there any good reason why we should not take steps to have the debts converted and consolidated I putting it briefly this way: We shall suppose that there is an income from customs, if Queensland comes in, of about £6,300,000 a year, or about £1 15s. per head. That will not be sufficient in some people's view. If we take off £1,300,000 for the expenses of the federal government, that will leave a surplus of £5,000,000. New South Wales, on a population basis, would be entitled, I presume, to about one-third of that amount. The interest of the debt of New South Wales is about £2,300,000 a year. Her share of the surplus would be £1,650,000 a year or thereabouts. The difference between what would be necessary to pay the whole of the interest on the New South Wales public debt and the surplus would be something like £650,000 a year. Why should not New South Wales, or any other colony, after hypothecating a portion of its net railway income go to the federal government, and say, "Our share of the federal surplus plus this amount of our railway income will be sufficient to enable you to pay the whole of the interest on our debt"?

The Right Hon. Sir G. TURNER:
The amount of interest payable would be reduced after consolidation!

Mr. WALKER:

No doubt that would be the case. For instance, in this supposed year £650,000 would be required by New South Wales to enable her to pay the balance of interest on her debt. That would be half the net railway income for the year. After consolidating the debts, however, the amount of interest would be so much less, and New South Wales would only have to be asked for sufficient of her railway income to make up the difference. On this subject of the consolidation of the debts I am not relying merely on my own judgment. I wrote to a gentleman in London who is recognised as a high authority—that is Mr. David George—who has had thirty-five years' banking experience in London, and is at present manager there of the Bank of New South Wales. He has had a good deal to do in days gone by with the negotiation of loans, and he has consequently acquired extensive practical experience. His letter is an admirable one, and I will read it. He says:

Consolidation of colonial debts.

Referring to your letter of 1st February, we have now considered the subject of your inquiry, and, perhaps, the best plan would be to take the different points in your letter and answer them seriatim.

First, as to the idea of substituting "Australasian consols" as an interminable stock for the various colonial debentures and stocks.

We think the idea in a very good one, and if it could be carried out, we believe the result would be a considerable saving. But it is difficult to see how the debts of the various colonies could be consolidated until federation, on satisfactory lines, has been accomplished. It seems to us that until the colonies have obtained federation, and the federal government has full power over the railways and customs to enable it to provide for the service of the debt, it will not be possible to secure consolidation; but if you are successful in federating the colonies, we think consolidation of the debts will follow as a necessary corollary.

Federation will be incomplete without consolidation of the debts.

I think that voices the sentiments of every man here.

Secondly, as to whether the consolidated stock idea could be brought into practical operation in such a way that the various debentures and stocks could be merged in time in the consolidated account,—

The Hon. F.W. HOLDER:

"In time"!

Mr. WALKER:

I quite agree with the hon. member. I am not one of those who want to rush like a bull at a china shop, and to get things done right off.
We think this could be done; but by this process it would take a long time before all the various debts were consolidated, and for so long the benefits anticipated from consolidation would be delayed. It would also be a rather difficult matter to arrange, and we doubt if it would prove satisfactory. It would create an anomalous state of affairs to have only the loans as they mature brought into the consolidated stock as a debt of the federal government, leaving the outstanding loans as debts of the different colonies who contracted them to remain intact until their maturity the same as at present, except, we suppose, that their management would be in the hands of the federal government-

The Right Hon. Sir G. TURNER:

No one would suggest that, surely!

Mr. WALKER:

No.

Thirdly, as to bringing about a consolidation into Australasian console at once of all the various debts of the colonies.

This we believe to be the best plan; but in order to carry it out a large conversion scheme would have to be introduced. The whole question depends upon terms—that is to say, the quid pro quo that would be offered to the holders of the different stocks to induce them to exchange their present securities into stock of the consolidated fund-

An Hon. MEMBER:

What is the quid pro quo?

Mr. WALKER:

He shows you now-

This, of course, will be a difficult and delicate matter to arrange, and it will require to be placed in the hands of actuarial experts of great experience and skill to ascertain the relative values of the different loans of the separate colonies to a single interminable consolidated inscribed stock, and the most influential medium will have to be employed to launch the scheme, and to find an opportune time for the purpose. The varying dates of maturity, and rates of interest, and the feeling existing here as to the position which the different colonies afford as security for their loans, would all have to be taken in account. Present holders cannot be compelled to exchange their securities, and, therefore, sufficiently liberal terms will have to be offered to induce the great bulk of them to fall in with a conversion scheme. The different merits and values of the loans of the various colonies will make it difficult to ascertain an all round satisfactory basis of exchange. Holders, for instance, of New South Wales securities,
owing to their superior credit, will require a greater inducement to exchange their present holdings, while it may suit holders of Victorian, South Australian, and Tasmanian stocks to accept a security of a federated Australia much more readily.

The Right Hon. Sir G. TURNER:

South Australia is a long way ahead of the others!

Mr. WALKER:

As an illustration of this, to give the present quotation of the three Australian 3 per cent. inscribed stocks, namely:- New South Wales, 3 per cent., 1935, 101 1/8-3/8; Western Australia, 3 per cent., 1915-35, 99-1/4; South Australia, 3 per cent., 1916-26, 98 1/2-3/4-

The Hon. F.W. HOLDER:

They were expecting a loan then!

Mr. WALKER:

Fourthly, as to the rate of interest upon which such a conversion should be based,-

We certainly think that the best rate would be 3 percent. This we believe would be the most practical basis upon which the debt could be consolidated. A lower rate we fear would simply cause any scheme to result in failure, therefore we would certainly recommend a 3 per cent. inscribed stock, and we believe that in course of time it would go to a premium. If the whole of the debts were consolidated into one stock, it would make a very big market on our Stock Exchange, and would cause larger dealings, and attract more public attention, and become a more favourite investment.

Fifthly, as to whether such a consolidated inscribed 3 per cent. stock would be likely to be placed upon the list of "trustees' securities,"-

This is a very important matter, and I dare say the Premier of Victoria could tell us that it is not at all an easy thing to get any stock put on that list.

We very much doubt if this could be done unless the federal government consented to give the Chancellor of the Exchequer—that is the British Government-control over the borrowing powers.

I told him that they would never do that.

The idea seems to be that the home Government would not authorise any stock to be placed on the privileged list of trustees' securities unless they had some power over it. But apart from this, many people by will authorise their trustees and executors to hold colonial stocks, and if a satisfactory scheme of federation could be carried through and all the debts consolidated into one stock, and some satisfactory restrictions made as to
borrowing and good provision made for paying off the debt, we believe a great many more investors in colonial securities would by will authorise their executors to hold the new stock as trust funds. Most regrettable as it is, since 1893 the relative credit of the colonies has materially suffered in the estimation of British investors, and difficult as it would have been before then to have obtained an act of parliament creating colonial loans trustees' stocks, the difficulty is greater now, and the prospect much more remote. But with good and economical management by a federal government, and some finality in borrowing, there is no doubt the present feeling will pass away, and the stock of the federation become more and more as time goes on a stock which will be authorized in wills to be held by trustees. There is a continual tendency to do this with good stocks outside the privileged list owing to the returns from trustees' stocks being now so small.

Sixthly, as to whether inscribed stock or debentures would be the better form in which the consolidated debt could be issued,—

We have no hesitation in saying that inscribed stock would, beyond question, be preferable.

Owing to the risks of fire and robbery this form of security is now most favoured by the investing public, and it is the only form of stock likely to be held by trustees. Our opinion differs from Sir Samuel Montague's as regards colonial bonds. From our own experience we are quite sure that a comparatively small amount of the present bonds are held by people on the Continent. They are not dealt in on the Continental exchanges, and it would be obviously impossible to issue two forms, namely, bonds and stock; but in the event of a better security being required for borrowing or other purposes there will be no difficulty in arranging for the issue as in the case of consols of bearer's certificates with coupons attached, and which can be reinscribed when so desired by the holder.

We have seen Mr. Rose, the senior of Messrs. Hinton, Clarke, & Co., our stock-brokers, and he entirely agrees with our opinions expressed above.

I am sorry to be obliged to read such a long letter; but it is a very important one. My impression is that the fears of many persons that federation is going to be an additional expense will be largely removed if they are assured that we shall save by the consolidation of the debts, as much as the extra expenditure will be in founding the federal government.

[The Chairman left the chair at 1 p.m. The Committee resumed at 2 p.m.)

Mr. WALKER:

I desire at this point to elucidate the remark which I made with regard to bounties. The hon. and learned member, Mr. Barton, asked how these
would be provided for. Of course, the idea is that the customs duties will produce a sufficient income out of which to pay, if the federal parliament so desire it, certain bounties where it is decided to grant bounties. That is all on that point. My hon. friend, Mr. Holder, seems to think that I am against the principle, so-called, of a sliding scale. It is not the principle so much that I object to as the application of the principle. I think five years far too short a time within which to expect each colony to come into line as to customs contributions.

An Hon. MEMBER:
   How long would you give?

Mr. WALKER:
   I do not desire to follow that up at all. I would leave that to the federal parliament. Probably ten years would be likely to be a sufficient time.

The Right Hon. Sir G. TURNER:
   Five years was accepted its it compromise!

Mr. WALKER:
   I do not think it would suit New South Wales, Western Australia, or Queensland. I am very certain it would not.

An Hon. MEMBER:
   What does the hon. member propose!

Mr. WALKER:
   I propose to capitalise the discrepancies at the end of five years if the commonwealth parliament so desires. I will show what I mean by capitalising discrepancies. At the end of five years, the commonwealth parliament will have sufficient data to go upon to say what has been the average contribution according to the population of each state.

The Right Hon. Sir G. TURNER:
   That is, if they keep accounts during the five years!

Mr. WALKER:
   I am presuming that we shall keep accounts. But where a state contributes in excess of the average contribution per head, such annual excess on an average of four or five years may be determined, and shall be capitalized, say, at thirty years' purchase, and the commonwealth shall issue its funded stock for the amount so ascertained, or -relieve the state of a similar amount of its public debt at the current market value of the stock, provided that where the state contributes less than the average contribution per head, such annual deficiency on an average of four or five years shall also be capitalised at thirty years' purchase, and the state issue its funded stock for the amount so ascertained. The course will be that in the one case
an annual subsidy will be granted, that is to say, for the surplus due
to one state, and the money should come out of the consolidated fund,
before the annual per capita distribution, and in the other case the amount
will be retained by the federal government, out of the surplus otherwise
payable to the state.
The Hon. Sir P.O. FYSH:
   At what rate would you capitalise?
Mr. WALKER:
   I say thirty years. It ought to be thirty-three and one-third years, but that
is a matter of detail.

An Hon. MEMBER:
   Will the state receive the money in cash in the meantime?
Mr. WALKER:
   That also is a matter which depends upon whether you we going to
consolidate the debts. If you consolidate the debts the state will not get so
much cash back, but, will get the interest paid for an equivalent amount. I
see my hon. friend, Mr. Henry, will follow me and, perhaps, out we up on
this matter; but I trust that I have the courage of my convictions.

An Hon. MEMBER:
   Do I understand you to say that, if they gave a state too much, you would
expect it to refund by capitalisation?
Mr. WALKER:
   No. Under the bookkeeping principle every state will get back what it
pays in, less a per capita proportion towards the federation government
expenses.

An Hon. MEMBER:
   No sliding scale!
Mr. WALKER:
   No; I am not going in for a sliding scale at all. With regard to statistics
during those four or five years, I know that many hon. members object to
the book-keeping principle. I combat that view as follows:-I think there is a
great misapprehension with regard to the difficulty. To begin with, each
state has already its statistical department. Goods crossing the border will
not require to be examined by the customs officials after the institution of
intercolonial free-trade. Neither importers nor exporters, if so disposed,
will have any object to gain by furnishing false returns to the government.
All that will be required will be for the exporters to prepare invoices is
triplicate—one copy for the customs department in their own state, one for the house to whom the goods are consigned, and one to be sent by the importing house after they have received the goods to the customs department in their state. The invoice will show the value of the goods and the amount of the duty paid. The remainder will be merely book-keeping is the customs department. There will be no border customs officers, consequently there will be no vexatious examination of goods.

An Hon. MEMBER:
You would trust to the importers to send the returns!

Mr. WALKER:
They would have no object in telling lies, and it is only for five years. Then the trouble comes in with regard to the retail goods. This is where the great trouble, does come in. To get over that I propose this: during the two years during which the present customs duties are going on, and in the first year of the uniform duties we shall have certain data which will enable us from that time forth to say approximately that the broken bulk goods crossing the border are so much, and they will, not improbably, continue much the same in future as in the past. The federal government, from the statistics obtained during the three previous years—that is, two years of the present customs duties, and one year of the uniform duties—would, no doubt, have a fairly good idea of the course of trade across the border, and could arrange a system to allow drawbacks by lump sums between the colonies for locally manufactured articles and for broken bulk imported goods. That, would enable retailers to send goods across the border without any statistics. We should only have statistics of the wholesale goods. I have already said that I think it lo a great mistake to lay down hard and fast lines of expenditure.

The Right Hon. Sir G. TURNER:
Why do you capitalise on an average of four years?

Mr. WALKER:
I am not tied to four years. I do not care whether it is four or five years; but I argue In this way: It is proposed to have five years' uniform duties. I think the first year will not, be a good year for statistical purposes, because it would be affected by the over-importation of the previous year into New South Wales. So that for statistical purposes—that is to ascertain the average contribution in an ordinary time—I would take the second, third, fourth, and fifth years. I am not wedded to four years or to five years. If you are going to have a sliding scale, I think it would be better to take fifteen years or
even twenty years. On this matter I think the views of the Convention are in touch with those of Sir Samuel Griffith, who says:

Is this too great a responsibility to be entrusted to the federal parliament?

That is the final settlement of the discrepancy.

That body will have more information, more time at its disposal, and more real sense of immediate responsibility, than a convention can have. Moreover, its mistakes can be corrected, while those of the Convention cannot, without serious trouble, delay, and danger.

I am one of those who thoroughly believe in the principle of federation. I am prepared to support any moderate scheme by which we can come together. Just one word more with regard to the railways. Although I think it is impracticable to have an amalgamation of the railways at present, or even a federation of the railways -I distinguish between the two—there are certain things that I think the federal government, as such, ought to take in hand. There is the unification of the gauges. I think that is a matter the expense of which ought to be defrayed by the federal government. Then there may be certain strategic railways—possibly to connect South Australia with Western Australia, or the northern end of the South Australian line with Port Darwin. I trust sufficient power will be given in the federal constitution to enable the federal government, when they think the time has come, to take in hand these great national undertakings. I do not for a moment think we should be justified, from a free-trade point of view at all events, in guaranteeing that each of the states shall get back as much income for so many years as it received the year before the institution of the uniform tariff. The reason why I cannot agree to that is this: that it practically means that in the colony of New South Wales we should have to submit to enormous customs duties—that is to say, judging by the remarks made by the Acting Government Statistician. This gentleman contrasts the consequences of a uniform tariff upon the different colonies. The figures he gives are so extraordinary that I may be excused for quoting them.

An Hon. MEMBER:

It is purely assumption!

Mr. WALKER:

I admit that. He says:

As the results stand, however, they show that on the basis of population at the close of the year 1896, the New South Wales tariff, as it will exist in July, 1897, will probably yield to the commonwealth the sum of £3,517,000; the Victorian tariff, the sum of £6,260,000; the South Australian tariff, £5,975,000; the Western Australian tariff, £4,712,000; and the Tasmanian tariff, £7,429,000; allowance being made for the
freedom of intercolonial trade.

It would be very much better if the federal government had power, if need be, to subsidise Tasmania than that New South Wales should have to submit to a tariff which would bring in £7,429,000 as against even the Victorian tariff yielding £6,260,000. Surely we ought to empower the federal government to give subsidies, because federation is a national matter. I do not wish to speak otherwise than in a complimentary manner of our Tasmanian friends; but I hope there would be on their part no false pride to prevent them, if need be, accepting a subsidy for a short time, to bring all the colonies to the same level. One word more with regard to free-trade. A member of the Legislative Council in this colony has been twitting me that, as a free-trader, I am going to give away New South Wales. He thought he made a very good point against me by drawing my attention to the fact that at the time, of the union of England and Scotland, England was a protectionist country and Scotland was a free-trade country, and he said, "There you are! A free-trade country like Scotland went into partnership with a protectionist country like England, and it had to become practically protectionist." My reply to that is "Yes, but, as time went on, the truths of free-trade permeated England so much that to-day we have free-trade in Great Britain." I trust we shall also have Queensland with us before we close our work.

The Hon. J. HENRY (Tasmania)[2.16]:

In rising to address myself to this important question, I think it is well that I should say that in my opinion the financial question as embodied in this bill was not debated at the Adelaide Convention. It is within the memory of every lion. member that the Right Hon. G.H. Reid got up in the Convention and addressed himself to the question, and that before sitting down he proposed that the four Treasurers should meet and prepare a scheme to be submitted for the approval of the Convention. That was done; and, as the Premiers were going away, we all thought it was quite hopeless to enter upon the task of discussing the financial proposals until this meeting of the Convention. I think it is only right to say that.

Mr. MCMILLAN:

We only looked upon it as tentative!

The Hon. J. HENRY:

Quite so. A considerable minority, of whom I was one, who were strongly opposed to the whole of the scheme, kept their mouths shut, waiting for this opportunity. Otherwise it is undoubted that the whole scheme would have been discussed at length, and the views of the minority
would have been put before the Convention and before the public. I regret to think that, after the lapse of some four months, and after the discussion that has taken place on the scheme proposed in this bill—that is the book-keeping portion—an hon. member of this Convention should stand up and still declare himself a pronounced supporter of that scheme. I notice however, that the ground is somewhat shifted, and it is contended that it would not be fair in the interests of New South Wales to adopt the first year of the sliding scale. I especially noticed that my hon. friend, Mr. McMillan, whose able and admirable address I listened to with great attention, was also still wedded to the five years. While professing his readiness to trust implicitly to the federal parliament, r the first five years.

Mr. McMillan:

I would trust them, but I do not think the other colonies would. It was in deference to the other colonies that I took that view!

The Hon. J. Henry:

I am very glad to hear the hon. gentleman say so, as it will save much trouble. However, I feel that it becomes my duty to express the very strong opinions I hold against the proposed system of book-keeping. I hold that the proposal to keep accounts of the customs duties collected by the several states for a period of five years is anti-federal in spirit, inequitable, and in my judgment, unworkable.

Mr. Walker:

Will the hon. gentleman explain how it is inequitable?

The Hon. J. Henry:

The hon. member has himself admitted its inequality by abandoning the proposal as regards the first year. If the Right Hon. Sir George Turner can carry his memory back to within twenty-four hours after the scheme was proposed—if all the pomp and ceremony through which he has recently passed has not put it out of his mind—he will recollect distinctly that I pointed out the difficulty of the position, and that Mr. McMillan and myself, as commercial men, both saw that when the astute member for New South Wales, the Right Hon. G.H. Reid, thought he made a splendid bargain for his colony, he really made the greatest mistake a man possibly could make in the interests of his colony. I do not think I need refer much further to the inequality, because it is admitted on all hands. I was pleased to read the admirable article by Mr. Nash, which exposed the whole thing so clearly, and which was entirely in accord with my views, expressed within twenty-four hours of the proposal being made. I fear to enter at length upon this book-keeping question lest I might weary hon. members; but I have given the question a good deal of consideration,
and I regret to find that my hon. colleague, Sir Philip Fysh, has been carried away by the figures, and has adopted the view that in the interests of New South Wales and fair play book-keeping will be necessary. It will be my duty to endeavour to show that those figures were founded on a fallacy. What is the common idea in connection with this business? It is proposed, as regards trade, that we should be one people. What is the corollary to that? In my judgment that we should have one common purse to which the revenue should flow, and that out of that common purse the whole of the charges in connection with federation should be paid. It is urged that the state of the finances of a colony like New South Wales on the one hand, and Western Australia on the other, is such that that would be inequitable. I grant that so far as Western Australia is concerned, to federate on a mere per capita distribution of any surplus would not be just to that colony, and that some special provision will require to be made if the conditions are the same hereafter as they are now. The point I wish to make is this: that for all time there must be a difference in the wealth of the several colonies, and it is in proportion to the wealth and population of the respective colonies that their proper contributions through customs and excise will be. That is inevitable. Are we to attempt, in a constitution bill, to provide for the inevitable changes in the future in regard to the increase or decrease of wealth in any particular colony? If we intend to federate the rich and the poor must come in alike. The richer colonies must be prepared to take the poorer colonies along with them, or there will be no true federation. With reference to Western Australia, let us go back to 1891, to see the changes which are inevitable in the future in regard to any of the colonies—changes which we cannot possibly foresee. Let us take a retrospective view of the history of Western Australia, going back to 1891 when the convention bill was framed.

An Hon. MEMBER:
That was before the gold!
The Hon. J. HENRY:
I admit it was, but that is the point to which I wish to draw attention. Who could then foresee the position of Western Australia? I wish to point to the great object lesson we have in Western Australia, to show the possible changes which may be lying ahead of us, and which we cannot foresee, and to show how impossible it is, in a constitution bill, in view of those changes, to provide for perfect equity in connection with the financial question. Who could possibly foresee what the condition of Western Australia would have been to-day? I think it would be instructive to inquire into the causes of her present prosperity. It has been stated to-
day that one of the
causes is the excess of males in the population. There is no doubt that is one important factor, but there is also another important factor in her prosperity. Western Australia is now posing through a similar experience to that through which many other colonies have passed. She is having a boom period. What is causing the large increase in her customs revenue, independent altogether of her male population? It is the large amount of privately borrowed money which is being poured into the colony for the development of her mines, and the public borrowing as well. The money comes in in the shape of goods, and under the customs tariff there is a very considerable toll levied as the borrowed money flows into the country. That is the obvious reason of her present abnormal prosperity and of the increase in her customs revenue. The question naturally arises, how long is this going to last? Of course she is stocked up very heavily now. Loads of mining machinery, building material, furniture, and so on, are being poured into this new country, and there is no doubt that for some time, with a great output of gold, there is great prosperity before her. But before we have a uniform tariff who can foretell what changes may take place in the revenue of Western Australia? I merely point to this as an illustration.

The Right Hon. Sir JOHN FORREST:
Is she going down, do you think?

The Hon. J. HENRY:
I do not say that. I have no doubt Western Australia will pass through the same experience as other colonies having passed through. She will have its period of fall. She cannot go on borrowing money for ever. I point to this fact as showing how difficult it is, in a constitution bill, to provide for all the changes lying ahead of us in these colonies. The proposal to keep accounts of all the goods passing between the several colonies seems to me to be a parochial idea.

Mr. WALKER:
Oh!

The Hon. J. HENRY:
It appears to me that the proposal to keep accounts of what the different colonies consume is very parochial. I know that, so far as the colony of Tasmania is concerned, different sections of the community contribute very differently to customs revenue. We might as well, in that colony, divide the country into parishes and find out what our west coast, which is a considerable mining centre, and where there is a considerable excess of males, contributes relatively to any of the cities or agricultural districts. The idea is anti-federal in spirit; that is how it presents itself to my mind. I
know what has led to this. Those of us who were engaged on the Finance Committee know what led to the introduction of this book-keeping idea. It was the fear that New South Wales was going to make great sacrifices by a per capita distribution of surplus, and that the only way New South Wales could have justice done to it, relatively to the colony of Victoria, was to have this book-keeping system carried out, so that each colony should know exactly what customs' duties it paid. The whole of this is founded on certain figures published by Mr. Coghlan, and I have no hesitation in saying, after a study of the subject, and after having had the assistance of our able statistician, Mr. Johnston, that they are founded on fallacy.

The Hon. E. BARTON:
I quite agree with the hon. member—absolute fallacy!

The Hon. J. HENRY:
I hope I shall demonstrate the fallacy before sitting down. In the first place, Mr. Coghlan—and I notice that the figures are repeated in the "Notes on Federal Finance" which have been placed in our hands—founds his estimate on the imports of Victoria and New South Wales for three particular years—1893, 1894, 1895. What are the facts? We are all familiar with that terrible period of depression from which—I think I am justified in saying it—Victoria especially suffered during 1893-94. Prior to that we all know the abnormal excess of imports over exports in the colony of Victoria, which surprised and astonished so many. They had gone on during their boom period just as our Western Australian friends are having their boom period now—they had imported heavily, and when the collapse came, Victoria was heavily stocked with building material and all the commodities used by the wealthier classes. We all know the terrible suffering that the wealthier classes in Victoria were called upon to endure when the collapse came. They had not the power to purchase the goods they had been accustomed to buy, the country was heavily stocked, and for a considerable period people were working to run down their stocks. I believe, without going into statistics, that that is a correct statement of the position.

Mr. HIGGINS:
They were importing £24,000,000, and exporting £12,000,000 worth!

The Hon. J. HENRY:
Yes; before that there is no doubt that the country was heavily stocked, and I do not think that New South Wales at the same time was in a like disastrous position; therefore, to take the imports of the two great colonies for that period is not a safe method of arriving at a just conclusion as to the purchasing power of the, people. Besides, I hold that, under a uniform
tariff, the whole of the trade relations of those two colonies, and of all the colonies, will be entirely changed. I am not at all in accord with the view put forth by my hon. friend, Mr. Deakin, that in consequence of the strides that Victoria has made in certain manufactures she will not contribute as much under a uniform tariff as New South Wales would. I take it that if the hon. and learned member will traverse the case very closely he will find, in all probability, that what suits the Victorian consumer will, under a uniform tariff, suit the New South Wales consumer. Should not the manufactures of Victoria, if they suit the Victorian consumer, also find consumers across the New South Wales border? In my judgment it will be found, with a uniform tariff, that goods from New South Wales will flow into Victoria and goods from Victoria will flow into New South Wales. What are we federating for but to secure larger markets and freer intercourse among the people? I do not see that Victoria would contribute less to the customs revenue in consequence of her manufactures. I believe that it is one of the fallacies contained in this paper.

The Hon. A. DEAKIN:

I was merely answering the Right Hon. G.H. Reid's interjection in regard to protection.

The Hon. J. HENRY:

I was going to point out in connection with this question that in all probability, seeing that the future federal tariff would not be likely to be so high as the present Victorian tariff, Victoria would import goods which she does not import now. I think that is a reasonable supposition. However, what we want to get at in considering the question as to the relative contribution by the several colonies, is the purchasing power of the people of the several colonies, and I say that is governed by the wealth of the colonies. In proportion as one colony is richer than another so will it contribute more to the customs and excise revenue. As I have already said, I consulted our very able statistician, Mr. Johnston, and I asked him to get out, on some better principle than Mr. Coghlan's, what the probable relative contribution by the people of each colony would be, and I think that hon. members will be interested in knowing the method which Mr. Johnston adopted in getting it out, and the results. The method which he adopted was this: He took seven articles - tea, coffee, sugar, tobacco, spirits, wine, and beer - and made a very elaborate and careful analysis of the quantity consumed per head in each colony. This is merely the method which our statistician adopted for measuring the purchasing power of the people.
An Hon. MEMBER:  
A very good method, too!

The Hon. J. HENRY:  
What are the results? I may state that these articles cover 52 per cent. of the entire customs and excise duties. The statistician took the precise quantities consumed in each colony according to the import returns, and he also took the rates in Tasmania. Hon. members will see that it does not matter what particular rates were taken—that would not affect the question—but the interesting point is that, with the Tasmanian rates, and the precise quantities consumed in each colony—and each colony of course being calculated at the same rate—the following is the result:- New South Wales would contribute £1 18s. 7d.; Victoria, £1 18s.; Queensland, £1 17s.; South Australia, £1 12s. 4d.; and Western Australia, £2 17s. I may state that those are the quantities imported into the several colonies.

Mr. GLYNN:  
That makes Queensland have it bigger purchasing power than New South Wales!

The Hon. J. HENRY:  
No; Queensland, £1 17s., and New South Wales, £1 18s. 7d. Now I come back to Mr. Coghlan's figures in the paper which has just been given to us.

The Hon. J.H. GORDON:  
They are not the figures of Mr. Coghlan, but of the Acting Statistician!

The Hon. J. HENRY:  
The statement is based on Mr. Coghlan's figures.

The Right Hon. Sir JOHN FORREST:  
Spirits alone were £2 10s. per head with us last year!

The Hon. J. HENRY:  
This is only a method adopted for getting at the purchasing power, not the contribution of each colony. We are asked to believe, in the statement just laid before us, that New South Wales, under a uniform tariff, would contribute £2 3s. 9d., and Victoria £1 6s. 7d.

Mr. SOLOMON:  
Does that not show that that method of ascertaining the purchasing power is fallacious?

The Hon. J. HENRY:  
That is the whole of my argument. I am endeavouring to demonstrate the fallacy of this paper. Our common-sense revolts at it. What is the difference in the wage-earning power of the two great colonies? Will any one endeavour to persuade me with figures like those that there is a difference of 17s. 2d. per head? The thing bears on the face of it its own refutation. I think that the figures which I have just submitted demonstrate
very conclusively that the tables which have been placed in our hands in "Notes on Federal Finance," by the Acting-Government Statistician in New South Wales, are entirely fallacious.

The Right Hon. G.H. Reid:

The facts of the importation are absolutely correct!

The Hon. J. Henry:

I am not disputing them. The right hon. gentleman has not been here during the whole of my speech or he would have known what my arguments were. I have no intention of going over them again; but I have demonstrated that the method of getting at the purchasing power of the people under the tariff of 1893, 1894, 1895, is fallacious.

The Right Hon. G.H. Reid:

The method is right, but the application is wrong!

The Hon. J. Henry:

The application is wrong. I am sure that no one would admit more readily than the right hon. gentleman that when you get a difference of 17s. 2d. per head of the population between the purchasing power of Victoria and New South Wales the figures are thoroughly unreliable; and when I saw them I felt disposed to cast the whole of the papers aside. While I am dealing with this matter I think I might call attention to a very erroneous statement made in these papers. I do so because I know that there are wreckers about, who are desirous of defeating federation, and it is possible that when the question comes to be discussed in the several colonies they will use this as: an authoritative statement of one of the results of federation. This is the statement to which I refer:

Within the limits imposed by the bill for the first three years, the net cost of the federal authority, after making an allowance for the expenditure of which the states will be relieved, may reach little short of £6,000,000 in the aggregate, while the loss of revenue by intercolonial free-trade may involve the provincial governments in a further deficiency of £450,000.

As a matter of fact, the several state parliaments will have entirely thrown over their tariffs, and there will be no such thing under the bill as intercolonial free-trade until we have a uniform tariff. The Right Hon. G.R. Reid must know that very well. But put this statement before the public, and circulate it amongst the colonies that there is going to be a loss under a system of intercolonial free-trade-

The Right Hon. G.H. Reid:

Surely there will be a contraction in the customs revenue?

The Hon. J. Henry:

Yes, when we have a uniform tariff; but this applies to a period prior to
the introduction of that tariff. The man who wrote this statement did not understand what he was writing. I have said that I believe that the book-keeping system will be unworkable, and I will endeavour to show in a few words what is in my mind in regard to it. I see here two veteran politicians, the Hon. Sir Graham Berry and the Hon. Adye Douglas, both of whom have had some experience in attempting to make reciprocity treaties. But the difficulties which have arisen in attempting to arrange reciprocity treaties will arise under the book-keeping system in passing goods from one colony to another. Of course, it is obvious that you must find out, when a parcel of goods passes from Victoria to New South Wales, or from New South Wales to Victoria, what portion is colonial product and what has paid duty, because there will have to be a debit and a credit entry. If the goods are passing from Victoria to New South Wales, Victoria will have to be debited with the amount of duty, and New South Wales will have to be credited with that amount. There will have to be a debit and a credit entry for every parcel of goods passing between the two colonies. I will assume that £1,000 worth of clothing is sent from Victoria to New South Wales. The clothing, we will say, is made of Victorian tweed, which, of course, is a colonial product. But there are also the buttons, the twine, the lining, and other material to be accounted for. These articles, in all probability, would have paid duty, and it would be necessary to find out what their value was, so that Victoria might be debited with the duty which she had paid upon them, and that New South Wales might be credited with the same amount. The whole system of book-keeping would be so full of difficulties that I think the common-sense of the Convention will say that we should have none of it.

Mr. HIGGINS:
Would the hon. member have no book-keeping for the two years before the uniform tariff?

The Hon. J. HENRY:
I am speaking entirely of the period of the uniform tariff. The book-keeping for the period before the uniform tariff comes into operation is simple, because provision is made in the bill that the customs revenue from the several states, whatever it may be, less the proportion per capita of the new expenditure of all the states, shall be debited to their accounts.

The Right Hon. Sir JOHN FORREST:
We do not want to say per capita. We shall know the actual expenditure of each colony!

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The Hon. J. HENRY:
Yes; but I am talking about the new machinery. Each colony will share the new expenditure.

The Right Hon. Sir JOHN FORREST:
They will do that. Each state will pay its own share!

The Hon. J. HENRY:
Each state will pay its own share upon a per capita basis.

The Right Hon. Sir JOHN FORREST:
Not upon a per capita basis!

The Hon. J. HENRY:
It has been suggested by Sir Samuel Griffith that the states should have power to impose special customs duties subsidiary to those imposed by the federal government. I think the hon. member, Mr. Walker, also made that suggestion.

Mr. WALKER:
I did not say anything about it!

The Hon. J. HENRY:
It was suggested to me that the hon. member was in favour of some such arrangement. I can scarcely imagine a states custom-house and a federal custom house alongside each other. However, that is one of the alternative proposals, and I think it has only to be mentioned to be disregarded.

The Hon. E. BARTON:
It is like the plan of the Irishman, who made a big hole through the fence to enable the hens to come into the yard, and a little hole to allow the chickens to get through!

The Hon. J. HENRY:
Yes. We should have to say on what articles the federal government should levy duties, and on what articles the states should be allowed to levy duties. If the states were allowed to levy upon any particular article, they might levy a double duty. Now, I come to the question of dealing with the state debts. I should like to say something about the proposal of Tasmania, which was shortly described by the hon. member, Sir Philip Fysh, this morning. Of course, many of us hold the opinion that when we part with the right to levy customs duties, it will be imperative that the federal government shall, take over the obligations of the states, because, otherwise, we shall not be able to get on. Tasmania, by the amendments which hon. members will see in the bill, proposes that, to start with, the federal government should take over an equal, amount of debt from each colony.

Mr. HIGGINS:
Absolutely?

The Hon. J. HENRY:
Per capita, taking the colony with the least amount of indebtedness per head as the basis.

The Right Hon. Sir JOHN FORREST:

The Hon. J. HENRY:

I understand from the Right Hon. Sir John Forrest that Western Australia has suggested an amendment, using the word "adults" instead of the words "per capita." That, no doubt is a point worth considering; but I wish now to explain the Tasmanian proposal. It is this: In the first instance, the federal government shall take over the responsibility for the debts of all the colonies; but it shall only relieve each colony of an equal amount, assuming that that is the lowest amount that any colony owes. Take the case of Victoria, for example. I think I am right in saying that the indebtedness of Victoria is about £40 per head of population. That would mean that the federal government would relieve the, several states of £40 per head of their public debt, and that the balance, the difference between the £40, and whatever the debt might be would be a liability on the part of the state. Now, under the amendment of our Attorney-General, Mr. A.I. Clark, whose absence from this Convention I certainly regret, it is proposed to have a census every five years. I am not in accord with him in that respect. I think the adjustment should take place annually. But the principle is there; it is elastic; and it accommodates itself to all changes. According to the increase of population so would the federal government cancel the obligation. Mr. Clark proposes that bonds should be given. I do not think there is any necessity for bonds.

The Right Hon. G.H. REID:

Hear, hear!

The Hon. J. HENRY:

It is simply an obligation on the part of the state, and of course the necessary power could be given to levy such duties or taxes as might be necessary. When the proper time comes I hope the Convention will give that scheme due consideration. It is, as I have said, elastic; it accommodates itself to all possible changes in the future, and it is thoroughly equitable.

Mr. HIGGINS:

What about the differing rates of interest?

The Hon. J. HENRY:

We are bound in the amendment to 3½ per cent.; but I do not think there is such a great difference in the rates in the several states that we need go into fractional amounts. At all events I have not thought closely upon that
branch of the subject. I do not regard the plan as providing thoroughly for the whole of our debt, but it has a great deal to commend it. We should still have to trust to the federal government to set the state finances right. No man has been more pronounced in this Convention than I have been for insisting that there should be some definite obligation upon the federal government to keep the state finances right. I have in season and out of season advocated that; but I suppose I shall have now to modify my views in this respect, having regard to the enormous difficulties that lie in front of us in drafting a scheme that will work equitably under all the changing conditions of the future. I say that the federal treasury, the federal executive, the federal parliament, assisted by the ablest men among the heads of departments, will be the right men to deal with this financial question as the circumstances arise in each year. I have pointed to the history of Western Australia. We do not know what changes may be in the future for any of us. I know that the colony in the representation of which I have the honor to share has a great future before it. We have, according to reliable statistics, comparatively undeveloped mines in which there are £30,000,000 of ore in sight. That being so, we are justified in anticipating a great increase in our mining population, and this increased population, as contributors to the customs, will in due course place us alongside the other colonies. We cannot enter a federation if the incidence of our taxation is so changed as to largely increase our direct and decrease our indirect taxation. But I should feel justified in going back to my fellow-colonists, and saying that I would trust the future federal parliament implicitly. Whether we have federation now or at some future time, the federal parliament will be made up of men who know the financial as well as the other requirements of the several states. Next to the great question of free-trade and protection which will have to be fought out, the paramount question to be considered will be the preservation of the state treasuries, and I, for my part, would be disposed to leave the whole question, with entire confidence, to the federal parliament.

The Hon. F.W. HOLDER (South Australia)[2.55]:

I am very glad that on this occasion the Convention is considering this question, not in Committee, but publicly—in the light of day. I am sure the fact of our consideration of the matter in Adelaide in secret robbed our determinations of much of that weight which otherwise might have attached to them. Persons have said tome concerning the matter, "We see your conclusions; but as we do not know the paths by which you arrived at them, we are unable to say whether or not the conclusions are justified; and therefore we cannot say whether or not we can accept them." On this occasion I hope that, not only shall we arrive at a right conclusion, but that
the pathway along which we travel will be made so clear that others
outside will be able to note the way and follow us in it. I am taking this
afternoon a very easy role-one which has been followed by many ever
since, in 1891, the financial proposals referring to federation were first
formed. It is easy to criticise other people's work; it is easy to pull down, to
find fault, to pick holes; it is not so easy, by any manner of means, to
construct a scheme with which other persons cannot find fault. I infer that
the purpose of this debate at the present stage is rather to clear away
schemes which will not run, to remove theories against which there are
serious objections, rather than to set up theories of our own. Therefore, I do
not propose to conclude with any definite statement of a scheme to take the
place of the schemes we have; but I shall endeavour to show, for the sake
of those present, as well as for the sake of those outside, some of the strong
objections that can be taken to some, if not to all of the various plans which
have been suggested. In dealing with Part IV of the bill, I think we are
dealing with those provisions which have to do with the very essence of
federation. If we wish to establish a tariff of customs duties, we must
recognise that without uniform customs there can be no true federation. A
federation, including States which maintained between them a customs
warfare would be no federation. Then comes the question of the railways. I
quite agreed with my hon. friend, the Secretary for Lands of this colony,
Mr. Carruthers, when he said in Adelaide that it was useless to do away
with the strife between the customs-houses if we were merely to transfer
that strife to the railway-stations. I take, as I took emphatically in Adelaide,
this ground-that unless our federation will serve not merely to abolish the
customs-house strife, but will also end the railway tariff strife, it will not be
a federation worthy of us, or worthy of the countries we wish to federate. I
think it is of equal importance that we should abolish cut-throat railway
rates as that we should abolish rival border customs duties. The hon.
member, Mr. Deakin, this morning thought that there was too much made
of what he spoke of as preferential railway rates. Now I am somewhat with
him as to the point he made with regard to differential rates growing into
preferential rates. It undoubtedly must be admitted that what is a
differential rate in a colony applied outside that colony may or may not be
a preferential rate. But in many cases it would be, I think, an advantage that
we should lay down the line, and say that such a rate should be tolerated as
might be a differential rate applied beyond the borders of the colony on the
same basis and on the same principle as applies within the colony. But so
soon as you depart from these principles, and, either to bring trade into a
colony or to prevent trade going from one colony to another, you adopt a
principle which you would never adopt within your own borders, I think we come to a class of rates which we must absolutely prohibit, or our federation will not be worthy of the name. There is another question included in this chapter which cannot be left out of sight—that is, in relation to the rivers, Reference was also made by the hon. member, Mr. Deakin, to the fact that in many cases our rivers take the place of railways. Where we have not had waterways we have had to maintain our railways as methods of communication between state and state, and district and district. But we have some waterways, and they are as essential to us as our railways are, and the freedom of trade and intercourse over them and along them is as essential to federation as is the freedom of intercourse over our railway lines. I refer specially, of course, to the rivers Murray and Darling. Along those rivers, from the furthest point away from their mouth, where navigation begins, right down to the mouth of the Murray itself, it is to my mind of the first importance, if we are to have real freedom of trade at all—if our freedom of intercourse between part and part of the great commonwealth is to be real and true—it is of the first importance that we should say we shall tolerate no interference with those principles which, rightly applied, will secure equality of trade over all those rivers. We cannot have equality of trade over those rivers—we cannot make that use of them which the commonwealth is entitled to make—unless we see that the riparian rights are fully guarded. Of what use is it to us in South Australia to have within our borders both banks and a large portion of the lower Murray unless we have the water flowing between those banks? What is the advantage to us of the possession of the lower waters of the Murray which ought to come to us, if higher up, by means of locks or irrigation works, large quantities of water are taken away, and the river when it comes within our borders ceases to be navigable? As the hon. member, Mr. Higgins, says, we have the bottle but not the liquor, and not many of us care much for the bottle without the liquor.

The Right Hon. G.H. Reid:

We are supplying you with the liquor all the time!

The Hon. F.W. Holder:

I dare say New South Wales would not do it if she could help it. I think it is characteristic of New South Wales to give nothing away that she can keep her hands upon.

The Right Hon. G.H. Reid:

Broken Hill!

The Hon. F.W. Holder:
For a very long time we have been striving to enforce in South Australia our riparian rights-to obtain some recognition of those rights to which if we were private persons we should undoubtedly be entitled. I take it that the position between South Australia and New South Wales is parallel to the relation which would subsist, if New South Wales were a private landowner and South Australia were also a private landowner.

We should then have the right to demand that a certain and proper flow of water should come to us. We, as private landowners, would then see that our rights in this respect were not trenched upon. That is all South Australia has sought; that is all South Australia desires to assert in future. But what was the position taken up at the late session of this Convention at Adelaide with reference to the Murray waters? The colony of New South Wales would not, in any sense, permit the control of the Darling waters passing to the federation, because both banks of the river were in New South Wales. When, however, we came to deal with the lower Murray, where both banks are in South Australia, it was maintained that quite a different principle must prevail. Federal control must never come in when both banks belong to New South Wales; but when both banks belong to South Australia federal control must prevail. It may happen that the wolf will obstruct free navigation, and yet we are not to complain. The unfortunate lamb down stream from the wolf was said to be guilty of fouling the water to the detriment of the wolf, and, therefore, it had to pay the penalty of death. Poor South Australia which is down stream with reference to geographical position compared with New South Wales, must give up all her riparian rights to the commonwealth; but New South Wales up stream, which has the power of doing damage and may do it, would not give up any of her riparian rights to the commonwealth. Let us have fair play in this matter, which does not merely affect the rivers which I am now dealing with, but which affects freedom of intercourse and trade between state and state, and between part and part of the commonwealth. Let us have fair play in this matter. Either let us have all parts of this navigable stream within federal control-and no one will then complain—or else let us see that South Australia is left untouched in her right and authority over the water of the Lower Murray. With regard to the concession to her of all her riparian rights, do not hand over to the federal authority powers properly belonging to South Australia.

The Right Hon. G.H. Reid:

Did the hon. member mention the Lachlan River?

The Hon. F.W. Holder:
So far as the Lachlan River is navigable precisely the same argument will apply, and I am very much obliged to the right hon. gentleman for calling my attention to the fact, I am simply pointing out that whatever is done customs, railways, and rivers must be taken together. Unless we consider and take them together all through this constitution, we shall not fully secure that freedom of trade and commerce which I assume we ought to secure in a federal constitution. Passing from these things more definitely to the financial question involved in our consideration, the hon. member, Mr. Deakin, said this morning that it mattered not to the federal authority whether there was a surplus or not.

The Hon. A. DEAKIN:

I said it was not essential to the federal governments!

The Hon. F.W. HOLDER:

In one sense the hon. member is right; in another he is quite wrong. Seeing that it is essential to the federal government that the state shall prosper, it is essential to the federal government that where it has taken over from the states their chief engine of taxation, it shall have something to return to them from the proceeds of that engine. It seems to me that a federation in which the federal authority is not interested in the solvency and prosperity of the states is such a thing as we ought not to consider for a moment. In fact our first duty to-day is, and I think I can go further and say that the first duty of the federal parliament of the future will be, to conserve the, interests of the states. What are we doing to-day? We represent not some idea, some conception of federation; we represent the individual units of the population which makes up Australia. In all our deliberations, we conceive as far as, we can what will be the beat for those individual units on which the prosperity of the whole mass will be built up, and the prosperity of the separate persons forming the mass. So it will be in the federal parliament. The prosperity and strength of the federal authority will depend upon the prosperity and strength of each individual state comprising that federation. Therefore I do not apologise for placing in the very forefront of my remarks a plea for the necessity of securing the strength and prosperity of every stater to be in this commonwealth. I deprecate what I am going to state being set aside as parochial. I object to its being said that what I am about to state savours of parochialism or anything of that kind. That is the kind of argument used. But I take my ground again where I took it before on this fact: that in my view the success of federation itself must depend on the success of every state in it, and, therefore, in arguing for the strength and financial stability of the states, I am arguing, not for, that which is parochial, but for that which is essential to the success and strength of, the commonwealth itself.
The Hon. A. DEAKIN:
The success of the people of the states as well as the success of the state governments!

The Hon. F.W. HOLDER:
I think what I said carried me right back to the personal units forming the states. We may begin with the individual units on which the, states rest, and then take the state units on which the commonwealth rests, and, wherever we stand for the moment whatever we argue from, of course the individual unit must be that which is at the back of everything in our thoughts. Now, the question is raised by some, shall we have a surplus or shall we not? I think the question answers itself. We must have a surplus, or else the states of the federation cannot carry on. Let us look for a moment at their position to-day. In most of them there is not only the indirect taxation which is proposed to be handed over to the commonwealth, but also some direct taxation, and in most of them just about up to the measure of their capacity to carry it. I do not know any state, unless, indeed, it be this wealthy splendid state in which we are assembled to-day, which can afford any very considerable addition to its present burden.

An Hon. MEMBER:
Queensland!

The Hon. F.W. HOLDER:
Queensland might afford some. Besides those two states I do not know any other which can afford any very considerable addition to its present taxation.

Mr. HIGGINS:
Victoria has no land-value tax yet!

The Hon. F.W. HOLDER:
Victoria has a land-tax.

Mr. HIGGINS:
It is not a land-value tax, and it only yields £120,000!

The Hon. F.W. HOLDER:
I know it is not a very large sum; but I do not think my hon. friend, Mr. Higgins, if he were the Victorian Treasurer, would be free to propose any very considerable addition to the direct taxation of that colony. I am wanting to point out that when the states have handed over to the federation, as it is proposed they should, all their power of customs and excise taxation, unless there can be returned to them a sum very closely approximating to the sum which they realise from those sources, they will
be not only prospectively but at once in very serious straits. I have spoken to most of those who are here, I think all, on the question, and I do not know a Treasurer or a budding Treasurer who would be willing to go back to his colony and advocate any system of federation which did not provide for the return of practically the whole of the sum now collected from customs and excise to the state from the federal authority. It has been said that we need have no surplus, that we can provide for a proportion of the debts to be taken over. I noticed with interest the very practical remarks which my hon. friend, Mr. Henry, made on this question. The Tasmanian Parliament propose that a certain proportion of the debts should be taken over, and I think the hon. member mentioned £40 per head. The average interest on our public debt to day is 4 per cent. I believe. Taking over £40 per head of the public debts of all the colonies would mean taking over an obligation amounting to £1 12s. per head of the population.

An Hon. MEMBER:

The Hon. F.W. HOLDER:

It is not only the insufficiency, it is the inequity I want to point out. How would that proposal work out? Under any conceivable new tariff the people of New South Wales would, at least for some years, contribute a great deal more than £1 12s. per head of the population. And under almost any conceivable tariff, Western Australia would contribute an immensely larger sum, for some time to come. Tasmania, certainly, would, for some years to come, contribute a less sum than £1 12s. per head of its population from any conceivable tariff of the commonwealth. What is the position? The position is this: that we are asking that a return shall be made to the states equal per head over the whole commonwealth, while the contributions of the states are very unequal. We shall be asking New South Wales to contribute perhaps £2 per head of its population, and to receive back only £1 12s. per head; Tasmania to contribute perhaps 25s. per head, and to receive back 32s. per head. I do not mention South Australia, because it is almost at the point of average for the whole of the colonies in respect of customs and excise duties.

The probability is that whatever plan be adopted South Australia will neither suffer much loss nor realise much gain. South Australia is not far from the mean line. But if the basis of £1 12s. per head be adopted, that is more than South Australia is contributing per head through customs and excise. Therefore, while it would be a nice little arrangement for South
Australia, and might put £60,000 or £70,000 a year into our pockets, some
one else would have to find that sum. New South Wales and Western
Australia would doubtless be the kindly parties.

The Right Hon. Sir JOHN FORREST:

The Hon. F.W. HOLDER:

We do not want any such position. South Australia wants her own, if she
can get it. She is going to get as near to her own as she can; but she does
not want one penny belonging to anyone else. I think I may say the same
for Tasmania. We all of us want our own, no more and no less. That being
so, it is apparent at once that neither £40 per head, nor any other amount
per head, equal over the whole commonwealth will do. You appear to wipe
out the surplus, but you do not wipe it out at all. You simply provide that
there shall be a return equal per head over the whole population at once
throughout the commonwealth. Suppose it were proposed that at once a per
capita distribution of the surplus should take place, would that be
accepted? Do not even the representatives of Tasmania themselves argue
against the inequity of such a proposal? Is it not apparent to us all,
whatever may be possible in the future, that when things have settled
down, and the new tariff has been some years in operation, it is simply out
of the question that we should begin right away with an equal per capita
distribution, which is what this scheme of taking over it certain proportion
of the debts amounts to if you go to bedrock in considering it. Now there
have been various other schemes suggested for dealing with the surplus—and I am taking it for
grant ed that we must have a surplus for the reason I
have mentioned—and among them is a suggestion that we should have a
book-keeping system. I thoroughly agree with every word the hon.
member, Mr. Henry, said as to the undesirability, impracticability, and half
a dozen other things of this book-keeping system. To my mind, one of the
strongest recommendations, if not the strongest, of federation is the
removal of border custom-houses. How are you going to remove them if
you are going to keep up the bookkeeping system? As long as you have
your book-keeping system, as long as you are taking these accounts strictly
between colony and colony, you must maintain your border custom-
houses, your border customs officers, and practically all your border
customs restrictions. I have had some little experience of this system, and I
am going to repeat what I said in Adelaide, not publicly, but to the Finance
Committee. In South Australia for some years we have striven to keep
accounts very strictly between ourselves and the Northern Territory, which
in a sense is not of us, although it belongs to us. Part of the book-keeping
necessary has been a discrimination between duty paying goods and free
goods passing over the border or arriving by sea. The task has been a practically impossible one. It has involved a scrutiny of goods, it has involved delays, it has involved in other ways all the difficulties of a hostile tariff, and this impossibility of its correct application has become apparent again and again. You have shipments of goods which may include dutiable goods of different kinds in one article. You may have shipments including some dutiable goods and some that are free. There may be South Australian tweeds which are not dutiable, or you may have English tweeds, or some other tweeds. The difficulty is to find out the origin of them. You may find out the origin of one part of a shipment, but you may have a difficulty in finding out the origin of another part, and it would not be certain whether the goods were dutiable or not. If we are going to have that system carried on, not between South Australia and the Northern Territory, but between these great colonies with their huge trade and intercourse, we shall have something that will be irksome in the extreme, which will be unsatisfactory in the extreme, and which will break down of its own weight as it ought to do.

Mr. WALKER:
What about collecting statistics?

The Hon. F.W. HOLDER:
We shall, of course, try to get all the statistics that we can with regard to trade and commerce; but such statistics as will be required for a system of book-keeping between all the colonies, will, I hope, not be sanctioned by this or any other Convention. If we are going to have a book-keeping system for twenty years, let us postpone federation for that time. If we are going to have this system of book-keeping for five years it amounts to postponing the benefits of federation for another five years. In South Australia, when preparing the financial scheme, we very reluctantly, as the only way of dealing with the matter, after much shrinking from it, adopted the scheme which provided for book-keeping for one year, and we thought that that was a great deal to tolerate, and I am sure that we ought not to tolerate even that. Now, I come to another scheme which has been suggested for dealing with the difficulty; that is, returning to the states the amount of revenue that they contribute, less a per capita contribution to the cost of federal government. There is a difficulty here to which I will call attention, not because I do not think that any one has mentioned it, but because I desire to freshen hon. members' memories. It has been suggested that any surplus in the hands of the federal government shall be handed back to the states after a reduction per capita to meet expenditure. I want to point out the difficulty of that being carried out unless you have a book-
keeping system. Suppose that there is a surplus of £5,000,000 and the federal authority has to determine where it arose, whence it came. Without a book-keeping system they cannot tell. I defy any federal treasurer or statistician if there is a surplus of £5,000,000 to say where it arose. Shipments of goods come into places like Sydney, and are sent away, finding ultimate consumption in other places. There are distributing centres like Melbourne where goods come to and are scattered far and wide. When we have uniform duties, and the duties are paid at the port of shipment, those places will become distributing centres. Sydney will be a distributing centre, not only for its own state, but also for Queensland and other states. Melbourne will become a distributing centre, and goods paying duty in Melbourne will be sent to Tasmania, South Australia, Western Australia, and elsewhere. Who is to say where they are ultimately consumed, and yet it is where they are ultimately consumed that the duty belongs? How is it possible to find out to which state the duty belongs?

An Hon. MEMBER:

You will have to ear-mark it all the time!

The Hon. F.W. HOLDER:

Of course the hon. member understands that that would be quite impossible. If we are not going to have a system of book-keeping we must set aside as impracticable the scheme in the bill of 1891. Of course there the provision was simply that until a uniform tariff came into operation, book-keeping should be carried on. But a scheme was proposed by which revenue was to be received and then paid back to the various states after the deduction of the amount for federal expenditure. I say that that is impossible unless you have some principle laid down by which you will determine the proportion in which you will make the return to each separate state of the commonwealth. Then we have the proposal which was made by the hon. and learned member, Mr. Deakin, this morning, to return to every state a fixed sum which maybe based on the last five or ten years, or may be arrived at in some other way, paying every state a certain fixed sum in perpetuity. I will refer to the case of South Australia, to give an illustration as to how this would work. Put down our present customs and excise duties at £600,000 a year. There is a small profit in the Post Office, but that would be swallowed up by losses on other departments. it might fairly be assumed that if South Australia received a grant from the federal authority of £600,000 a year in perpetuity, she ought to be satisfied. But the defect in the scheme is this: that, whilst for the present it would be all
right, what about the future? Is South Australia going to remain for ever the size that she is to-day? As the population increases, the cost of police and other local administration which have to be paid out of the state revenues will increase too.

The Hon. A. DEAKIN:

The proposal is to give that much at least, and as much more its the federal parliament may determine!

The Hon. F.W. HOLDER:

I will come to that. I am pointing out the weakness of the system which the hon. and learned member proposed this morning so far as regards the grant of a fixed sum based upon present factor. We want elasticity, we want a provision for the growth which we expect in all our states in the early future, and the very serious defect of Mr. Deakin's proposal is that it does not provide for it. The hon. and learned member said that this fixed sum would be a minimum, that the federal parliament would give not only that but as much more as it could afford. You may make us this guarantee of £600,000 a year, but we want a further guarantee. Why not make a guarantee of so much per head of the population as the £600,000 represents, and as population increases let the amount of the guarantee be carried on with the increase of the population? If you do that you will be providing what would be a fair and equitable system.

Mr. TRENWITH:

It is the same principle in another form!

The Hon. F.W. HOLDER:

It is suggested that we should not trust the federal parliament up to a certain amount; but beyond that we should trust them altogether. I think the two positions are inconsistent. I would rather trust the federal parliament out and out from the first penny, or else I think they cannot be trusted with regard to the balance over £600,000. I would rather trust them all through and give them a free hand. They are not aliens or strangers-we should trust them out-and-out. Or if we must have guarantees at their hands, let us take a guarantee that will be worth something, not only now, but ten, twenty, or thirty years hence. There is one other system, and that is the unfortunate sliding scale, which found its way into the Adelaide bill, and which has had short shrift since that time. That sliding scale was a child of misfortune-misfortune in that it was laid before the Convention and accepted on the faith of those who recommended it; never discussed, never explained-thrown into a cold world, without anybody to be father to it, and it has never had a show from that time to this. I am quite sure that had the Premier of New South Wales, when he tabled the scheme, explained it, as he can explain schemes-put the facts clearly before the public, as be can
do-the public would have understood it; and if they had understood it, very
much of the antagonism to it that has sprung up would have been avoided.
Most of the antagonism to it arises from absolute mis-
understanding and misconception. As to the principle of the sliding scale, it
appears to me there can be no possible fault found with it. As to its
application, I shall deal with that later on. The suggestion was to take the
actual facts for one year after the coming into operation of the uniform
tariff. Well, if we take the facts we cannot be very far wrong there. That
was only for one year.

An Hon. MEMBER:
The wrong year!
The Hon. F.W. HOLDER:
Possibly it may have been the wrong year; but that does not alter the
correctness of the principle of the sliding scale. The first thing was to find
out the facts for the first year. Let it be any other test year-only this trouble
comes in: If you make it the second, instead of the first year, you have to
keep the accounts between the, colonies for two years, instead of one, and
that makes it considerably worse. It was simply for the sake of avoiding
this book-keeping that some people are so fond of, that it was proposed
that the test should be the first year, and the first year only. Then came
another question: If we are to take the first year, or make a test year, are we
to understand that the time will come when, practically, all over the
commonwealth, the per capita contribution through customs and excise
will be equal? I do not think we are far wrong in assuming that such a time
will come. There are special circumstances in Western Australia today;
there are circumstances of a special character which must prevail in New
South Wales for some time after the coming into operation of the uniform
tariff. No one can question this. But, surely, in a period-I am not going to
say how long it will be-

Mr. WALKER:
Twenty-five years!
The Hon. F.W. HOLDER:
I am inclined to think the period will not be twenty-five years. I am of
opinion it will not take twenty-five years for things to settle down and for
equality to establish itself. At the beginning my right hon. friend, Mr. Reid,
strongly took the position that ten years was the shortest possible period
which would see an equilibrium established, and perhaps he was right. It
was as a concession to other colonies-chiefly Victoria-that the reduction
was made from ten to five years.
An Hon. MEMBER:
Why Victoria?
The Hon. F.W. HOLDER:
Because the representatives of Victoria held that the sooner the per capita principle came into operation the better. They would like to have seen the per capita principle in operation at once. They deemed it would suit them-naturally.

An Hon. MEMBER:
I do not think they looked at it from that point of view!
The Right Hon. G.H. REID:
They never have!
The Hon. F.W. HOLDER:
No, never. It matters not where we put this per capita point—whether we put it at five years or ten years—there must be between the first year—the year of test—and this per capita point, wherever it comes, a gradual approximation of all the divergent colonies to the mean point. It must be so. If it comes within five years, the sliding scale set out in this bill is right. If it takes ten years to come, then all we have to do is to make the period ten years, let the lines approach a little more slowly, and still it is right. The principle of the sliding scale cannot by any possibility be wrong. But do as we may, determine if we like that there shall be a certain fixed subsidy paid for so many years—five or ten, say—what then? Are we going to have an absolute collapse then? It seems to me, above all other things, what we want to avoid in connection with the finances of the federation is convulsion. Let us pass from stage to stage easily-step by step, up or down, whatever it may be; and let us have no convulsions. Convulsions, however they arise, in all financial matters, are a serious damage to the state in which they occur.

Mr. MCMILLAN:
Under that scheme you still leave five years as the per capita basis—the parliament to decide!
The Hon. F.W. HOLDER:
But the scheme in the bill contemplated that the inequalities should adjust themselves in five years, and therefore that the distribution should be on a per capita basis.
Mr. MCMILLAN:
You leave the amount absolutely open. You must trust the parliament
then?

The Hon. F.W. HOLDER:

Yes; but the principle which is to guide them in their distribution is that, an equal amount per head being assumed to be collected in each colony, an equal amount per head would have to be distributed to each colony. The principle of the sliding scale being the only one to avoid these convulsions, the only one which will bring the colonies which are above the average gradually and by a slow course down to the average-the only one which will bring the colonies that are far below the average by slow degrees up to it-must be right, and must be wise. The only points for discussion are as to the year of test, and as to the length of the time during which the sliding scale shall apply-whether it shall be for five, seven, or ten years, or any other period. These are points open to discussion; but, as to the value and fairness of the sliding scale, it seems to me there can be no question. However, all these are matters of very considerable difficulty, and in all of them we are dealing with questions with which we are not face to face. We are trying to leap over the stile before we come to it. While most of the words of Sir Samuel Griffith are words of wisdom, I do not think those he used with reference to the finances of the commonwealth are words of such wisdom as he is accustomed to exhibit. Are we or are we not justified in trusting the federal parliament? There are two or three reasons why we should trust them. In the first place, they will have the facts and figures before them-we have not. They will know what the result of the tariff is-we do not. They will know the special conditions that prevail at that time. Which of us can say what they will be? Reference has already been made to the extraordinary and unexpected developments in South Australia during the last three or four years. Who shall say where the next development will be? It may be in New South Wales, it may be in Tasmania-who is to say? We know that the prospects of the mining industry in Tasmania were, perhaps, never so bright before as they are now, and, that being so, it may be that Tasmania will be the place which next will boom, and where the next extraordinary growth and development will take place. There is another part of the commonwealth-a part that is too often forgotten, though it ought not to be, for we have one here who is a special representative of it in the local Parliament-a part less known than Tasmania, and with a smaller population. I refer to the northern territory of South Australia. It may be that these new developments, these advances by leaps and bounds, will next be seen there, and, if that be so, then it will be Northern Australia, and not Western Australia, where these special alterations will come about. That being the case, as we cannot foresee these things, cannot measure them, cannot forecast what their nature or direction
will be, is it wise for us to attempt to leap this stile before we come to it? It seems to me that there is a great deal indeed to be said for leaving this matter to the federal parliament to be dealt with. There are one or two reservations I wish to make. If, instead of our having taken the financial problem first, we had taken the constitutional problem first—if, this afternoon, we knew what would be the constitution of the senate, what its relations to the house of representatives, I should be prepared personally to make a very clear utterance as to whether I would or would not trust the coming federal parliament; but as that question is not settled I cannot say whether I will or will not trust it. At least, however, I say this: Given a constitution of both houses of the federal parliament, which is fair to the larger states and to the smaller ones, then I am prepared to trust this matter, as I trust many other matters of very great importance, to the coming federal parliament, believing it can and will, with the knowledge and information which it will possess, do fairly by all the states within the commonwealth. If one thing more than another were necessary to induce me to trust the coming parliament, it is this: that we have with us in the position of absolutely requiring large and generous treatment at the hands of the federal authority in the matter of finance, the great colony of Victoria. I say it without any reflection on Victoria; I say it as simply the utterance of an undoubted fact, that Victoria can as little afford, as can any of the smaller states afford, to lose a very large portion of its revenue. Therefore the smaller states may feel secure, seeing that they have with them in their difficulties, the great colony of Victoria. They are safe in taking the same side as it will have to take, and in being sure that the treatment which will be meted out to them, will be fair and liberal. I end this part of my speech by stating what I stated at the beginning—that I have rather sought to show reasons why the various schemes suggested would not do than to set up any new scheme of my own. I have said what I have said with a view to saving time. If I have shown that any scheme over which much time might have been spent will not do, and that there are radical difficulties which make it impossible to accept it—if I have thus saved debate I have saved time. I now come to a word or two on the important question of the debts and economies which may be practised by the federal authority. If it could be shown that the federal authority could make any large savings, that it could by any means at all economise to the extent of the loss of revenue through intercolonial free-trade, and the cost of the new machinery of federation, the way would, indeed, be easy. I want to refer to one fact bearing on this point. It has been said that the loss through intercolonial free-trade would be over £1,000,000 per annum.
Without Queensland this loss would be very much diminished. I hope Queensland will come in, but should Queensland stay out, it will reduce by practically one-half the loss on intercolonial free-trade, and make so much smaller the difficulty. with which I am going to deal. We will assume, for the moment, that Queensland will come in, and that the amounts to be made up are, roundly, £1,000,000 loss of revenue through intercolonial free-trade-lost to the states, but gained to the people, who will not have to pay the duty-and about £300,000 for the new machinery, or a total of £1,300,000 a year. If it were possible to show to the electors, who will have to vote on this question ultimately, that the federal authority could make a saving of that amount, our way would be easy. Can it be so shown? I am not in favour of the railways being taken over by the federal authority. Many of the railways have been constructed with a view, not to direct but to indirect return-with a view to the value they give the Crown lands through which they pass; and the traffic is maintained on them, not because of the profit arising from them, but because by means of that traffic the profitable occupation of large areas of country is made possible. If the railways were to pass into the hands of some federal authority, I can conceive at once that lines such as these would be little used. Naturally a federal authority, having no local interest in the Crown lands, having no interest in the development of local industries, would run the lines upon commercial principles. Where the trains paid they would be run as frequently as they paid, and where they did not pay they would be run as infrequently as possible. That will not suit us. I do not think it will suit any of the states that the lines should be run on those principles. I do not admit, therefore, that any saving can be held out before the eyes of our constituents resulting from anything to be done with the railways; but I do believe that very large savings can accrue, as time goes on, from the proper handling of our public debts. but if we are to obtain these advantages, we must move with very great judgment. A declaration that, on the coming into being of the commonwealth, all these debts shall be assumed by the commonwealth, would be an act of the utmost folly. Can I illustrate that? I am amazed that there is any necessity for illustration; and yet, when I read some of the articles in the newspapers, when I hear some people talking, it really does appear to me to be necessary that some illustration should be given of the folly of the suggestion to which I have referred. Let the illustration be this: Here are five persons who have a fairly good commercial standing, whose paper is regarded as being good - perhaps not quite gilt-edged, but good enough; and to them comes another of the highest possible standing, whose
name is good enough, not only for the five together, but for far beyond that. This one with his huge security, comes to the others and at once takes over all their liabilities. Do not hon. members see that he has made a present of an enormous advantage to the holders of the securities of the five persons? The paper was worth so much when the individual security of the five persons alone was behind it, but now that the security not only of the five but of the greater power is behind it, the paper is worth so much more.

The Hon. Sir P.O. FYSH:
At the same rate of interest!

The Hon. F.W. HOLDER:
Interest is one thing, security is another. I believe that if a federal loan were offered, better terms could be got for it than for any state loan. What does that mean? Undoubtedly, it means that the credit of the commonwealth will be better than the credit of any individual state in it.

An Hon. MEMBER:
How would the state be injured?

The Hon. F.W. HOLDER:
The state would certainly be injured. Surely the hon. member sees my point.

The Hon. Sir P.O. FYSH:
Surely the hon. member sees the point that the interest must come down!

Mr. MCMILLAN:
The hon. member means in case of conversion!

The Hon. F.W. HOLDER:
Certainly. The point is so clear that I thought the mere statement of it would convince everybody of the force of the argument. We have in these colonies a certain public debt today. Behind it there is only the security of the individual colonies who incurred the debt; but if, by some act of the Imperial Parliament, there were placed behind the whole of this debt-every million of it-not merely the state security, which is behind it to-day, but the commonwealth security, we should give an enormous advantage to the holders of the securities.

Mr. MCMILLAN:
But it would be only if you wanted to convert. If the loans expired it would not affect it at all.

The Hon. F.W. HOLDER:
I will take an example again. Our South Australian 3 per cents. to-day stand at about 101-a little more, I think. If the federal authority came into being with such a provision in the constitution as that which I have heard
argued for, at once the federal security
would be behind the South Australian loan, and that South Australian stock
would go up in the London market from 101, to what-103, 104? And do
you not see that the very moment that that takes place, a bonus of 3 or 4
per cent. is given to the present bond and stock holders?

An Hon. MEMBER:
How does it affect the loans you want to convert during currency?
The Hon. F.W. HOLDER:
We lose enormously.
Mr. MCMILLAN:
Not unless you want to carry out a conversion scheme!
The Hon. F.W. HOLDER:
But we do want to carry a conversion scheme through. I am showing that
the state stocks in the London market would go up 3 or 4 per cent. directly
the commonwealth security came behind it, and that that bonus would be a
present that we should give for nothing on earth to the bond and stock
holders. To give it to them for nothing would be the greatest folly of which
any sane man could be guilty. I want to retain that bonus for the people,
and I say that it must be retained for them, and that getting hold of that
bonus is about the best plan I can suggest for paying the expenses of the
federation, and the best argument for recommending federation to the
people. How are you going to get hold of it for the people? Not by putting,
in the bill to be passed by the Imperial Parliament a provision which gives
away the whole position for nothing-a provision that from and after the
passing of the act the commonwealth shall be responsible for the states
debts-nothing of the kind. I started by saying that articles in the newspapers
suggested that we should give away this enormous advantage which we
should certainly keep in our own hands-that we should give away this
bonus for nothing.
The Hon. E. BARTON:
It is said that if you take over the debts without the assets they represent,
the enhanced credit which the commonwealth would otherwise give to the
states would not accrue. I mention this because it has been the subject of
great discussion in the Parliament here. That is what is urged. I do not hold
that view, but I want my hon. friend to deal with it.
The Hon. F.W. HOLDER:
My own opinion is that the British bondholder looks much more to the
number of people behind the debt, and to the prosperity of the colony, than
to the purposes for which the money is to be spent.
The Hon. E. BARTON:
That is the answer I made!
The Hon. F.W. HOLDER:

And that so long as we do not borrow too largely it does not much matter whether railways or other assets are behind the debt. The stockholders will look at the tax-paying capacity of the people, and not at the assets. I hope that we shall take care to guard ourselves by providing that the commonwealth may take over the loans of the states—that we may place the federal security behind them—but will so leave the matter that, in every case, we may give the federal security if, and only if, those who hold our bonds and stock will offer to make it worth our while to give them a larger security than we have now to offer. If we do that, we shall be able to go a long way towards paying all the expenses of this federation without putting any increased burden on the people, and without loss of revenue to the states. I hope, however, that we shall be very careful to provide that there shall be no rushing of this matter, for the nearer we come to the dates of expiry of these loans—to the dates when they will fall in by effluxion of time—the better the terms we can make with those who hold our bonds and stocks; and, therefore, while this is a matter which must be left entirely to the federal government and to the federal treasurer, we should provide in the financial clauses of the bill in such a way as to let the people see that we are keeping in our hands all the power we can with the view of exploiting all these debts in their favour and interest.

Mr. MCMILLAN:

Is the hon. member in favour of the states being required to give their consent to the taking over of their loans?

The Hon. F.W. HOLDER:

I agree with the hon. member that there ought to be a provision requiring the consent of the parliament of each state to any transfer of its loans, for otherwise the federal authority, at a time when the state was able to make very advantageous terms itself, might step in and take over its public debt, and might obtain for the commonwealth treasury an advantage which by right belonged to the state treasury. For that and other reasons, I think the local authorities ought in every case to give their consent to any portion of the debt for which they are responsible being taken out of their hands. In some cases the premium might fairly belong to the local authority, and in such cases they ought to have a right to retain it. There are many other points of great interest one might touch upon in connection with the financial position of the commonwealth; but at this stage I am not going to take up any more of hon. members' time. I have already taken up a good
deal more time than I intended to take up when I rose to speak, but I have been led on by interjections and by the interest I take in the subject. I only hope that, if I have taken a long time, I have solved some difficulties which other hon. members may have felt, and which they themselves might have spent some time in discussing hereafter. I thank hon. members heartily for the kindly way in which they have listened to me.

The Hon. Sir JAMES LEE-STEERE (Western Australia)[3.58]:

I think it is necessary that one of the representatives of Western Australia should rise now to state why it is we find some difficulty in accepting the financial provisions of the bill as agreed to in the Convention at Adelaide. We have been taunted by some saying that Western Australia does not want federation. We certainly cannot see our way to enter the commonwealth parliament under the present financial clauses of the bill. I think that every member of the Convention is aware of that fact. We were not present in the Adelaide session at the time these financial clauses were discussed there-they were brought forward after the Western Australian delegates had left Adelaide to return to Western Australia-and, therefore, hon. members cannot say that we are at all responsible for the financial provisions which were placed in the bill at Adelaide. I do not altogether agree with some hon. members, who say that the statistics prepared by the statisticians of the different colonies are fallacious. Perhaps they are not in accordance with the wishes or ideas of some hon. members, because they place their colonies in a position they do not like to see them placed in. But considering that the statistists of New South Wales, Tasmania, and Western Australia all agree pretty well as to the amount which Western Australia would lose, I cannot think that their statements are incorrect.

An Hon. MEMBER:

-The Hon. Sir JAMES LEE-STEERE:

That may be the case, but I do not think their statements are incorrect. In the first place we should stand very unfairly in relation to the other colonies if we gave up the amount of customs duties which we should have to give up. Our customs duties in the last financial year amounted to £7 15s. per head of the population, while I think the average amount received by the rest of the Australasian colonies was only about £2 per head. Thus it will be seen at once in what a disadvantageous position we should be placed by giving up this amount of customs duties. I know that it is said that in Western Australia we are in an

abnormal position. Perhaps we are; but in my opinion this abnormal
position will continue for some considerable time yet. I do not acknowledge that these are boom times in Western Australia, if by a boom time is meant a time which does not last long, and is followed by depression. I say that the present condition of Western Australia, which is owing to the increased production of gold there, will continue for a long while.

An Hon. MEMBER:
But the customs revenue will fall off, because Western Australia will establish manufactories of her own.
The Hon. Sir JAMES LEE-STEERE:
It will be many years before we do, and it will be a bad day for the rest of Australia when we establish manufactories there.

An Hon. MEMBER:
Western Australia taxes manufactures pretty highly!
The Hon. Sir JAMES LEE-STEERE:
I do not know that that is so. With the exception of the New South Wales tariff, the tariff of Western Australia is considerably lower than that of the other colonies.
The Hon. A. DEAKIN:
But it is heaviest upon Australian goods!
The Right Hon. Sir EDWARD BRADDON:
They have preferential rates in favour of foreign goods!
The Hon. Sir JAMES LEE-STEERE:
I hope the time will soon come when we shall not want to import so largely from the other colonies. I think hon. members will be rather surprised when I tell them that, of the total importations of Western Australia, which are valued at £6,493,000, £3,000,086 worth is the product of Australasia. The figures seem to me enormous; but I suppose that they are perfectly correct, because they are taken from the report of the Collector.

An Hon. MEMBER:
There must be special conditions for Western Australia!
The Hon. Sir JAMES LEE-STEERE:
I do not know what those special conditions may be; but unless they are more favourable than the provisions contained in the bill, I cannot see any prospect of our recommending that our colony should join the federation. Our own statist has put the case very plainly, I think, and if hon. members will bear with me I will read what he says.
The conclusion I have come to is that in order to be able to unite with the other colonies in a federation on the basis of the draft constitution, without risk of serious detriment to its financial interests, it would be necessary that the annual expenditure per head of this colony, particularly in public works (apart from that out of borrowed money), should be considerably curtailed, or that the colony should be prepared to impose a land, income, or other direct tax, so as to provide the funds requisite to meet the liabilities attendant upon federation. That the colony should defer the matter until the colony has developed its resources to such an extent as to be practically independent of outside supplies for the ordinary articles of consumption, that is, until the customs revenue per head assumes a normal rate, appears to be a reasonable course, unless the draft constitution is so modified as to equitably provide for the special condition of this colony when federated.

What would be the use of our going back and telling the people that if we entered into federation we should have to impose direct taxation or to reduce our public works expenditure? It is not likely that they would be in favour of federation under those conditions. In order to develop our colony, we are obliged, and for some years we shall be obliged, to expend large sums upon public works. Is it likely that the people of Western Australia will agree to give up to the federal government a large part of the money that is now spent in that way, or that they will approve of the imposition of direct taxation? I am certain that none of the representatives from the other colonies think that Western Australia would consider those favourable Conditions under which to enter the federation. I am pointing out to hon. members the difficulties under which we labour in regard to this matter. I do not consider myself a financier, and, therefore, I am not able to say what are the provisions which would be just and would bear equally upon all the colonies; but I have no doubt that the members of the select committee appointed to consider the question will be able to devise some plan. I am sure that we are just as anxious to enter into federation as the other colonies are, so long as we can be sure that we shall not be great losers thereby.

The Hon. Sir P.O. FYSH (Tasmania)[4.8]:

I am very much afraid, after the speeches which we have listened to today, that we are not coming nearer to the solution of the financial problem. I have been waiting in the hope that the representative of some colony like New South Wales or whose representatives must dominate the Convention in connection with a subject of this nature, would give us some idea as to the arrangement that would be acceptable to themselves, because they are hardly likely to accept any proposal coming from the smaller colonies.
Therefore, with some deference, I have held back. I am induced to rise now because of some of the observations of the hon member, Mr. Holder. I listened with great interest to his admirable address. There was the true federal ring throughout it, and I wish I could believe that New South Wales, moving on the lines indicated in his speech, is prepared to make whatever personal or state sacrifices are necessary with the one object in view of becoming part of a federated people. If we found New South Wales and Victoria moving upon such lines as those to which Mr. Holder referred, I am sure that the financial difficulty would be swept away, because in entering into this contract we should no longer be seeking to make a commercial bargain; we should be treating each other as part and parcel of a great state where the whole revenue might at first go into one pocket, and then be distributed ratably. I find that already my observations are causing my friends below me who represent New South Wales to smile. I am fully aware that a great difficulty of the whole problem is that we shall be as separate states subscribing to what will be the commonwealth fund sums of revenue which are disproportionate, and here I should like to dwell upon a statement which has been before us to-day-upon figures which we considered at an earlier convention, figures which have moved my mind over and over again, and from which I have never been able to sever the connection—I allude to those figures which Mr. Coghlan, the Government Statistician in New South Wales, published. Upon these I placed great reliance, because, in common with all, we know Mr. Coghlan's capacity, we know his determination to arrive at a solid foundation of truth, and for the three years to which he has referred I believe he has stated accurately the statistics of the colonies. If statistics be worth anything they should be considered in a matter of this kind. I am fully aware that in taking the years 1893, 1894, and 1895, Mr. Coghlan may have

taken a period which so far as Victoria is concerned, shows her at her worst. Those of us who have followed the progress of imports, associated with a lower tariff than is necessary in connection with a policy of protection, must arrive at the conclusion that the higher the rate of duty the smaller will be the volume of goods imported. I have read two admirable papers by Mr. Pulsford, a gentleman resident in New South Wales. I referred in Adelaide to one of these papers which, with others, was exhibited to those of us who were associated with the Finance Committee. Allusion was made to the fact that while New South Wales imported a large value of ready-made articles, Victoria only imported for the same purposes of her people the raw material, there being £1,000,000 per
annum. imported in the three years, year by year, by New South Wales and £750,000 imported by Victoria. The larger sum in the case of New South Wales was not a disparity which to my mind, indicated any serious error. Mr. Pulsford called attention to the fact that whereas in one article only in New South Wales, that of soda crystals, she imported all she required, Victoria imported none, the soda crystals being all manufactured upon the spot. I will carry the matter further, and say that while in New South Wales, as I believe, the great portion of the wearing apparel of the people, certainly of the masses, is imported ready-made, there is imported into Victoria only the material. In connection with the article of wearing apparel, textile fabrics only, that would represent a much larger value than any of us suppose. But passing away from this particular article, I come to those articles which are most revenue-bearing, and to which my hon. friend, Mr. Henry, has referred. And while he was perfectly correct in dealing with these figures from one point of view, there is yet another concerning which I feel it my duty to express myself with respect to the figures, although I may differ from the hon. member's conclusions. He appeared to overlook the fact that in dealing with the important articles of duty he gave to us-namely, sugar, tea, coffee, tobacco, spirits, and beer-he gave to us 53 per cent. of the whole of our imports. We may have in them a thorough indication as to the consuming power of the people, and we find that in a given year-1895-a year in which we began to return to the prosperity we enjoyed in years gone by-I pass over years 1891, 1892, 1893, and 1894, in which many of us were in adversity, and I come to the Year 1895-when, at any rate, the sun was beginning to shine upon us-we were realising a fair customs revenue. In that year we find a disparity between New South Wales with £1 18s. 7d. per head, and South Australia with £1 12s. 4d. per head on these articles, of 6s. 5d. per head, or one-fifth of the whole revenue in respect of these particular articles. There was that quantity less consumed in South Australia than was consumed in New South Wales. Now, what is the conclusion? That the consuming power of the people of South Australia was less, by reason of the fact that they had not so many miners, or so many shearers or so many persons engaged in manufactures as were in the colony of New South Wales. And we find that, so far as Tasmania is concerned, the disparity between £1 1s. 2d. per head as compared with the £1 18s. 7d. per head in New South Wales. These figures, therefore, cannot fairly be used with as an argument to show that there is throughout Australia the same consuming power in every state. Neither do I think the figures can be used with any fairness to indicate that we shall presently come-those of us who are poor-into the wealth-giving conditions of those who are richer. It may be true-I trust it is-that Tasmania
is very gradually, and only gradually, perhaps at present
more quickly-coming to the front. We are increasing our mining población, and there can be little doubt that each year Tasmania will be seen to so increase her £1 1s. 2d. per head as to approximate more closely to the rates of her neighbours.

An Hon. MEMBER:
Where are those figures taken from?
The Hon. Sir P.O. FYSH:
They are figures compiled by Mr. R.M. Johnston, who will be regarded in Australia as a statistician of equal ability to Mr. Coghlan. I am quite satisfied that Mr. R.M. Johnston as an actuary and statistician is acknowledged throughout the whole of Australia, and I might say, throughout the whole statistical world, as a man in whose figures much reliance can be placed. The figures are taken for the whole of the colonies for the year 1895. Therefore we must admit at the commencement that there is a different consuming power between the colonies at the present time. I quite agree, however, that the positions at present, while they fairly indicate the spending power, and also the earning power of the people, may not last. Western Australia has given us an instance during the last few years of great change. In Tasmania a customs revenue of less than 12 per head in 1894 will rise in the present year to £2 7s. 6d. per head of the population. This does not reach the total realised by New South Wales, and we want to see whether in connection with the federal movement, New South Wales is prepared to receive the other colonies on the principle of equal partnership. If New South Wales will remove that difficulty the financial problem can be readily overcome; but if New South Wales wants to make a bargain with the neighbouring states, we have come to the conclusion-at which I myself arrived long, long since-that there is no other way in which we can equitably distribute the funds of the commonwealth except under an inter-state keeping of accounts. Now, almost all who have spoken on that subject deprecate any idea of keeping inter-state accounts, and have alluded to the immense difficulties that arise in connection therewith. I have never seen any difficulty, and the financial problem has been under my observation since 1891.

An Hon. MEMBER:
What about the cost?
The Hon. Sir P.O. FYSH:
The bill of 1891, after the Financial Committee had sat, embodied the
conclusion that there should be a state keeping of accounts for a certain period. The Finance Committee of April last, after sitting seven days, with twenty members present, composed of Treasurers and past Treasurers, had to arrive at the conclusion that there was no equitable method of distribution except by the keeping of accounts. If there be any state which desires to get away from this inter-state keeping of accounts, it is time that it should announce itself, and let us know what the problem is to be. The public, the press, members here and elsewhere, and in our various parliaments, have all been exercising destructive criticism upon the work of that Finance Committee. Although there has been plenty of this destructive criticism, we have heard of no construction yet, except by those men who have asserted the opinion that the solution of the problem is in the keeping of accounts. They have committed themselves, and have shown what the results will be. For instance, the hon. member, Mr. Holder, to-day instead of coming to the point and telling us the solution, what did be tell us? He arrived at the same conclusion as almost every other speaker, that we must remit this matter to the federal parliament. I do not know what there is behind. When I see so many with possible dissolutions staring them in the face avoiding this subject, and preparing to shunt the difficulty on to some body to be brought into existence by this bill, I often ask myself the question why it is they cannot face the difficulty now? If they would only face the difficulty for five years and let us agree that the keeping of accounts shall he for five years only, and that upon the basis so established you will have given to the federal executive an opportunity of gauging the future possibilities, we may accomplish something. But surely this Convention will not meet again now and dissolve without having inserted in the bill some proposal with respect to federal finance. To leave the whole matter open to the future is to say that you do not know how to deal with the difficulty, and that so far as finance in concerned we must trust to the future. £50,000 a year is as much to Tasmania as £300,000 a year is to New South Wales. I very much doubt whether any colony, be the amount £50,000 or £300,000, will be justified in going into the federation when it does not know whether its position would be that of a bankrupt state or not. The hon. member, Mr. Holder, reminded us of that at the last meeting, and pointed out how important it was to the whole of us that we should, at any rate up to a certain period, know what the revenues of our own country are to be. Treasurers now have to anticipate revenues for a year or eighteen months ahead, but how can a treasurer give any estimate of the revenue of the year that is to follow unless there is secured to him some definite proportion of the customs
revenue to be handed over? It is, therefore, of importance that there should be some provision made in the bill to return to the states something like a proportion of that which they contribute, or instead that there should be one of the responsibilities of the various states taken over by the commonwealth, and thus relieve them. I would suggest that, while we do not wish the federal executive to be in possession of any large surplus, we may obviate such a possibility by casting on the federal executive the responsibility of paying the whole of the interest upon our debts. It is much more simple to deal with the whole than to begin to talk about parts. We talk about £40 per capita as being the proportion that may be taken over, leaving it for Tasmania to give bonds to be responsible for £7 per head of her debt, while Queensland would be responsible for £16, and the other colonies the same in proportion. Why not at once throw the responsibility of the whole of the interest upon the federal executive, and let the federal executive charge against each state the total amount of interest which it expends on its behalf? It comes to the same thing, but it will deal with one debt. You will then have a debt of Australasia, instead of having a separate debt for the commonwealth, and separate debts for the states. This leads me to an observation by the hon. member, Mr. Holder, which I should like to challenge. He was very clear in his intention of deprecating before this Convention the purpose of announcing to the world that the debts of the several states of Australasia were to be taken over, and form a responsibility of the commonwealth. Now, our present bill uses the term "may." That term was used advisedly on the assumption that the treasurer of the future, having such a power without being called upon to secure the cooperation of any separate state might, when the opportunity occurred, and it will occur, consolidate and unify the whole of the debts of Australasia. But I would add that I have no objection to the word "Shall." I do not see the serious difficulty which the hon. member recognises-a difficulty which I remember an hon. member on the other side, Sir William Zeal, alluded to on a former occasion, when I was speaking-a difficulty which is evidently in the minds of many here to-day, namely, that you are raising the value of your securities against yourselves. Now, that is just what I rise to controvert. Will anybody tell me that a bill of Rothschild for £100, bearing 3 per cent. interest, will be worth more than £100 a week hence if I get Peabody & Co., of New York, to put upon the back of it their names? Therefore will anybody tell me that the bonds of Australasia worth £110, and bearing 31/2 per cent. interest, will be worth any more when you obtain the joint and several guarantees of all the separate states? I would ask those who believe so, what is it gives
value to the bond?

The Hon. F.W. HOLDER:
Why are the bonds of the different colonies at different prices to-day?

The Hon. Sir P.O. FYSH:
The bonds of the different colonies are not at such different prices as to warrant such a conclusion. The bonds of the whole of the colonies in 1892 fell down to less than 80. They all rose until, in May of last year, they were as nearly as possible on a par with each other, or within 1 per cent. of with each other. They have risen or fallen in proportion to the value of, money in the English money-market. My observation with respect to the hon. member, Mr. Holder, is that it is not the guarantee which you put upon the back of that bond which gives it value, but, seeing that the value and the security is already good-seeing that a 3½ per cent. Australian bond is worth £110 now-if you put the names of all the other Australian colonies behind it, It will be worth no more, because it is wholly upon the rate of interest that it depends.

The Hon. S. FRASER:
And the security!

The Hon. Sir P.O. FYSH:
I started off with that fact, that if it be a Rothschild bond, you cannot improve on the security. If the rate is £3 per cent.-it will only produce £3 per annum, and an inscribed Australian bond will produce £3 per cent. if it is a 3 per cent. stock. If it runs up to £150 then your rate, of interest is reduced to £2.

The Hon. S. FRASER:
English censors are much lower than that!

The Hon. Sir P.O. FYSH:
If then the rate of interest on its face value be reduced to £2, so much the better for Australia, because a low rate of interest is what we require. Therefore to assume that because we are going to back the bills of the states they are going to rise in some very important degree is a great mistake. They may rise to a small extent for one reason only: they may get into the preferent list for the investment of trust funds, and seeing the enormous amount of trust funds which cannot find investment in Imperial consols -which are reduced to £400,000,000 now -directly you can get Australasian debentures or stocks put into the preferent list, so soon may we expect the prices to rise; and they will rise, whether the stock belongs to separate states or represents the consolidated debt of Australasia. The price of money at home it is which varies the value of your stocks.

The Hon. F.W. HOLDER:
Why are British consols a better price than on our stock?
The Hon. Sir P.O. FYSH:

I might almost answer the question with another; how comes it that whereas we were paying 6 per cent. for our stocks in years gone by we have now got them down to a rate which is equal to about £2 10s., because I think if we work out £110 for our 3 1/2 percents., we will find that it reduces them to about £3.

The Hon. C.H. GRANT:

One is a home stock and the other is a foreign stock!

The Hon. Sir P.O. FYSH:

There are all sorts of differences. We have year by year been consolidating ourselves; we have become a people on whom the world is placing more and more reliance. I believe every year we live, as we develop our population, as we show a stern determination to maintain our credit, as we show an ability to pay our way, and particularly as we develop our mines from time to time, so we shall have the value of our stocks increased, and gradually we are drawing them nearer and nearer to the value of European stocks. Australian stocks, last May, were of more value, judging by the rate of interest which they were realising, than American stocks, and of more value than any of the stocks of Europe, except English stocks.

Mr. HIGGINS:

That is because there is no enterprise!

The Hon. Sir P.O. FYSH:

No, it arises from a combination of two circumstances. The withdrawal of Imperial consols by reason of investments to the extent of £200,000,000 by Government officers in England leaves only about £400,000,000 of Imperial consols to work upon for the public generally. It arises also from the fact that money was very low in England-less than 1 per cent-while we were paying 3 1/2 per cent. face-value, or equivalent to about 3 per cent. on the market value. While money kept so low as that, our stocks must go up.

They will not be lower for another reason: that we are year by year becoming more and more a consolidated people, and every year of our lives now, after the fifty years of our free institutions we have enjoyed, is bringing us more and more credit before the English investing public. So soon as you consolidate stocks and unify them as to value with one rate of interest, and possibly make them an interminable security, with power to the commonwealth to renew or pay them within thirty, forty, or fifty years, so soon shall we begin to realise the advantages to which our friend, Mr. Walker, has drawn attention. I was very pleased to discover that my right hon. friend, Sir George Turner, on his return from England lately, was able
to tell the press that the time is fast approaching when the conversion of
Australian stocks must be carried out. I was pleased to know that it
confirmed the letter which Mr. David George had sent to our friend, Mr.
Walker, and it also confirmed other letters of equally important financial
authorities which I am pleased to receive from time to time. The time is
rapidly approaching, and but for our hope of an early federated Australia
some of the colonies, although they may be small, would have moved in
the direction of consolidation before this, and directly you do so move I
believe you will get your money at 2 3/4 per cent., and then you will save
not a few hundred thousands, but £2,000,000 per annum by way of
economy. If you only allow, £1,000,000 by way of saving through the
consolidation of your debts you certainly will then have secured a
sufficient sum of money in the commonwealth to have rectified any
differences which may occur in connection with the various states we
represent. But we are, at the present moment, in difficulties as to our next
movement, and we, as the smaller colonies, ask those whose influence
must guide this Convention to consider that even though they may today be
collecting revenue per head per annum in excess of that which is collected
by the smaller states, we are all moving on in the same prosperity. No one
knows which colony in five years will be to the front. It is very certain,
therefore, that directly you have a uniform tariff, you will immediately
begin to level down these disparities, that the value of the imports into
Victoria will very largely increase, and we shall have no longer the
disparity existing between the figures which Mr. Coghlan has given us, and
the figures which we will realise under the uniform tariff; for directly we
have that uniform tariff-I have no doubt that it must be a revenue-giving
tariff-the return of goods imported into the colony will be increased and
enhanced in value very considerably. I have been watching the result of
manufactures in our small way in Tasmania. I have discovered that the
small mills which we have put up have completely thrown out of gear the
imports on which the Treasurers have been in the habit of depending; so
much so, that I may mention two articles. Blankets and flannels ten years
ago were largely imported-most of those which were used in the colony
were im-
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ported; but now blankets have wholly fallen out of our import list, and
flannels nearly so, and I may say so partly with respect to boots and shoes.
The value of these imports has fallen 40 per cent., and we know that the
value has fallen in this particular instance, not by reason of the reduction of
their intrinsic worth in Europe, but by reason of our local manufactures.
The intrinsic value of goods, of course, has considerably fallen off, but that
affected equally Victoria and New South Wales. And when we have a uniform tariff established through the whole of Australasia we shall each be taking advantage of the ground from which we are now kept. We will have free-trade running throughout the whole, and no one can predict the immense advantages which we shall all realise. I sincerely hope that one of these larger colonies will give to us some indication of the purpose they have in view, because simply to discuss these measures, and to point out what the difficulties are, is not leading us to their solution. We all of us know the difficulties. Will any one put before us some substantial scheme which we can lay hold of? I venture to say that the best scheme, and that which is likely to be most useful to us, would be to take the whole of the expenditure and the revenue of any period which you may name—I would say so soon as uniform duties of customs are imposed and to make a return per capita to the people.

An Hon. MEMBER:

The Hon. Sir P.O. FYSH:

I am aware that Western Australia cannot come in at present. As suggested by the hon. and learned member, Mr. Deakin, special arrangements would have to be made with Western Australia for the present; but as far as the other colonies are concerned, even including Queensland, it must be immensely beneficial. By dividing the total revenue from customs and excise per head of the population, there will be a credit in account for the amount due, and having taken over the whole of the responsibilities by way of debt, let there be charged to it the whole of the interest that is paid for that particular state. The result, according to such figures as have been put before me will be that when uniform duties are imposed we shall come out with this advantage: That the smaller state that does not consume so much whiskey and tobacco would get the advantage of New South Wales, which consumes the most. Queensland consumes a great deal more whiskey than we do in Tasmania. I think the proportion is as 6 gills to 4. Queensland, when they begin to entertain the question of federation, will be induced to federate by reason of intercolonial free-trade. Directly we give Queensland a free market or a preferential market for her sugar, so surely shall we establish in that land a permanent product of that which will be so enormously beneficial to her as to realise almost £1,000,000 per annum. of export. But we need not lose the whole of the million to which the hon. member, Mr. Holder, referred when we have intercolonial free-trade. Surely Queensland will not expect us to give up entirely our excise duty upon sugar? I have always taken care to guard my
opinion. I express it so that Queensland may

An Hon. MEMBER:
Will Queensland come in on those terms?
The Hon. Sir P.O. FYSH:
If she gets a preferential rate of £3 excise as against £5 duty she will sweep the markets, and give to us in the next five years, according to Sir Hugh Nelson's figures, 170,000 tons of sugar all grown in Queensland. She would have an entire monopoly of all the markets of Australasia for sugar. That would be an immense benefit to her.

An Hon. MEMBER:
That depends upon beet sugar!
The Hon. Sir P.O. FYSH:
Beet has been reducing the price of sugar very considerably; but, notwithstanding that, Queensland now and for a few years past has always been able to meet the constantly reduced price of sugar, whether it came from the Mauritius or elsewhere. We do not get beet sugar in the colonies.

An Hon. MEMBER:
We do!
The Hon. Sir P.O. FYSH:
A small quantity of beet sugar known as Dutch crushed, loaf sugar. The sugar consumed in the colonies is Mauritius sugar made from cane. We are not likely to import beet sugar. Queensland will consider it her interest to join the federation if fair terms are made in connection with the proposal before us. I hesitated to rise because I felt that it is beating the air. We are waiting for the Right Hon. Sir George Reid and the Right Hon. Sir George Turner. These are the gentlemen who must tell us what the-fiscal policy is to be. We are entirely dependent upon them, and unfortunately we are dependent upon the exigencies of political life.

Mr. LYNE (New South Wales)[4.45]:
I do not rise to speak on this question. We have heard some very good speeches and some long ones. I think it would be very reasonable now to adjourn. I would ask the leader of the Convention, the hon. and learned member, Mr. Barton, whether lie will consent to an adjournment until tomorrow morning?

The Hon. E. BARTON (New South Wales)[4.46]:
Under the circumstances, I think it is right that progress should be
reported now, having in view the very great gravity of the subject, and also the very great assistance which I think will arise to the Convention, and to the members of the Finance Committee from some of the speeches which have been made, which, if I may say so, denote a distinct advance in federal tendency, and also a very keen appreciation of the value of the criticism, written and verbal, that has taken place since the last meeting of the Convention,

Progress reported.

ADJOURNMENT.

The Hon. E. BARTON (New South Wales)[4.47] rose to move:

That this House do now adjourn.

He said: A suggestion was made by Sir George Turner yesterday in reference to the extra parliamentary programme that has been designed for the delegates. I think that is a matter which deserves consideration. I have had some conversation with the Premier of New South Wales on the subject, and, without undertaking to express any opinion whatever, I should like to say that I think there is a general desire on the part of hon. members that there should be no extension that can be avoided of festivities, at any rate beyond the present week, in order that after the present, week the Convention may be enabled to sit at night as well as by day. I do not forget that next week there are two occasions on which hon. members will no doubt desire not to sit. I need not mention those, but with those exceptions I take it that after this week it will be the general desire of hon. members to sit every night.

The Hon. A. DEAKIN (Victoria)[4.49]:

I rise with great diffidence to say that there was a very strong feeling in Adelaide against night sittings, and they should be avoided. This is not the time to discuss it, but there are some of us who will only consent to them as a last resort.

The Hon. E. BARTON:

We sit at night elsewhere!

The Hon. A. DEAKIN:

No. I heartily concur with what my hon. and learned friend has said, and for my part am quite willing to forego all festivities. But night sittings are not calculated to produce that class of work that I should like to see in this Constitution.

The Hon. E. BARTON:

I do not know!

Question resolved in the affirmative.

Convention adjourned at 4.51 p.m.
Commonwealth of Australia Bill - Leave of Absence.

The PRESIDENT took the chair at 10.30 a.m.
COMMONWEALTH OF AUSTRALIA BILL.
In Committee (consideration resumed from 6th September, vide page 94):
Clause 88. Uniform duties of customs shall be imposed within two years after the establishment of the commonwealth.
Amendment suggested by the Legislative Assembly of South Australia:
In line 1, after "customs," to insert "and excise."
Question-That the words "and excise" be inserted-proposed.
Mr. LYNE (New South Wales)[10.34]:
At the present time, it seems to me that no lengthy speeches need be made upon the question before the Convention. As I stated when the committee was appointed, I disagreed entirely with the action then taken, namely-to appoint the committee and debate the financial question in the Convention, subsequently allowing the question to go to the committee, and then having another debate after it makes its report. It certainly seems to me that by doing that we shall have two debates when one would have answered all purposes. For that reason, I do not intend to take up any length of time on this matter; but I cannot allow the occasion to pass without referring to some of the very able speeches made yesterday. I think the tone and the matter of the speeches delivered yesterday was of the highest character; and although I do not agree in many respects with the sentiments uttered by some of those who made them, still I must of necessity admit that they were very able. I notice that an able writer in the press this morning states, after giving the figures in reference to customs and excise as between the different colonies, that nothing more can be said, and the matter must be dropped from that standpoint. I should not refer to this matter, but the writer in question, Mr. Nash, of the Daily Telegraph, is one of the ablest financial writers we have in this colony, and I notice that he says that:

If New South Wales required even one-half of that extra million to be made good to her, the customs and excise taxation would still exceed £7,500,000. We regard the deadlock disclosed by these figures as complete and irremovable.

If we have come to that stage of the question, I should like to know what is the next course to pursue I do not, however, agree with that writer, able
as he is. I certainly think that the first proposal which emanated from the Finance Committee in South Australia was the best which has been made up to the present time. True, the Convention did not approve of what was done, and referred the matter to another committee of Treasurers. I heard Mr. Holder—the South Australian Treasurer—in the able speech he delivered yesterday, say that if the sliding scale, which was brought up by the Treasurers, had been taken hold of by the present Premier of New South Wales, and had been spoken to in the manner in which that right hon. gentleman can speak in regard to figures, an entirely different complexion would have been placed upon it from the complexion which has been placed upon it by those who have had to learn it for themselves, and by the press. I certainly think the sliding scale, as submitted by the Treasurers, would never suit New South Wales. We should lose under that proposal, gloss it as we will, and we should contribute to the other colonies something like £800,000 or £900,000 a year. Surely New South Wales is not quite so blind to her own interests as to submit a proposal of that kind.

The Hon. Sir P.O. Fysh:

The hon. member forgets how much New South

Wales would gain by the distribution of her expenditure. She would gain half as much as she would lose by that course only!

Mr. Lyne:

I must differ from the hon. member, because in that respect I think we should lose also. The hon. member may think otherwise, but I must be allowed to differ from his ideas. I think that under that proposal New South Wales would in every way lose considerably. Therefore, its far its that proposal is concerned, I admit, with the writer of this article, that it must be placed absolutely and for all time on one side. With regard to the proposal made by the Finance Committee, after a very great deal of discussion, and after the insertion of the word to which Mr. McMillan referred yesterday—the word "aggregate" its far as the estimate and the distribution of the customs and excise were concerned—I understood that that word had a great deal fuller meaning than it seemed to me Mr. McMillan gave to it yesterday. I should like to state what I conceive to be the meaning of that word; and I think it was I who had the privilege of moving its insertion. Before that word was inserted, the proposal was open to much the same objection as was the sliding scale of the Treasurers. But the word "aggregate" was intended for this purpose: that we should take the aggregate returns from all the colonies and pool them, and divide the total sum by the population.
Mr. WALKER:
Including direct taxation!

Mr. LYNE:
No; but the customs and excise. Divide that by the total population, and on that get an aggregate amount of customs and excise for each individual throughout the whole commonwealth.

Mr. MCMILLAN:
I said nothing about that!

Mr. LYNE:
I said it at the time, and I understood from the chairman of the Finance Committee when the word "aggregate" was inserted, that that was to be the effect of it, because we had some difficulty in inserting two or three words to make my intention clear. If that were done, the effect would be this: Supposing that there is a total collection of £6,000,000 per annum from all the colonies, and supposing that the population is 4,000,000, it would leave the sum of 30s. per head, applicable to each unit of the population. That would be the minimum that should be returned of the excess obtained by the federal treasurer from the various states.

Mr. MCMILLAN:
But that per capita distribution would exactly bring about the same thing!

Mr. LYNE:
I do not think it would. I may say that, as far as I am personally concerned, I altogether object to the system of book-keeping which was proposed, and which was strongly supported by the hon. member, Sir Philip Fysh, and by other hon. gentlemen. I regard the position we are in in this way: If we are to have federation, let us have it-let us have intercolonial free-trade-but, if you keep up a system of book-keeping on your borders for five years or,-as was suggested by the Premier of New South Wales in the Finance Committee-for ten years, you might very nearly as well keep up your customs duties, for all the trouble and irritation that would take place. We must, if it is possible to do so, arrive at some-it may not be accurate distribution, but at some reasonable distribution, of the surplus that is likely to be obtained from the various colonies by the treasurer of the commonwealth, and I take it that the first idea-which, I think, emanated from the hon. member, Mr. McMillan-that you must, by some rough and ready method, fix some hard and fast sum-it may not be exactly accurate-to be returned to each state-had a great deal in it to commend itself to hon. members of the Convention; but I think the idea of the Finance Committee in South Australia was the better one-

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that is, as I have said, to fix a certain sum per head of the population to be
returned. I heard gentlemen yesterday state-in opposition very largely to what I heard them state on a previous occasion—that they were almost prepared to leave everything in connection with finance to the federal parliament. If hon. members are prepared to leave everything to the federal parliament, surely they might leave everything beyond a minimum of, say, 30s., or whatever it comes to, per head of the population, to be distributed as nearly approximately as they can possibly find out to the amount raised in each colony. It will have to be raised through the various customs entries, not intercolonial, but on the seaboard. I think that if something of that kind could be arrived at, and if we were to allow some power, borne privilege, and some determination to the federal parliament as regards the balance of the surplus to be returned, we might come to some conclusion; but I do not think that it would be wise to leave absolutely the whole arrangement of this scheme to the federal parliament after the matter has gone away from this Convention. Are we to declare that we ourselves are impotent to come to any conclusion on this question? I take it that in the federal parliament there will not be abler men than are to be found here—abler financiers, and gentlemen competent to final with matters of this kind.

Mr. SOLOMON:
They will have a very much freer hand!

Mr. LYNE:
They would have a very much freer hand, I grant; they would have a much freer hand to do injustice as well as justice.

An Hon. MEMBER:
And a knowledge of the circumstances of the hour, which we have not!

Mr. LYNE:
They would have that also, if you gave them the power of distributing beyond a certain minimum; but I take it that every colony, and probably most of all New South Wales, must see to it that there is some return from the federal treasury to the various state treasuries.

An Hon. MEMBER:
If we trust them for £1 we can trust them for £2!

Mr. LYNE:
I think that the state treasurers would be in a much safer position if they knew that they were to receive a certain sum back from the federal government. I cannot close my eyes to the fact that the whole, or nearly the whole, of the trouble on this question is caused by the present fiscal policy of New South Wales. I do not wish to drag into this debate any fiscal issue;
but I say that, with our fiscal policy of the years 1893, 1894, and 1895—
even with a 10 or 15 per cent. tariff—we could come much nearer to this
question in a much shorter time than we can on the, present occasion. If
hon. gentlemen will look at the figures that have been submitted by our
Statistician, and by his assistant since he has been away, they will see that
the whole trouble is based on the absence of any reliable or approximate
information in regard to importations into New South Wales, to be brought
here under a uniform tariff of customs duties. I, therefore, think that our
trouble at the present moment is attributable to a large extent—almost
wholly—to the fact that we have not such a fiscal policy, to some extent, as
they have in the other colonies, How are we going to get over that
difficulty? We proposed at the Adelaide Convention to go back to the years
1893, 1894, and 1895. We took those years to get over the difficulty to
which I am referring. In those years we had a low tariff in the shape of 10
or 15 per cent., but under that tariff we had a certain customs revenue,
which brought us a little nearer to the position the other colonies are in at
the present time, and therefore at Adelaide we at once took those particular
years to try and assimilate the returns that had to be made and the amounts
that would be

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collected from the various states. I altogether cast on one side the idea-so
assiduously put forward by our Statistician, and I think also by the Premier
of New South Wales—that if you take as the basis all the importations into
this colony under our free-trade tariff, and put on the top of that basis the
tariff of Victoria, or of any of the other colonies, you will get a certain
result. That, it must be patent to every hon. gentleman, is an absurdity. As
the hon. member, Mr. Deakin, very rightly said yesterday, as in Victoria,
with the increase of duties and with the decrease of duties, the rise and the
fall of the importations was marked, so it would be in New South Wales.
With an increase of duties under a uniform tariff, we would have a
decrease of importations, and probably an increase of the local
manufactures in our colony, which was also referred to by the hon.
member, Mr. Deakin, yesterday, when he pointed out that the consumption
of the people was perhaps not less in Victoria than in New South Wales,
but that the result of a protective tariff decreased the importations, and
increased the local manufactures, which fact was not taken into account at
all. Under those circumstances, with an alteration in our tariff, we would
necessarily have such a result, and, instead of getting over £3,000,000
return in this colony, as suggested by some of the figures that I have seen—
£1,000,000, or £1,500,000, or £1,250,000 more than any other colony—that
would probably be brought down to the sum which we in New South
Wales received in 1893, when, I think, we obtained about £2,500,000 or £2,600,000 through the customs. That was before the effect of the 10 per cent. duty was felt in this colony. Our importations during 1894 and 1895 decreased to about £2,100,000, mainly because of the manufacturing which was induced in our own colony. With the application of a reasonable tariff - and I do not wish it to be imagined that the tariff under the federal union would be a prohibitive one - our imports would decrease, and probably, with our present population, we should obtain somewhere about £2,500,000 a year through the customs. On these figures we must base our calculations if we are going to come nearer to federation at the present time. I say that there is no insurmountable difficulty to be got over in meeting the other colonies. For these reasons, I think that the statement made in the paper to which I have referred, is absolutely erroneous. I go further than that, and I say that I do not think this colony will allow this important question, which so vitally affects the financial interests of the community, to be left entirely to the federal parliament. I am satisfied that this colony, if it accepts any constitution bill at all, will require the laying down of some definite lines, at any rate so far as the minimum return to be obtained. I was pleased to hear the statement made by my hon. friend, Mr. McMillan, on this question yesterday. We all know that he is a freetrader, just as everyone in this colony knows that I am a protectionist. But Mr. McMillan recognises that there will be, and can be, no union without a uniform customs tariff - I believe a very strongly protectionist tariff. He stated yesterday that that tariff must be fair, and that this colony, together with the other colonies, must accept it. So far as that goes, I think that the people of this colony would be quite prepared to take such a tariff, whatever it might be, and to leave it to the federal parliament to deal with finally. Some of the extreme free-traders do not, and would not, agree to anything of the kind; but that such a thing must come there can be no doubt. If anything so absurd should take place that it did not come, what would be the result? The result must be that, without your customs tariff, the whole of your revenue, or nearly the whole of it, must be raised by direct taxation. The states would have the power to raise revenue in that way, and the commonwealth finances would at any rate have to be supplemented by direct taxation. But I ask any hon. gentleman if in his sane senses he believes that the people of these communities would agree to wipe away all customs duties except such as are in force in New South Wales at the present time, and to apply direct taxation in two or three different forms. I one reason why I feel that we should come to some decision upon the minimum to be returned is that if the states do not get a return from the
federal treasurer, each state will be crippled to a very large extent in carrying out its local work. I may be permitted to say to the hon. member, Mr. Deakin, that one part of his speech was not quite so strong as the rest of it, and that was where he said, "Let the federal parliament deal directly with the expenditure of the surplus." He instanced Dubbo and Goulburn as two places where the federal parliament might expend money directly without allowing it to filter through the bands of the state. I interjected at the time that that was approaching unification, and I think it would be, because if you are going to destroy your states by taking away the money they should receive, and put them in such a position that they cannot raise revenue, except by direct taxation of a very heavy character, you must bring them so low that we might as well have unification, everything being managed directly by the commonwealth government and the system of shires and boroughs being extended all over the continent. I think that the proposition of the hon. member, Mr. Deakin, to expend money upon ordinary work in the shape of roads and bridges -

The Hon. A. DEAKIN:

I did not mean that. I did not suppose that the federal parliament would spend money upon objects outside its powers under the Commonwealth Bill. The federal parliament takes over certain departments, and must expend money upon them. It might build a post-office at Dubbo or at Goulburn.

Mr. LYNE:

Yes; but the hon. member cannot think that all the surplus revenue of the commonwealth would be absorbed in the building of post-offices.

The Hon. A. DEAKIN:

Of course not!

Mr. LYNE:

That only brings me down to the bed-rock of the argument which I was using, that the surplus should be returned to the states, and that the distribution of the money coming originally from customs duties should be made by the Treasurers of the various states. What I say is that a minimum of something like 30s. per head should be fixed. I do not fear the trouble which is anticipated as to what will take place in the immediate future.

The Hon. A. DEAKIN:

It is the Canadian practice to return so much a head!

Mr. LYNE:

Yes; but even with the Canadian practice, as was stated by the hon. member yesterday, there is trouble, because the Treasurers want more than the minimum. How much more would that trouble arise if the commonwealth treasurer was not called upon to return anything at all? I
can only offer the suggestion that a minimum of something like 30s. a head
should be fixed. That would not take a high tariff to raise.

The Right Hon. Sir G. TURNER:

Suppose a minimum is fixed according to the customs receipts instead of
at so much a head!

Mr. LYNE:

I have not analysed that idea; but the moment you perfect your
commonwealth arrangements you lose all your intercolonial trade. We may
obtain a great deal from Victoria during the first few years after the
establishment of the commonwealth. At the present time, nearly, the whole
of the machinery which

is used in our southern and south-western districts comes from Victoria. I
was at Wagga Wagga the other day, and one of the leading agents there
told me that, with the exception of one plough which had been obtained
from Hudson Brothers, nearly the whole of the machinery obtained this
season in the south-western district had been manufactured in Victoria. The
south-western portion of this colony is deluged with Victorian
manufactures not only with Victorian machinery, but with other
manufactures as well. I cannot see how you could arrange matters if you
simply kept a record of the imports from outside. Otherwise the idea of the
right hon. member might very reasonably be carried out. I think that it will
be patent to him that there would be trouble in that respect. The trouble
would be in the same direction as has been anticipated for the system
returning so much per head. The probability is that New South Wales
would import, it great deal more during the first five or ten years than any
of the other colonies, and that we should not get a full return from that. I do
not wish to reason in this particular direction; but I hope that the Finance
Committee will take the matter into consideration, and that they will not
leave the provisions in the bill in the state in which they are at the present
moment. There is one matter to which I desire to refer, and that is a
statement which fell from the lips of the hon. member, Mr. Holder,
yesterday. He stated yesterday that he would be prepared to leave this
whole question to the federal parliament if he knew how the
commonwealth was going to be constituted; in other words, if he knew
whether we were going to have equal state rights. That is what he must
have had in his mind at the time. He regretted that the discussion upon state
rights had not taken place before this discussion took place. The hon.
gentleman said still further as a reason for that, that he knew that the
Victorian finances were much in the same straits as were those of the
smaller colonies, and that, therefore, those colonies could depend upon
Victoria's assistance in seeing justice done. Now, I took particular notice of the statement made by the hon. member, which means that it does not matter about New South Wales, so long as the other southern colonies get Victoria to help them in the matter of equal state rights. A number of hon. gentlemen stated at a previous meeting of this Convention that there was nothing in equal state rights; but surely there is something in it when we find such a statement as that to which I have referred emanating from such a high authority as is the hon. member. I regret that the clauses dealing with equal state rights were not considered before these clauses were considered, because New South Wales would then have known what she was to expect if that question were to be dealt with as it is dealt with by the bill at the present time. I cannot indorse the idea that it would be a wise thing to leave this matter entirely to be dealt with by the federal government. I am of an entirely different opinion. This colony has more to lose than have all the other Australian colonies put together upon this and upon every other question. I have always been in favour of dealing with the question of state representation upon a population basis; and before there is any commonwealth it will have to be dealt with on that basis.

The CHAIRMAN:

I think the hon. member is wandering away from the financial clauses.

Mr. LYNE:

The hon. member, Mr. Holder, was permitted to refer to the same question yesterday!

The CHAIRMAN:

The hon. member referred to it, but he did not discuss it.

Mr. LYNE:

I do not desire to discuss the matter. I simply quote the reference made to it by the hon. member, and I may perhaps be permitted still further to refer to that portion of the hon. member, Mr. Holder's, speech regarding the inter-state commission, and the powers of that commission, especially with regard to the waters of the Murray and the Darling and their tributaries. The hon. member spoke on behalf of South Australia when he said he did not wish New South Wales to have the power to divert water from the heads of these streams so that they in South Australia would have the bottle without the liquid. Now, there is no desire on the part of New South Wales to deprive these rivers of any water which would prevent the Murray in South Australia from being navigable. At the same time New South Wales must stand by her own interests. The question is intimately
bound up with the development of this country. With the hot dry tract of
country which we have in the western plains New South Wales can never
agree to allow any authority whatever to deprive her of the right to use the
waters of the Darling for irrigation and other kindred purposes. The hon.
member should just as readily trust New South Wales with the head waters
of the Murray as he could trust Victoria in dealing with this financial
question.
The Hon. F.W. HOLDER:
I would trust the federation!
Mr. LYNE:
The hon. member is prepared to trust all the other colonies but this one
colony, because he knows that it is this colony which, on account of her
large population, has such a great deal to lose.
The Hon. Sir GRAHAM BERRY:
Will the hon. member point out what New South Wales really would
lose?
Mr. LYNE:
What does she gain? I have not heard it stated what she will gain. The
only thing I have heard stated is that in the future she will be one of a
united band of Australian colonies.
The Hon. A. DEAKIN:
With her immense resources she has more to gain than, perhaps, any
other colony!
Mr. LYNE:
It is true that we have immense resources in coal and iron. We have the
key of the position, and before we give up the key we must see that we are
not put into an unfair position.
The Hon. A. DEAKIN:
The key is of no use without the lock!
Mr. LYNE:
If the hon. member means by the lock a market for our coal, it will not be
any greater under federation than it is at the present time. But I do not want
to be drawn into these side discussions. I cannot see where in the first few
years we shall gain at all. As to our having a larger area, I think the other
colonies will have a larger area when they get hold of New South Wales
instead of New South Wales having expansion in the other colonies. We
know that a great deal of produce comes from the south into New South
Wales. If that be so at the present time, it will continue to be so under a
federation. There is a great market in New South Wales for South Australia
and also for Western Australia - if she has anything to produce apart from
gold - and also for Tasmania. At present we have nothing to send to any
one of these colonies, and I want to know, therefore, where the great advantage to New South Wales will come in under a federation?

An Hon. MEMBER:
What about coal?
Mr. LYNE:
We send that at the present time. Victoria does not impose a duty upon coal.

An Hon. MEMBER:
But Tasmania does!
Mr. LYNE:
Tasmania has her own coal, and plenty of it, too. If I were a resident of Tasmania at the present time, I should be against federation altogether, as is the hon. member, Mr. Douglas. I do not see what Tasmania will gain by federation. She has the Sydney market at the present time, and she will have it in the future.

The Hon. A. DEAKIN:
Does the hon. member say that she will always have the Sydney market?
Mr. LYNE:
I hope not. Make no mistake about it, if we had even the duties which we had a few years back, Victoria and the other colonies would be far more anxious for federation than they are at the present time, whether they obtained equal state rights or not.

The CHAIRMAN:
Is the hon. member of opinion that a discussion upon the policy of protection is in order upon this clause?
Mr. LYNE:
I think it is intimately related to the financial question generally; but I admit that I was drawn off the trend of my observations by the interjections of hon. members opposite. I did not desire to go into this question as deeply as I have done, although I admit that as far as this colony and the commonwealth is concerned the whole trouble in arriving at a basis is brought about by the fact that we are a free-trade colony, whereas all the other colonies are protectionist. A few words and I will not detain the Committee long -as to the proposed inter-state commission. I listened carefully to what was said by the hon. member, Mr. McMillan, and I think he did not quite strike the mark when he said that differential rates must
remain while preferential rates were taken away. I agree that it is very difficult to distinguish which is a preferential and which is a differential railway rate. If there is to be an inter-state commission the logical result must be to take a point in Victoria, and to have a long-distance rate charged on the railways from that point right into New South Wales; and in the same way you could take a point in New South Wales, and make those long-distance rates apply to the railways running, say, to Hay, Bourke, or any other part of the colony. If you are going to make the alteration at all, you cannot have an arrangement by which there can be a low rate from the Victorian border to Melbourne and a high rate from the Victorian border to Hay, whilst from Sydney you have a low rate all the way through. If you have anything of that kind, the inter-state commission and its powers must fall short of what is intended. So far as I am concerned, at the present I am not in favour of any inter-state commission. I am only stating what will be the result of such a commission. It must be to give as much latitude to merchants in Melbourne to send goods into New South Wales and to take New South Wales produce to Melbourne as is given in the case of Sydney merchants. If you, by calling one rate a preferential rate, and another a differential rate, try to break up and interfere with the arrangement, you will burst up the idea of an inter-state commission. I take it that at the present time the colonies are not prepared to band over their railways to a federal parliament. Although the hon. member, Mr. Walker, and the hon. member, Mr. Wise, and one or two others are in favour of that proposal, I take it that the Convention as a whole is not in favour of it, and I do not think the interstate commission will be agreed to, because you might as well hand over your railways to the federal government as appoint an inter-state commission as far as the interests of this or any other colony are concerned. The inter-state commission, I take it, is for the purpose of seeing that there is no rate of any kind imposed that will interfere with the ordinary ebb and flow of trade from one port to another, or from one colony to another. Therefore, you might just as well hand over your railways to the commonwealth as to an inter-state commission.

Mr. SYMON:
Will the hon. member hand over the New South Wales railways!

Mr. LYNE:
I am opposed to it. I am simply pointing out what the effect of the appointment of such a commission must be, not as the hon. member, Mr. McMillan, said, to still allow a differential, but not a preferential rate. The effect of an interstate commission must be to give the same privilege to any importer in
Melbourne as is given to any importer in Sydney. You might just as well hand over your railways to the commonwealth to be dealt with as it chooses, with rates assimilated all over the colonies, as to hand them over to an inter-state commission.

Mr. SYMON:
We will accept that alternative!

Mr. LYNE:
I dare say the hon. member will, but I am not prepared to yield it.

The Hon. A. DEAKIN:
It is only for the federal parliament to deal with them!

Mr. LYNE:
I know that it is only for the federal parliament; but we want to know what the federal parliament is likely to be, what its powers are to be, what are to be the mode of election and the powers of the senate. I agree very much with the hon. member, Mr. Holder, and I should like to know how the senate is to be elected before I can speak with freedom as to what I will hand over to the federal parliament. I am almost inclined to think that if the senate were constituted as I desire it to be, I might even be prepared to hand over the railways and perhaps the debts as well to the commonwealth. But that will not be the case if the senate is to be constituted as is desired by the hon. member, Mr. Holder, and his colleagues, also by the members from Tasmania, and perhaps Victoria. I am not quite sure about Victoria.

The Hon. A. DEAKIN:
Does the hon. member know what the next New South Wales Parliament will be like?

Mr. LYNE:
I have an idea and a hope as to what it will be; but, of course, I can, not speak with any degree of certainty. No doubt the hon. member can speak with is great degree of certainty as to what the coming parliament will be like in Victoria. No doubt he and his friends now behind him will be returned.

The Hon. A. DEAKIN:
The parliament will be just what the electors make it!

Mr. LYNE:
That is what I want the senate of the federal parliament to be.

The Hon. A. DEAKIN:
But the hon. member will not leave anything to parliament to do!

Mr. LYNE:
That is not the case. If I knew that the senate would be composed in the manner I desire, I am almost inclined to say that I would hand over a great many additional powers to the federal parliament besides those I am
prepared to hand over at present. It is not seriously, proposed to hand over the debts or the railways to the federal parliament; but what we do want is some reasonable scheme-I do not say a scientific scheme but one that will meet with a response from all the colonies, so that the Treasurers will be able, in the various state parliaments, to know each year what they are likely to obtain, and how far their treasuries are likely to be augmented by the return they are to get from the federal government, so that they will not be left on a sandbank, so that they will not be left high and dry by the federal government saying, "We will only raise so much from customs and excise," or nothing at all. The state parliaments would then be driven into such a position that their principal method of raising revenue having been taken from them, they would have to depend upon direct taxation from one end of a state to the other. At the present time the people of this country will not stand anything of the kind. If I can form any idea of the feeling of the people of the other colonies, and, I believe, of New South Wales at the present time, it is that there should be a reasonable uniform tariff imposed by the commonwealth parliament, from which, to a large extent, must be obtained money to carry on public works and pay interest on the debts. That directs my attention to a proposal made by the Right Hon. Sir George Turner. He desired, and rightly so, that the commonwealth should be called upon to pay nearly the whole, if not the whole, of the interest on the debts. What was the object of that? It was to ensure the commonwealth raising a certain sum of money through the customs, or in some other way which would relieve the various state parliaments, and leave them their railway revenue or whatever other revenue they raised to meet the expense of the ordinary administration of the states governments. That proposal was only another way of getting at what I am attempting to suggest should be done now, that is, getting a certain sum of money that must be returned to each of the state parliaments for the purpose of enabling them to carry on their administration. The hon. member put it in this way: that the payment of the interest on the debts, but not the debts themselves, should be taken over by the commonwealth and paid out of the commonwealth revenue. I am quite in favour of that proposal. That is a very reasonable way of meeting the difficulty. I unhesitatingly say that before we arrive at any recommendation at all, we must arrive at the conclusion that there shall be a minimum returned, not only to the New South Wales Government, but to all the states of the commonwealth.

The Hon. Sir J.W. DOWNER (South Australia)[11.18]:

I think hon. members will agree that the desire of the hon. member, Mr. Lyne, to have the surplus returned to the states, on a scientific principle, is
impossible.
Mr. LYNE:

I do not say that we should have a scientific principle!

The Hon. Sir J.W. DOWNER:

We have had various very able persons who have devoted themselves to the consideration of the proposals made, who have all satisfied themselves as to the conclusions they have arrived at, and they all disagree with each other. I think it is only fair to them to say that most of us disagree with all of them. So that after a very careful consideration of the scientific principles out of which this financial problem is to be evolved, I think we have come to the conclusion that the true note was sounded by the hon. member, Mr. McMillan, yesterday, when he said we have to trust the new parliament. We can establish no scientific basis. We are giving life and death powers of infinite importance to this body we are constituting; a body, as he says, consisting of ourselves, not consisting of strangers, who will work together in love and amity, and not as the colonies have from time to time worked-against each other rather than on friendly terms. They have got to be trusted some day, and cannot we trust them at once? The discussion which has taken place since the meeting of the Federal Convention has brought me to identically the same conclusion as was expressed by my hon. friends, Mr. McMillan and Mr. Holder. I think in substance we have to trust the federal parliament. There maybe, as was suggested by the last speaker, an interval during which there should be a minimum guarantee. I do not know that that would be difficult. It would be consoling to the public, and consoling to any treasurers, and there is this to be said in favour of it, that we do not know exactly how this will work out. The new parliament and the executive that controls the federation will have to find out how the thing works, and what is best to do. They will all need experience, and they themselves will, of course, need education to some extent, and it might be well, therefore, from that point of view, that there should be a guarantee of a minimum referring to some special year, which I would not object to being com-

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puted on a per capita basis in the way which was suggested by my hon. friend, Mr. Lyne. I do not think it will make much difference. I think, if anything of the kind were in the constitution, the results would be identical; but it certainly would be a recommendation of the measure to the people, and would give them encouragement to support it, which they very much need at the present time. Now, as to the fears of the disregard of the views of New South Wales, which the hon. gentlemen referred to, I am sure there is not one who disregards the views of any others. There is no colony that
is not regardful of the views of every other colony. We have to consider how this federation will work out. Supposing the government of the commonwealth were handed over to the gentlemen who are here now, would we immediately set about to try to do each other injustice? Would the friendly feeling existing between us be destroyed in a moment? Would every principle of right and justice which we pride ourselves on possessing be suddenly dispersed, because we have a duty to the whole of Australia instead of a duty to particular states? I am sure that these things have only to be thought of by reasonable decent men to be repudiated at once as childish and absurd. The longer I dwell on this clause, and think of it, the more I feel inclined to give the most perfect trust to the gentlemen who will have to conduct the business of this commonwealth. As to taking over the railways and debts I do not think it is necessary to say anything about that at the present time. The whole difficulty at present is this question of the surplus. But it will not be a surplus for any time. One of the provisions in the bill enables parliament to take over debts. It is manifestly inexpedient to endeavour to make the dealing of the debts a condition of the constitution. It would increase the difficulty of the executive of the commonwealth in making terms in respect of long loans which will not expire for some time, and the same arguments which were used by my hon. friend, Mr. Holder, with reference to the railways will apply with equal force to this question of the debts, the same arguments by which he showed conclusively that it would be inexpedient to provide that this matter must be left to the commonwealth and not made a condition of the constitution will apply with equal force to the debts. But still it is not contemplated that this surplus will continue. It is not expected that the parliament of the commonwealth will not relieve the states of some of their burdens so as to prevent this difficulty as to a surplus. The surplus I look upon as a mere bogey. It is a matter which will disappear very soon after the parliament is established; it will disappear by being applied to the wants of the people by whom it was created.

An Hon. MEMBER:

The Hon. Sir J.W. DOWNER:

By the federal parliament. Taking over the debts, for instance, which was the precise point I was suggesting.

An Hon. MEMBER:

While the debts diminish the income will increase!

The Hon. Sir J.W. DOWNER:
So it will. I look upon it that it would be a wise thing to have, I do not say a permanent guarantee, like my hon. friend, Mr. Deakin, suggested, but an interim guarantee for five or ten years-I should think five years would be enough-based on the customs revenue at the time of the commonwealth, or at some other time which may be agreed upon. There would be no danger in the guarantee-there would be great confidence to the general public if that were given. Now as to the basis on which the return shall be made I feel very much with my right hon. friend, Sir John Forrest, the difficulties in the way of Western Australia joining the federation if the scheme adopted at the last meeting of the Convention were carried out. Perhaps they would have disappeared to a large extent, but at all events it was clear that Western Australia, I will not my in its abnormal state, in its state of extraordinary prosperity, would suffer to a very much larger extent, than would the other colonies, and possibly suffer so much that it would be impossible that she should join. Supposing the provision in the bill of 1891 were carried out, I should think that there would be no difficulty at all with Western Australia. Supposing the return were according to contribution, Western Australia, I imagine, would find no difficulty at all in joining the federation; and abstractedly that is the fair principle too go on, no doubt.

Mr. SOLOMON: There is no difficulty in doing that with regard to Western Australia, for there is no border!

The Hon. Sir J.W. DOWNER: There are difficulties in doing any of those things; but returning according to contribution would be, after all, as easy a method as any. I believe that after a while returning according to population would bring about the same results. But if we returned according to contribution we would be doing something which is abstractedly the fairest, and we should ensure Western Australia joining the federation. I do not think that this is the time to make long speeches, and, therefore, I am not going to say more now. I think the tone in which this discussion was started by the representative of New South Wales, Mr. McMillan, and which has been followed by all the other speakers-the speech of my hon. friend, Mr. Lyne, was, after all, very much in the same direction, although with some divergences-I think that good note which was sounded will run through this Convention, and that this financial difficulty, which seemed to be the stumbling block in our way, may be said almost to be removed, because we are all beginning more and more to understand that to trust the commonwealth when established is the only possible method which can be
adopted, and that there can be no scientific basis on which the contribution can be established and continued.

The Right Hon. Sir JOHN FORREST (Western Australia)[11.30]:

We have all listened with pleasure to the speeches which have been delivered in regard to this very important matter, and I think we must all have come to the conclusion that the question we have to deal with is one so difficult that it is almost, if not altogether, impossible for us to place in thin bill in precise words a scheme which will be equitable and fair to all the colonies. From what I have heard, there seems to be a greater inclination at the present time to place reliance upon the parliament of the commonwealth than was felt by any of us-at any rate I speak for myself-at the former meeting of the Convention. The reason of that no doubt is that we feel that the parliament of the commonwealth would be in a far better position than we are, would have more information, more facts at its disposal than we have at the present time. The colony I have the honor to represent is, unfortunately, in a peculiar position in regard to this matter, and I am prepared to admit at once that the colony of New South Wales is also in a peculiar position. Our circumstances are not the same as those of the other colonies. In New South Wales there is a free-trade policy at the present time which, as Mr. Lyne has told us, makes it more difficult in preparing any scheme to bring that colony into line with the other colonies. In our own case, the great prosperity, as Sir John Downer has put it, of Western Australia during the last two years has given to us a very much larger revenue per head from customs than that received in the other colonies. On behalf of Western Australia, I must acknowledge the very friendly spirit in

which this matter has been approached, as it affects us. There seems to be a disposition all round to mete out what is equitable and fair to us and to every other colony. We are in a peculiar position in other ways. We are isolated. We have no means of communication except by sea. We are a long way off. As I have often said before, we might as well be an island in the Indian Ocean as regards intercourse with these colonies, because something like 1,000 miles of unoccupied country separates us from the rest of Australia. We have few products, I am sorry to say, to export to these colonies at the present time. Therefore, the advantage to us of a free-trade policy would not be so great as it would be to these colonies, who now have to pay duty on the goods they send to us. In our case, we have at present little to send to the other colonies. Owing to the large introduction of population into the colony and the development of our mining industry, we do not at present, and are not likely for some time to come to be able to,
produce sufficient for our own people. We have, however, one product in regard to which we would gain an advantage, which we should be able to export to these colonies, and which we are not able to send at the present time owing to the protective tariff. I refer to timber. Western Australia is noted for its timber; and we should, no doubt, be able to avail ourselves of the markets of these colonies to a far larger extent than we do at present. Then, again, we contribute about £7 per head of the population on account of customs-at any rate we did for the last financial year ending 30th June; whereas, I think, in these colonies the average does not exceed £2 per head. Therefore, Western Australia contributes through the customs £5 per head more than any of the other colonies. Then, again, the total imports of that colony last year were valued at £6,500,000. Of those imports about £3,000,000 came from these colonies, and if we estimate the quantity dutiable at £2,000,000-because we have a large free list-hon. members will at once see that £2,000,000 worth of products would be admitted without duty into Western Australia which now have to pay duty. That is a very important matter to us, because it would probably reduce our customs revenue by a half at one fell swoop.

An Hon. MEMBER:
It would help to bring you into line with the other colonies!
The Right Hon. Sir JOHN FORREST:
It would no doubt, but we should lose the money.

An Hon. MEMBER:
Put the duties on something else!
The Right Hon. Sir JOHN FORREST:
The hon. gentleman says we can put it on something else. I know that is often said; but, perhaps, when the hon. member speaks he will tell us what we can put it on. I am well aware, as has been stated by other hon. members, that if a community does not pay the duty they have the money in their pockets. The only way-as was suggested when I made an interjection to that effect during the debate- is by direct taxation. Well, in Western Australia we have no direct taxation at the present time, and I do not think I should like to go before my people and tell them that we were going to give away our customs duties for the purposes of the commonwealth; that they would be largely reduced-reduced by one-half, at any rate-and the difference would be made up by direct taxation. We know what direct taxation means. It means taxing one portion of the community and letting the other portion go free. I have not yet heard of any system of taxation in these colonies which is applicable to every person in the colony.
other than that which is usual by duties through the customs. So that hon. members will see that we are in a difficulty in that respect too. I have not had time to give that amount of attention to these financial clauses that some hon. members have done. I freely admit that. But from the little attention I have been able to bestow upon the subject I have come to the conclusion that the proposals of 1891, with a little modification which I will point out to hon. members shortly, are far more equitable and far more simple than the proposals made in Adelaide. I am somewhat at a loss to know what objection can be raised to the proposals made in the draft bill of 1891. They seem to me, with a few alterations, to be altogether equitable, and, from my point of view, satisfactory not only to Western Australia, but to every other colony in the group. What we desire to aim at, I think—at any rate, that is my idea, and I think it ought to be the idea of everyone else—is to give back to every state the money it contributes, less the cost of collecting the duties and its share of the expenditure of the commonwealth on a per capita basis.

The Hon. F.W. HOLDER:

How are you going to find out where the duties arise?

The Right Hon. Sir JOHN FORREST:

What does the hon. gentleman mean by arise"?

The Hon. F.W. HOLDER:

The duty arises where the goods are consumed!

The Right Hon. Sir JOHN FORREST:

There may be a difficulty in that respect, but that is what we want to do. I am sure no colony wants to receive more than it is entitled to receive or wants to get any advantage out of this transaction. All we desire is that we shall get our own money back. If that money does not come back to us in the form of a contribution, it should come back to us in other ways-by, I hope, our obligations, or the whole or some portion of our public debt, being removed. I take it that the bill of 1891 does this. I am aware it has been criticised by some persons, and that it has been proved that losses will occur in some cases, and gains in others. I take it, however, that a little alteration in the wording of the clause will altogether prevent that. Mr. Lyne seemed to think that we are in as good a position now to deal with this question as the parliament of the commonwealth will be. I do not think that we are. In the first place, the parliament of the commonwealth would have some years' experience. Book-keeping, I think, would have to take place for some time, at any rate—whether short or long—and they would have that experience to guide them; and they will be nearer to the time when a decision is required than we are. We have to decide upon facts as they are
now. We have to decide what will be equitable and right some years hence, whereas the parliament of the commonwealth will be able to decide, with the facts before them, close up to the time when the decision has to be made. In regard to the proposal that a certain sum per head should be guaranteed by the several states -

Mr. LYNE:
That would be a minimum!

The Right Hon. Sir JOHN FORREST:
Yes, a minimum. It se

Mr. LYNE:
I think every one is agreed that Western Australia must be dealt with differently!

The Right Hon. Sir JOHN FORREST:
It means that New South Wales, Victoria, Tasmania, and South Australia would be guaranteed—if the amount claimed by Mr. Lyne were fixed in the bill—almost the amount of their present contributions, whereas Western Australia would be left in the cold.

Mr. LYNE:
I think we are all agree that Western Australia must be dealt with differently!

An Hon. MEMBER:
There might be a minimum in each colony!

The Right Hon. Sir JOHN FORREST:
Of 30s. per head was what was stated. South Australia would be guaranteed the whole of her customs revenue at any rate, and Victoria would also be practically guaranteed the whole. The figures I have show that the contribution per head is—I am referring to a year or two ago—Victoria, £1 13s.; New South Wales, £2; Tasmania, £2; South Australia, 30s.; and Western Australia, for last year, £7 15s. Thus it seems to me that whilst it would be very satisfactory that all the colonies should be guaranteed an amount practically equal to their contributions, if any suggestion of the kind is to find a place in the bill, the more equitable plan would be to guarantee to each of the colonies a sum equal to the amount received the year before the establishment of uniform duties. That would be absolutely fair to everyone.

Mr. LYNE:
The right hon. gentleman is fighting very hard for Western Australia!
An Hon. MEMBER:
Let each colony take a year which suits it best!

The Right Hon. Sir JOHN FORREST:
Hon. members may laugh; but it seems to me that there is nothing whatever to laugh at. We may take one year or three years-an average of two or three years and guarantee each colony an amount equal to that average. I do not suppose that any one does not believe that the average would not be exceeded as time goes on. As these colonies progress the amount would be a mere bagatelle; but if we wish to give securities to the Treasurers of the various colonies-and it is an important matter, and deserves serious consideration, seeing that they have large obligations which have to be met-I think the proposal made by the Legislative Assembly and Legislative Council of Western Australia, that there be a guarantee for the various colonies of an amount based upon the average of the preceding two or three years prior to the establishment of uniform duties, a very reasonable one. It seems to me to be a far more equitable plan than the one proposed by Mr. Lyne.

Mr. LYNE:
That was not the proposal I made!

The Right Hon. Sir JOHN FORREST:
I understood that it was a fixed amount, applicable to every colony.

Mr. LYNE:
No, excepting Western Australia, as a minimum only, and to extend over a series of years!

The Right Hon. Sir JOHN FORREST:
Instead of fixing a minimum we might fix the actual figures.

Mr. LYNE:
But that would involve book-keeping for a number of years!

The Right Hon. Sir JOHN FORREST:
I do not think so. There would be the past as well as the future to consider. should like to say one word with regard to public debts. There can be no doubt that it will be a serious matter for all the states if the customs revenue is taken away from them for the purposes of the commonwealth, and the only real means of obtaining funds is removed from them. It will be a serious matter if the debts are still to remain in the hands of the states governments, and the states remain altogether responsible for them. It seems to me we shall find ourselves in a difficulty if we let go the revenue from the customs and the power of raising money from customs, and still have to find large amounts of interest which we have to pay year by year. I was certainly in favour when I came to the Convention of the parliament taking over the whole, or a certain portion, of
the public debts. I should like that to be done now. I must say I have been largely influenced by the remarks of Mr. Holder yesterday. If what he states could be assured—that we would have additional security given to our stock by having the federal commonwealth behind it—I think it is a matter in regard to which we must pause before we provide in a bill that a debt should be taken over at once. I am not so certain myself that what he believes will take place will occur. I believe that the security offered by the Australian governments at the present time is considered by those who lend us money to be excellent; and if that is so, any additional security will not increase the price. I speak from memory—I may be corrected if I am wrong—but I believe the value of inscribed stock in Western Australia at the present time is as good as the inscribed stock of Canada. Mr. Holder, perhaps, will tell me whether I am right.

The Hon. F.W. HOLDER:

The 3 percent. stock?

The Right Hon. Sir JOHN FORREST:

Yes; the 3 per cent. stock of Western Australia is as good to-day, or was a short time ago—and it ought to be better today, inasmuch as things have improved as the inscribed stock of Canada. A few months ago the Western Australian Government placed a loan on the British market of something like £1,000,000 at 3 per cent. It was the first 3 per cent. loan we had ever placed there, and it realised £100 16s. 10d. That was by far the best price that any Australian loan has ever realised. Has Canada, with its four or five millions of people, its immense territory, and its federal government, been able to obtain money at a better price than Western Australia, with a small population, but with a large area, certainly, has been able to obtain it? If it has, then there is something in the argument of my hon. friend, Mr. Holder. Of course, our ideas tend in the same direction as the hon. member's. We all think that, with the dominion behind us, our credit should be better than it is under existing circumstances; but the fact remains that at the present time the credit of Canada is not very much better than that of Western Australia.

The Hon. E. BARTON:

It is much better in Canada now than it was in the provinces before they federated!

The Right Hon. Sir JOHN FORREST:

That is not the point, I think. I can say a good deal in favour of the great colony of New South Wales; but even with its population of more than 1,000,000, and with its great resources, I take it that, as a borrower, its credit has not been better than that of the colony I represent. I do not think
that New South Wales has ever floated a 3 per cent. loan for £100 16s. 10d.
per cent.; but, if it has, my argument is that the security of all these
colonies being considered good, it cannot be very much better; that those
who lend us money are satisfied that the security is good, and that we shall
be able to pay the interest as it becomes due, and be able to repay the
principal when it becomes due; and, if it is, I do not think that any little
additional security on a good document will increase the price. If that is the
case-and hon. members will think that out for themselves -then I say that it
is our bounden duty at the present time to take over

The Hon. S. FRASER:
But increase of competition for the stock would raise the price!

The Right Hon. Sir JOHN FORREST:
Has it done so?

An Hon. MEMBER:
Not if the security is as good already as anybody could desire!

The Right Hon. Sir JOHN FORREST:
Then I say that it is our bounden duty to provide in this bill that the
surplus, instead of being returned, shall be applied to the payment of the
interest on the public debt, and that a proportion of the public debt of
Australia shall be taken over on some equitable basis. Then I think that
the number of adult males of the colony would be a fair basis. I think that
we should not hesitate to place in the bill a provision that the
commonwealth should be bound to take over a, proportion of the public
debt of each state-of course each state being responsible to the
commonwealth for the interest or the sinking fund, as the case might be-for
all expenses in connection with it. The conclusion I have arrived at on this
matter is that the proposals of 1891, with some modifications before I sit
down I will read the modifications I propose-should be the basis upon
which we should deal with the financial portions of this bill. It may be
necessary-I only throw this out as a suggestion; but it has occurred to me
that until parliament should otherwise prescribe there should be a statutory
commission of two or three persons appointed to deal with the finances,
and to approve of the distribution. There will be difficulties in the way, no
doubt. Those difficulties must be overcome. I do not suppose that you
would be able to get the exact figures-it is not likely that, with a system of
inter-colonial free-trade, it would be possible to get the exact figures, and
that the amount of duty that belonged to each state could be ascertained.
We know very well it could not be; but, still, we will have to make an
approximation, and do the best we can, and I think that, if we provide that
there shall be a Statutory commission until parliament otherwise prescribed, it might be the means of giving satisfaction to the different colonies, and make them more willing to go into the federal commonwealth. It has been suggested by several hon. members that Western Australia should have some special terms. I do not know that we want any special terms. I think that, if the plan I have suggested were carried out, it would be equitable and fair to all—that is, that we should be guaranteed a certain amount, based upon the revenue that we were producing from customs prior to the establishment of uniform duties.

An Hon. MEMBER:
Will not that be reduced in your colony in a few years' time?
The Right Hon. Sir JOHN FORREST:
I do not think it will. I think that as the trade of the colony expands the amount will be very much larger. If we were to stand still and do nothing, and not go beyond our present development, the amount might perhaps decrease; but increase of trade must result in an increased amount being received from customs.

Mr. LYNE:
But would not the amount per head decrease?
The Right Hon. Sir JOHN FORREST:
I do not know. The same argument that applies to others will apply to us, I suppose.

Mr. LYNE:
We are on the increase!
The Right Hon. Sir JOHN FORREST:
I can deal only with the facts and figures before me. I do not know that we shall increase ten times.

The Right Hon. G.H. REID:
Not in drinking power, surely!
The Hon. S. FRASER:
It was the same in Victoria in the gold-digging days, and it will disappear in Western Australia as it did there!
The Right Hon. Sir JOHN FORREST:
I am not here to foretell what will take place. I am certainly not here to foretell that we shall be less prosperous than we are at the present time.

An Hon. MEMBER:
You might be in a great deal better position, and still your revenue from customs might become less!
The Right Hon. Sir JOHN FORREST:
If it is fair to all the other colonies, why should it be unfair to us?

An Hon. MEMBER:
Because your conditions are abnormal!

The Right Hon. Sir JOHN FORREST:
The revenue has been increasing for many years. I do not know what the hon.
member calls abnormal. I have been over six years in office, and every
year there has been an increase, and I do not think that we shall go down
all at once. At any rate, I see no reason why it should be so. It will be
difficult for hon. members to convince me or the people of Western
Australia that we should be treated in a different way from any other
colony. We do not want any special terms. We only wish to be treated in
the same way; and if the proposal that has been made by the hon. member,
Mr. Lyne—that we should be assured of the customs we are receiving or
have received the last two or three years or the last year, for some years
ahead, say ten, and all the other colonies should be assured in the same
way—is agreed to, I think we will go a long way towards meeting on an
eQUITABLE basis. The alterations in the clause of the 1891 bill which I would
suggest are very few. The first would read as follows:

The contribution of revenue by each state to the commonwealth shall be
applied in the first instance in the payment of the actual costs, charges, and
expenses incidental to the collection of such revenue, and next in payment
of the expenditure of the commonwealth, which shall be charged to the
several states in the proportion which the numbers of their people bear to
the total population of the commonwealth, and the surplus shall, until
uniform duties of customs have been imposed, and for five years
afterwards, be returned to each of the several states or parts of the
commonwealth.

I then insert sub-clauses I, II, and III of clause 9.

The Hon. Sir P.O. FYSH:
In what proportion would the return be made?

The Right Hon. Sir JOHN FORREST:
The amount of the surplus contributed by each state would be returned to
that state.

Mr. TRENWITH:
The right hon. member says, "shall be charged according to population."
Suppose the expenditure for services in one colony is very much higher
than the expenditure in the other colonies?

The Right Hon. Sir JOHN FORREST:
We say
  shall be charged to the several states in the proportion the number of their
people bear to the total population of the commonwealth, and the surplus
shall, until uniform duties of customs have been imposed, and for five
years afterwards, be returned to each of the several states or parts of the
commonwealth.

We then propose to insert sub-clauses I, II, and III of clause 9 of the bill
of 1891, and to add these words:
  After the first five years after uniform duties of customs have been
imposed, unless parliament otherwise provides, such surplus shall continue
to be returned to the several states or parts of the commonwealth in the
same manner as near as can be ascertained, and such returns shall, as far as
possible, be made monthly.

The Hon. Sir P.O. FYSH:
  That is as nearly as possible the 1891 arrangement!

The Right Hon. Sir JOHN FORREST:
  Yes.

The Right Hon. Sir G. TURNER:
  What is the difference between it and the 1891 arrangement?

The Right Hon. Sir JOHN FORREST:
  In the 1891 bill the contributions from the various states were all lumped
together. We propose that the contributions of each state shall be kept
separate.

An Hon. MEMBER:
  How are we going to find out what it is?

The Right Hon. Sir JOHN FORREST:
  It will be very easy to do that, if we have uniform duties of customs. The
colonies must do the best they can until parliament otherwise provides.

The Hon. R.E. O'CONNOR (New South Wales)[12.2]:
  I take it that the object of this discussion is, not to force us to any definite
conclusions, but to enable those who form the committee to gauge in some
way the trend of the opinions of the Convention, and to become acquainted
with the development of political thought upon this question during the
interval of our adjournment. I think we may all congratulate ourselves that
we have arrived much

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nearer to a solution of the problem in this respect, that we are becoming
more and more convinced that we must trust the great parliament which we
are to create, and are coming more and more to recognise the distinction
between the principles which a constitution should contain and the
functions which should be handed over to the legislature which has to carry out those principles. I think we are coming to recognise that there are many questions in regard to which an attempt was made at first to deal definitely which would be much better left to a parliament which will have more material, and will have circumstances more clearly before it than we have at the present time, I do not propose to say anything with regard to the financial proposals beyond this, that I cordially agree with the view expressed by the hon. member, Mr. McMillan. I also think that some proposal such as that suggested by my hon. friend, Mr. Lyne, might very reasonably be accepted to. My object in addressing the Committee was to make some observations which may, possibly, be of some use to those who have to consider this matter, in regard to the aspects of the railway question and the inter-state commission. I think it will be recognised that during the Adelaide sittings we did not come to a clear understanding of each others' views on that particular question. I think there was a tendency at the time to rather minimise differences with a view to getting to some kind of conclusion. We cannot postpone coming to a conclusion on this question now. It is one of the most important questions with which we have to deal, and not only affects the form of the constitution, but it is at the very basis of the agreement upon which the several colonies are willing to enter into the union. The first thing to be clear about is the idea we leave in our own minds as to what we want to do. When we have the idea of what we want clear in our own minds, it will be much easier to express it in the constitution. Above all things we must be careful to express what we wish in clear language, and with no unnecessary verbiage. The experience of all constitutions of this kind is that there gradually grows round them a great mass of decisions. The courts interpret them continually, and a body of law gradually grows up which is almost as important and as bulky as the constitution itself. We must be careful that we use only such words as carry out our meaning, and that no loose general expressions are used which may enable interpretations to be put upon the constitution which it was not our intention should be put upon it. I would like in this place to make as clear as I can the view I take with regard to the railway question. It appears to me that there is no half-way house in this matter. Either you must hand the railways over absolutely, federate them, and vest them in the federal government, which would give you the advantages of one railway system throughout the commonwealth, or, if you do not do that, if for reasons which appear to me, and I think will appear to most hon. members, to be good and sufficient, you do not wish to hand over the railways, then you must accept the position with all its consequences. It appears to be thought by some hon. members-the hon. member, Mr. Deakin, seems to be of this
opinion that under the provisions of an inter-state commission it would be possible for the commission to fix upon some central point in the railway systems of the colonies, say Cootamundra, and to arrange for long distance rates running to the New South Wales and to the Victorian seaports upon equal terms. I think that the hon. member, and those who take that view, have rather mistaken the position in assuming that any such thing can be done. The position which it appears to me New South Wales must take up under the circumstances is this: We agree that these warring tariffs which have been causing so much loss to the railway systems of both colonies for some time past, must come to an end. Whether you call them preferential or differential rates, I do not think matters much for the purposes of my argument. We are all agreed that you may just as well obstruct freedom of trade by placing prohibitory rates upon your railways as by imposing prohibitory duties through the Customs-house. Therefore we must arrive at some method by which this can be obviated.

An Hon. MEMBER:
Would not the federation of the railways have the very opposite effect?
The Hon. R.E. O'CONNOR:
I am coming to that. I am pointing out what a very strong, and it may be dangerous, weapon you place in the hands of any state if you give it the power of absolutely regulating its own rates as it thinks fit. You may put it in any form you think fit. Suppose there is a certain product coming into New South Wales from Victoria which we wish to keep out. If we have the right to impose railway rates in any form we think fit, there is no reason why a rate of a prohibitive character should not be imposed to prevent this article from coming into New South Wales. So Victoria in her turn might impose a similar rate. Take the case of stock. Supposing under free-trade all duties upon stock disappeared, it would be quite within the range of possibility for Victoria to impose such rates upon stock coming from New South Wales by railway as would practically have the effect of a stock-tax, or, vice versa, the process might be applied by New South Wales. I only point this out to show what a dangerous weapon would be left in the hands of the state, and I agree with the hon. member who interjected that the operation of it would have quite the opposite effect. In all countries where there are government railways or where the railways are in the hands of private companies in which you have two railways competing in any one district the effect has been to lower the rates of carriage to the persons living in that district. The general system of the railway suffers, but the effect no, doubt upon the producers, the persons interested in the carriage
of goods to a given district, is to lower the rates to them. In that case you shift the incidence of injury from the producers in a particular neighbourhood to the whole country which has to pay. I therefore assume that it would be taken for granted on all hands that we must have some system by which the possibility of imposing differential rates against each other's products would be removed. Now it is said that that can be done by handing over the power to a commission to fix some general rates upon the whole of the railways running through the different colonies. But that cannot be done consistently with maintaining the control of our railways, and for this reason: Each colony has its own railway carriage on its own system, and with a view to benefit particular localities As a general rule the railways are worked directly for the benefit of the state's own Crown lands, and those lands have been sold with the knowledge that railways will be made as roads are made by the Government to render them accessible. I look forward to the day in New South Wales when, preserving the system in the prosperous condition in which it has been preserved, we shall make use of the profits, not by putting them into the Treasury, but by reducing the rates; and it is in that respect that the state railway system in these colonies differs in a very important particular from-the ordinary business concern of a carrying company. Our railways are not only managed with a view to make a profit out of the carriage of goods and passengers, but also with a view to the development of the country; and it is just as much for the benefit of the state that people should be settled on the land, and that greater facilities should be given for the opening up of the country, greater facilities to bring produce to the seaboard for export, as that increased revenue should be derived from an increase in the carrying business of the lines.

The Right Hon. Sir G. TURNER:

Would not the hon. gentleman allow the reduced rates to apply to two ports and not to Sydney alone, giving the benefit of the reduction of rates to producers, not only in one direction, but in the other?

The Hon. R.E. O'CONNOR:

As long as you keep the railway systems separate, each colony will have the advantage of such cheap rates as can be given by its railway system to its own producers. I say, in the first place, that the plan of each colony keeping its own railways is advisable from the point of view that its own people will derive all the advantages that can be derived from their economical and proper management, among those advantages being the special one of a reduction of rates in any way, or in any direction which may be thought desirable. What I was about to point out was that if all the
lines are handed over, if you have a system under which the rates are fixed by some authority in the commonwealth, altogether apart from whether it is or is not in violation of the constitution, what follows is this: Take, for instance, New South Wales. Instead of her having the benefit of the successful administration of the railways in the form of reduced rates are handed over, if you have a system under which the rates are fixed by some authority in the commonwealth, altogether apart from whether it is or is not in violation of the constitution, what follows is this: Take, for instance, New South Wales. Instead of her having the benefit of the successful administration of the railways in the form of reduced rates are handed over, if you have a system under which the rates are fixed by some authority in the commonwealth, altogether apart from whether it is or is not in violation of the constitution, what follows is this: Take, for instance, New South Wales. Instead of her having the benefit of the successful administration of the railways in the form of reduced rates are handed over, if you have a system under which the rates are fixed by some authority in the commonwealth, altogether apart from whether it is or is not in violation of the constitution, what follows is this: Take, for instance, New South Wales. Instead of her having the benefit of the successful administration of the railways in the form of reduced The Right Hon. Sir G. TURNER:
The experience of other countries is that amalgamation enables the rates to be reduced!
The Hon. R.E. O'CONNOR:
The hon. member will know that amalgamation takes place only upon a business basis, and I hope that it may take place by-and-by in our case. No doubt it will under the permissive powers given by this constitution to the commonwealth. While I think that each colony should retain the control of its own railway system, I say at once that that railway system should be worked in such a way as not to be used unfairly against the railway system of another state. For instance, take the case of Victoria and New South Wales in Riverina. I say at once that provision should be made in this constitution by which the cutting rates of the New South Wales railways coming Sydneywards, and on the Victorian railways, going to Melbourne, taking away traffic in either case from the other colony, should be done away with.

An Hon. MEMBER:
Would the hon. member have a uniform mileage rate?
The Hon. R.E. O'CONNOR:
I say that it is not necessary. As far as that is concerned every state ought to have the control of its own rates within its own borders. The only restriction which should be put upon the perfect liberty of the state to fix its rates is this: that it should charge in all respects the same rates to the producers of other colonies as it does to its own. Take a concrete instance - the railway running from Hay to Sydney. I do not think any produce run on that line should be carried at a lower rate than would obtain upon the same distance anywhere else in New South Wales in order to attract traffic to our railways.
The Right Hon. Sir G. TURNER:
The hon. member wants to take away our only weapon for the Riverina trade, and to keep all the weapons which his own colony has!
The Hon. R.E. O'CONNOR:
I do not see how that could possibly be.

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The Right Hon. Sir G. TURNER:
   By not agreeing to a uniform mileage rate

The Hon. R.E. O'CONNOR:
   The right hon. gentleman will see what a uniform mileage rate involves. I maintain that the country which has built the railways, which maintains them, and which has to hear the whole responsibility of their being worked at a loss, ought to have the benefit of any gain which may be made from them. I say it is impossible, as long as you keep the system upon that footing, to allow any other state to come in and fix a rate for you which may involve a loss to you. All we can expect is this: that, inasmuch as the railways of New South Wales adjoin the railways of Victoria, both being worked independently, that New South Wales shall not impose rates which will unfairly draw traffic from the Victorian lines, and, in the same way, that Victoria shall not impose rates on her railways which will unfairly attract traffic from the railways of New South Wales.

An Hon. MEMBER:

   

The Hon. R.E. O'CONNOR:
   If you wish the advantages of geographical position, the only way in which you can obtain them fairly is to hand over the railways. In other words, the question must be treated in exactly the same way as if the railways were private railways owned by private companies.

The Right Hon. Sir G. TURNER:
   If the railways were in the hands of private companies there would be a through rate!

The Hon. R.E. O'CONNOR:
   That is a matter of arrangement; and there is no reason why such a thing should not be arranged. The only way in which you can deal with the railways is to treat them exactly as if they were owned by private companies, always with this proviso: that they must be worked in such a way as not to give unfair advantages to the people of one state as compared with the people of another territory.

The Right Hon. Sir G. TURNER:

   

The Hon. R.E. O'CONNOR:
   In no country in the world are competing railways run on the lines suggested by the hon. member.

The Right Hon. Sir G. TURNER:
   I would put the railways in exactly the same position as the American and English railways are put. You cannot fairly ask for anything better than
that.

**The Hon. S. FRASER:**

Is any complaint ever made in America that railway companies charge too little?

**The Hon. R.E. O'CONNOR:**

No. It is not my complaint; it is the hon. member's complaint!

**The Hon. S. FRASER:**

You say that we charge New South Wales less than we charge Victoria!

**The Hon. R.E. O'CONNOR:**

Whoever makes the complaint, it is not that Victoria charges less, but that she charges New South Wales traffic less than she charges her own traffic, for the purpose of attracting that traffic to the Victorian railways. That is to say, Victoria charges preferential rates. I say that should not be allowed.

**The Hon. S. FRASER:**

New South Wales does the same at Bourke!

**The Hon. R.E. O'CONNOR:**

Why? Because it is a necessity of the position that these things should be done. I say that that kind of cutthroat competition should disappear under a system of the kind we propose. After all, this is not a matter to be settled on any abstract principle as to what is right or wrong, or what is just or unjust. It is only a question of what we can best do under the circumstances. Speaking for myself, although I am perfectly willing to make any provision in this constitution to ensure that these unfair differential rates shall disappear, I shall be no party to any arrangement that will give a right to any authority outside of New South Wales to fix the rates to be levied on the New South Wales railways. The next question is—how have we attempted to carry this out in the constitution? I was one of those who strongly favoured the appointment of an inter-state commission; but reflection has satisfied me that, with the bill in its present form, it would be a very unwise and cumbersome way of dealing with the question. The inter-state commission provided for by the bill originally had its constitution fixed—that is to say, it was to be a commission appointed with a tenure of office as independent as that of a supreme court judge. That has been struck out. As it is now, it is simply to be appointed as any other officers are appointed by a colony.

**An Hon. MEMBER:**

The tenure of office can be regulated by the federal parliament!

**The Hon. R.E. O'CONNOR:**
I know that; but in the constitution originally submitted there was a guarantee of the independence of these officers; there was also a provision, which was struck out, restricting the operation of the commission to the particular preferential rates which I have pointed out should be swept away. That has been struck out. Clause 97, as it now stands, 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.

Originally there was this proviso added

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 neighbouring state.

The Right Hon. Sir G. TURNER:

The New South Wales representatives told us that those words were put in for the benefit of Victoria, and I objected!

The Hon. R.E. O'CONNOR:

The hon. member is mistaken in thinking that that was the case. The hon. member, Mr. Wise, said it made no difference, and I think it was the hon. member, Mr. Barton, who said that this proviso was put in for the purpose of pointing plainly to the extent to which the interference with the local rates—the rates on the different railway systems—should be allowed. There is no mystery about it; the words are plain enough in their meaning. I call attention to them now, because they emphasise the view I held, that the only interference that could be allowed is where railways are being run unfairly to the railways of other colonies.

Mr. MCMILLAN:

It is to define their duties!

The Hon. R.E. O'CONNOR:

Yes; and to point beyond all question to the fact that there was no power given in the constitution to this commission except for the purpose of seeing that the railways were fairly run, and the rates fairly made in the various colonies.

An Hon. MEMBER:

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The Hon. R.E. O'CONNOR:

Without that clause to point out the object and the duties of the commission, and without any guarantee as to its constitution, I should be opposed to the appointment of any interstate commission. Let me point out why. This inter-state commission would necessarily consist of men of
some expert knowledge of railway matters. That, probably, would be a necessity. Now the duties which they have to perform are 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. These powers are very vague and very general. It would be impossible to hand over with any reasonable anticipation of satisfactory work the duty of construing this constitution to a commission of this kind.

The Hon. J.H. GORDON:

The President of the Inter-state Commission in America is generally a lawyer!

The Hon. R.E. O'CONNOR:

I would point out the difference between America and the state of things here. Even if you have a mixed commission, the duty of interpreting this constitution should be placed upon the highest judicial authority in the commonwealth, and it should not be handed over to such a commission as we have here. Therefore I have come to the conclusion, although I think an inter-state commission ought to be appointed, that such a commission should be appointed by the parliament under a statute passed by the parliament of the federation. Then you would be in the position of being able to lay down lines upon which this inter-state commission should proceed. You would be able to lay down certain principles and definite limitations within which they should do their work; you would be able to guarantee that they would have a certain status, with a certain tenure dependent only on good conduct, and in that way you constitute a commission which may have any powers you choose to give them, but which would exercise those powers on certain definite lines. Any inter-state commission, however constituted, in which you place the duty of interpreting this constitution, would certainly be a failure, and give no satisfaction to any of the parties concerned.

An Hon. MEMBER:

Is not that exactly what is done now in clause 97?

The Hon. R.E. O'CONNOR:

No; clause 97 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.

The hon. member, if he reads that clause, will see that the inter-state commission might be constituted at once by appointment, without an act of
parliament.

**An Hon. MEMBER:**

It must be by law!

**The Hon. I.A. ISAACS:**

If the hon. member looks at clause 96, he will see that the parliament may make laws constituting an inter-state commission.

**The Hon. R.E. O'CONNOR:**

Exactly.

**The Hon. I.A. ISAACS:**

It would have to be appointed by the parliament!

**The Hon. R.E. O'CONNOR:**

No doubt the parliament would have to pass some legislation constituting an inter-state commission. The act might simply be to constitute an inter-state commission without limitations of any kind.

**An Hon. MEMBER:**

So it might be in the other case the hon. member has put. You might leave the whole thing to parliament, unless you propose to abridge their jurisdiction!

**The Hon. R.E. O'CONNOR:**

Undoubtedly. I propose to leave their jurisdiction to be defined by the federal parliament within such limits as may be found to be necessary. I wish to point out that this interstate commission, as constituted in this way, is not really a necessity for the purposes of carrying out the objects which we have in view. Clause 52 of the constitution gives a power to regulate trade and commerce with other countries, and clause 95 is as follows:-

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.

There may be a good deal of vagueness about these expressions; they may have to be amended in some way; but, taking the thing generally, I hold that, under the power to regulate trade and commerce, and under the provisions of that clause which prohibit preference to the ports of one colony over the ports of another, and prohibit any rates which have the effect of restricting trade or commerce, you have quite sufficient power to carry out all the objects we have in view in regard to the doing away with these preferential rates. Under an almost exactly similar expression in the
Constitution of the United States even larger powers than this have been assumed by the commonwealth, and decided by the great jurists of the United States to be within the powers of the Constitution.

An Hon. MEMBER:
Quite a different thing!

Another Hon. MEMBER:
The very opposite, the hon. member will find!

The Hon. R.E. O'CONNOR:
I know, and I think you will hear me out in this, that the words on which the interstate commission have been appointed are the simple words at the beginning of clause 52 of this bill—"The regulation of trade and commerce."
It is on these words only that, the United States have founded their right to pass the Inter-state Commerce Act. Perhaps I may remind hon. members of what the position of things is in America. The provisions in the United States Constitution are the power to regulate trade and commerce, and the provision, which is very much like clause 95 of our bill, that no preference shall be given by any regulation of commerce or revenue to the ports of one state over those of another, and so on. These are the only two sections in the constitution which in any way deal with the matter, and under the provisions of that power to regulate trade and commerce the Supreme Court of the United States decided in 1886 the case between the Wabash, St. Louis Pacific Railway Company and the State of Illinois, and it was upon that decision that the Interstate Commerce Act was founded. This act deals specifically with the duty of the Inter-state Commission, and lays down certain rules which shall be observed in the carrying out of inter-state commerce, and it is all founded upon the power which is held to be contained in the constitution. If hon. members will read the provisions of this Inter-state Commerce Act they will find that they contain everything which can possibly be desired for the purpose of the fair running of these railways within the four corners of the act itself. All that power flows from the right which is given to regulate trade and commerce. Before I read the decision in that case I think I may have the assent of the Committee to this statement, that the interpretation of our constitution will be most probably upon the same lines as the interpretation of the United States Constitution. In both cases the law administered is the common law of England derived in this colony and America from exactly the same sources, and administered on exactly the same principles. I think we may take it that the
decisions which have established certain positions in America in the construction of their constitution will most probably be followed here. The case of the Wabash, St. Louis, and Pacific Railway Company is reported in 118 United States Reports. The court said:

It cannot be too strongly insisted upon that the right of continuous transportation from one end of the country to the other is essential in modern times to that freedom of commerce from the restraints which the state might choose to impose upon it that the commerce clause was intended to secure. This clause giving to Congress the power to regulate commerce among the states and with foreign nations, as this court has mid before, was among the most important of the subjects which prompted the formation of the constitution. And it would be a very feeble and almost useless provision, but poorly adapted to secure the entire freedom of commerce among the states which was deemed essential to a more perfect union by the framers of the constitution if at every stage of the transportation of goods and chattels through the country the state, within whose limits a part of this transportation must be done, could impose regulations concerning the price, compensation, or taxation, or any other restrictive regulation interfering with and seriously embarrassing this commerce. . . . As restricted to a transportation which begins and ends within the limits of the state, it (the law of Illinois) may be very just and equitable, and it certainly is the province of the state legislature to determine that question. But when it is attempted to apply to transportation through an entire series of states a principle of this kind, and each one of the states shall attempt to establish its own rates of transportation, its own methods to prevent discrimination in rates or to permit it, the deleterious influence upon the freedom of commerce among the states upon the transit of goods through those states cannot be over estimated. That this species of regulation is one which must be, if established at all, of a general and national character, and cannot be safely and wisely remitted to local rules and local regulations, we think is clear, from what has already been said. And if it be a regulation of commerce, as we think we have demonstrated it is, and as the Illinois Court concedes it to be, it must be of that national character, and the regulation can only appropriately exist by general rules and principles, which demand that it should be done by the Congress of the United States under the commerce clause of the constitution.

The Hon. I.A. ISAACS:

The hon. member sees the distinction there!

The Hon. R.E. O'CONNOR:
The distinction is, and it brings out the whole position, that the power to regulate commerce gives a right to interfere in regard to any contract of railway carriage, where goods pass from one state into another state or through another state.

Mr. HIGGINS:
And river navigation The Hon. R.E. O'CONNOR: And river navigation as well. But where the carriage is entirely within the state the constitution gives no right whatever to the federal authority to interfere.

The Hon. J.H. GORDON:
The preferential rates are all within the state—or nearly all!

The Hon. R.E. O'CONNOR:
The preferential rates are within the state, but the preferential rates within the state will be met by clause 95.

An Hon. MEMBER:
The hon. gentleman forgets that there were no railways in America when the constitution was framed?

The Hon. R.E. O'CONNOR:
That does not affect the question. We are dealing now with the constitution as it is. In answer to Mr. Gordon, clause 95 is exactly intended to meet the case he puts.

The Hon. J.H. GORDON:
Very eminent authorities say it will not!

The Hon. R.E. O'CONNOR:
The clause says:
Reference 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.

The Hon. J.H. GORDON:
Does the hon. member say absolutely that that meets the case—as a lawyer?

The Hon. R.E. O'CONNOR:
I say, as a lawyer, that that absolutely meets the case of the whole of the differential rates we know of, or have experience of, up to the present time. I say it absolutely meets the case, for instance, of the differential rates on the railways from Swan Hill to Albury in Riverina, and it absolutely meets the case of any rates of ours calculated with the view of attracting that traffic to Sydney; because, in the case of the railways which tap the river Murray within the lines I have indicated, those rates are all made for the purpose of giving preference to the ports of one state over the ports of another state.

The Hon. I.A. ISAACS:
The hon. member loses sight of the fact that the provision as to preference to the ports of one state over the ports of another, as cited in the case of the United States, does not apply to state laws; but the commonwealth must not give preference to the ports of one state over the ports of another.

The Hon. R.E. O'CONNOR:

By the constitution it is expressly provided that any law or regulation made by the commonwealth, or by any state, or by any authority constituted by the commonwealth -

An Hon. MEMBER:

What law?

The Hon. R.E. O'CONNOR:

Any law or regulation. I am not discussing a constitution that we have rigidly agreed to, but I am willing, if any amendment is necessary, that those words should be amended so as to make it perfectly clear that there is embedded in this constitution a prohibition against any rate which will give an undue preference to the ports of one state over the ports of another state. What more can be asked than that? If that is done, if you prevent that preference being given by some words—let them be as large, as strong, and as clear as you like—that altogether meets the difficulty which is put by the hon. member, Mr. Gordon, and the other hon. gentlemen who have interjected.

An Hon. MEMBER:

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The Hon. R.E. O'CONNOR:

You would, no doubt, have to legislate in this matter. You would have to appoint an inter-state commission which would have the power of dealing with questions of this kind exactly the same way as is done in America.

An Hon. MEMBER:

They fine and imprison a man in America!

The Hon. R.E. O'CONNOR:

That is a detail; it does not matter very much what you do with him. You will have the sanction of an act of parliament. To bring my comments on this clause to a point, it not only prohibits the rates I speak of, but it makes them void; so that any rate of the kind made in violation of this clause is a void rate, and cannot be collected. The position, therefore, that I take in regard to the matter is this: I say that as far as the preferential rates are
concerned, which puts the railway system of one state in an unfair position in regard to the railway system of another state, that can be met by the provision of clause 95, or some such provision. And I say in regard to the carriage of goods from one port to another, or through the different states, that that comes absolutely within the power of the commonwealth to control. Take, for instance, the main trunk line from Melbourne to Sydney. It would be within the power of the commonwealth to absolutely control the making of those rates to the extent that they were in any way interfering in the treatment of any person who had a right to use the railways. As a measure of what can be done, the Inter-state Commerce Act of America itself provides, for instance, that the rates shall be reasonable over the whole journey, that the rates shall not be unjustly discriminative. It also provides for what is called the prohibition of charging a less sum for a long haul than for a short haul, and in a number of ways it supplies all the guarantees which could be fairly asked for in regard to any inter-state traffic. As regards traffic which does not pass continuously from one state to another, I say that Clause 95 is quite a sufficient answer. I should like to call the attention of the hon. member, Mr. Gordon, who has taken so much interest in the river question, to this point: that exactly the same principles which have enabled the United States to take the control of carriage by railway would enable the commonwealth to take the control of navigation and of waterways from one state to another, and, therefore, whatever the provisions of this constitution may be, so long as they are not contradictory of that, the constitution gives power to the commonwealth to make laws regulating carriage upon the rivers as well as upon the railways.

The Hon. J.H. GORDON:

And the use of the water?

The Hon. R.E. O'CONNOR:

The use of the water as far as navigation is concerned.

The Hon. J.H. GORDON:

That is only going half the distance!

The Hon. R.E. O'CONNOR:

The hon. member, I know, wants the whole of the water, but the Convention was against him at Adelaide, and I do not think they will be more favourable here. I have placed these views before the Committee, because it appeared to me that at this stage, though we need not come to any definite conclusion, it is just as well that we should understand each other. It is just as well that some statement should be made definitely, as far as New South Wales is concerned, of what we require in the treatment of this question; and I should like to assure
hon. members that, within the lines I have pointed out, I am quite willing to make any amendment which would be necessary to carry out these purposes. As far as the inter-state commission is concerned, I do not think it would be wise to encumber the constitution by such provisions. I think it would be very much better to give the power to make this kind of legislation to the federal parliament. If we trust it with many other things we may trust it with that. Then the power may be given in such a way that it may be exercised by the kind of body which is likely to be appointed.

The Hon. I.A. ISAACS:

You give no weight to geographical position!

The Hon. R.E. O'CONNOR:

Certainly not, and we had better understand one another.

The Hon. I.A. ISAACS:

You make the political boundary the test!

The Hon. A. DEAKIN:

The federation must either take the railways or leave them!

The Hon. R.E. O'CONNOR:

Undoubtedly. There is no half way about the matter. Hon. members want all the advantages of taking over the railways, and want to leave New South Wales the disadvantages. We cannot consent to any such proposal. If the railways are to be treated as if each colony retained its own, then they must be dealt with exactly on the same principles as if the railways in each state were conducted by private companies. I am quite willing that that should be done; but there should be no general handing over to any authority power to fix the rates in such a way as would eliminate all geographical boundaries, and put the other colonies in exactly the same position as if they had to bear the burden and responsibility of the railways of New South Wales.

The Hon. A. DEAKIN:

In other words, the hon. gentleman declines to take over the railways altogether, or to leave them precisely as they are!

The Hon. R.E. O'CONNOR:

No, I do not say that. You must either take over the railways or leave them as they are, with, this exception: that you may very reasonably make provisions which will insure that the preferential rates which have been causing so much loss on our railway borders shall no longer continue. I have made these observations, which have been drawn out to a greater length than I intended, in order that we may understand exactly what we are about before we come to a decision.

[The Chairman left the chair at 12.58 p.m. The Committee resumed at 2 p.m.]
Mr. HIGGINS (Victoria) [2]. [Committee counted]:

I should not have risen to claim the attention of the Committee at this time but for the lucid and admirable speech which has been delivered by Mr. O'Connor, who has given me the cue for the few remarks I feel bound to make. Before I deal with Mr. O'Connor's speech, I should like to wedge in such remarks as I may have to make upon the general financial question, and then deal with that of the railways, I may state that at Adelaide, as well as here, I carefully abstained from speaking much on financial matters, simply because I feel that upon financial matters, more than upon any other, there is need of modification of opinions to suit the views of others. I feel that upon financial matters, more than upon any other, there is need of give and take; and I have found it rather a fault in my own mind-and I suppose other members find it also-that if you have once expressed your opinion on a particular point, especially in public, you are apt to adhere to that opinion more obstinately than you would have adhered to it if you had not expressed it. But I have also felt that, upon financial matters, official experience tells more than any other thing. A man of official experience, especially as a Treasurer, can speak with more weight; and we who have no official experience— we who have not had anything to do with the Treasury or its difficulties—ought not to dispose of the finances upon mere grounds of theory without hearing exactly how the financial proposals will affect the treasuries of the different colonies. I have felt from the first that the financial question must be settled eventually by some rough-and-ready adjustment—that it cannot be settled upon any pure principle of theory, and cannot be settled upon terms of absolute justice to every one. I have been anxious, as far as I can, to leave my mind open upon the financial matter to the very end of the debate; but I have been invited—and I accept the invitation—to express how the position strikes us unofficial members, so that—the Finance Committee may be able to go to its room, and to frame a scheme which they see some reasonable prospect of carrying through—a scheme which hon. members will afterwards be able to recommend to those whom they represent. I also feel that, although the financial question presents great difficulties, and is of great importance, it is put altogether out of its true perspective in the columns of the press and in the debates in Parliament. I say with all respect that it has, the least important bearing of all the problems of federation upon the ultimate welfare of the people of Australia. I say that, in the main, the financial difficulty is a problem of the transition period, and, being a problem of the transition period, it necessarily must be transitory; that whatever solution may be effected will be transitory in its effects, and that,
even supposing any great loss occurs to any state of Australia by any financial proposals—losses spread over some years to come—the resources and the capabilities of the different states are such that, eventually, they will be able to overcome the injury which may be occasioned.

The Right Hon. Sir G. TURNER:

They will have to find the money in the meantime!

Mr. HIGGINS:

Just so. It is just because we shall have to find the money in the meantime that the financial problem has become of such importance. It is exactly as the author of the "Autocrat of the Breakfast Table" says, "Tomorrow morning's breakfast subtends a larger angle in a man's mind than the welfare of the nation for future years." And it must be so. The difficulties of the Treasurers of the different colonies are before their minds, and they must see that they have enough with which to carry on the government of the states. We must bear in mind that the loss in the adjustment of the financial problem will be no more than the low inflicted by an invading army. It will be a great loss no doubt, but still time will cure any ill effects which may arise from the temporary injustice. To go back to problems which hon. members faced in the first instance, it appears to me that there are two causes of our difficulty with regard to the financial problem. The two causes, I think, are the New South Wales tariff and the Western Australian tariff and conditions. I speak of the Western Australian tariff, inasmuch as it taxes more articles than any other colony.

The Right Hon. Sir JOHN FORREST:

Not at all!

Mr. HIGGINS:

I know I speak under correction. But if the right hon. gentleman will look, as I have looked, at the comparative table of tariffs which has been published-

The Right Hon. Sir JOHN FORREST:

It is two or three years old!

Mr. HIGGINS:

I do not wish to persevere in that statement if I am wrong. But if there has been an alteration within the last two or three years which reduces the number of taxable articles, then I have no doubt I must correct my statement. Two years ago the Western Australian tariff taxed more articles, and of course by that means taxed a number of articles from other colonies which the other colonies did not tax. To go back to my main point, I say that the New South Wales tariff and the Western Australian conditions are the two causes of our difficulty. I feel that in dealing with
this matter we must try to adopt that system which will be suitable to the
conditions of the majority of the colonies, and that, we must make special
arrangements for the special conditions of the minority of the colonies. By
the minority of the colonies I mean New South Wales and Western
Australia. I think that the opinion is hardening all round this House, and
throughout this country, that special arrangements must be made, at all
events in regard to Western Australia, and I think also that special
provision must be made in the Commonwealth Bill to obviate the fears of
hon. members for New South Wales, and gentlemen who have written in
the press and otherwise in New South Wales, so as to show the people of
New South Wales that no glaring injustice at all events will be done to
them in the course of the federation. I may say in passing that I am quite
sure that there is no desire on the part of Victorians, or on the part of the
people of the other colonies, to take any advantage of New South Wales.
There is no desire—there is no cunningly-laid trap as I have seen stated in
one of the articles on the part of the people in the other colonies to take one
penny more from New South Wales than they are entitled to take for the
federation. I might say also in this connection that if I were to think that
certain articles and speeches which I have read within the last few months,
written and delivered in New South Wales, in regard to the grasping
intentions of the other colonies, as against New South Wales, could be
taken as representing the deliberate views of the majority of the people of
New South Wales, I should say that we Victorians and the representatives
of the other colonies could not in self-respect do anything more than
simply to retire and say, "Gentlemen, you are treating us as robbers; we
shall have nothing more to do with this matter." But I feel that the heart of
the people of New South Wales is in favour of federation, and that they
will trust the representatives of the other colonies to be as just to New
South Wales as they expect the representatives of New South Wales to be
just to the other colonies.

The Hon. E. BARTON:
They will have their share in determining what is just!

Mr. HIGGINS:
They will, most decidedly. With regard to the New South Wales
difficulty, I agree with the hon. member, Mr. Lyne, that, without going into
the merits of free-trade or protection, it is an absolute truth—no one can
deny it—that the tariff of New South Wales, as it exists at present, is it
difficulty with regard to New South Wales in this federation.

An Hon. MEMBER:
And the land revenue!
Mr. HIGGINS:

At all events, in consequence of the peculiarity of the New South Wales tariff, it has been put forth that New South Wales will pay far more under a uniform tariff towards the expenses of the commonwealth than the other colonies will pay. Of course, I need not go into that reasoning again; but the idea has been strongly urged, and it has been spread by the press with much diligence. It takes a good deal to kill an error; but if anything could have killed an error, I do not think that that error should still be living, having regard to the speeches and the letters of a member of the Upper House of New South Wales—the Hon. Mr. Pulsford—whose speeches and letters I have read with the most intense interest.

The Right Hon. G.H. REID:

He is becoming quite a favourite authority with Victoria now!

Mr. HIGGINS:

There is no doubt that we are willing to take light from any quarter.

The Hon. E. BARTON:

Does not the right hon. member, Mr. Reid, think that he might as well lend Mr. Pulsford to the protectionists for a time?

The Right Hon. G.H. REID:

I quite agree to that!

Mr. HIGGINS:

We shall be very happy to take Mr. Pulsford to Victoria, and to give him as much information from our point of view as be will be able to give us from his point of view. I have no doubt we shall learn mutual lessons; but I say that if the error could have been killed—the error which has been based on a false reading of Mr. Coghlan's tables—it would have been killed by the speech of Mr. Pulsford. I hold in my hand a speech which he delivered in the Upper House of this colony, and I quote it because he has given the exact words used by Mr. Coghlan, which show that Mr. Coghlan has been most guarded and careful in his statements; and I think that a great deal of injustice is likely to be done to the Government Statistician of New South Wales, who merely based his figures on the only facts which lie had before him, and who set out the figures correctly, and, in my opinion, in most guarded language.

The Hon. E. BARTON:

He has done the sums properly!

Mr. HIGGINS:

He has done the sums properly; but, at the same time, it must be admitted that it was his duty to do the sums. He had to do the sums on some basis,
and he has taken the only basis open to him. Mr. Coghlan has stated this:

In order to show what might have been the result had the tariff of one of the other states been adopted in the years under review, instead of the tariff actually in force in each state, the schedule of customs duties of the federating colonies has been applied to the imports of each of the other states in turn, on the assumption that the goods would have been imported to the same extent, no matter what tariff might be in operation.

Mr. TRENWITH:
An erroneous assumption!

Mr. HIGGINS:
I would not say that Mr. Coghlan made an error.

Mr. TRENWITH:
Oh, no!

Mr. HIGGINS:
Because he simply said, "I have nothing else to go upon, and, therefore, I take the tariff for 1893, 1894, and 1895, and I say that if New South Wales were to import the same quantity of commodities under a uniform tariff as she imports now, then she would pay so much customs duties." No doubt, as a matter of arithmetic it turns out that New South Wales would, on that basis, pay far more. But Mr. Coghlan is still more guarded when he follows on his remarks. He says:

For example, the first series is headed, "New South Wales tariff," and shows the value of goods imported into each colony for home consumption, the value of narcotics and stimulants, the value of goods which would have been subject to duty under the New South Wales tariff, and the value of goods that would have been admitted free. The second series gives like information on the assumption that the Victorian tariff was in force in the other colonies as well as in Victoria during 1893, 1894, and 1895; and so on with the tariffs of South Australia, Western Australia, and Tasmania.

What is the result? In the first place, observe that Mr. Coghlan is going purely on an assumption, and has explicitly said that be is going on an assumption. A number of persons, in their reasoning, have said: "Look at these figures for New South Wales."

The Hon. J.H. HOWE:
He adopted that method to get at a certain result!

The Hon. E. BARTON:
Dr. MacLaurin, in the Legislative Council, said that those were the figures of the Convention themselves!

Mr. HIGGINS:
I think that Dr. MacLaurin was right in this respect. It will be
remembered that, in the speeches at the Convention upon the finances, there were some members who put them forth as figures which represented actual facts.

Mr. MCMILLAN:
No; as only approximate, I think!

Mr. HIGGINS:
I think that the hon. member was more guarded; but if the hon. member said that they were approximate, I think even there he was incorrect.

Mr. MCMILLAN:
Well, they were a guide!

Mr. HIGGINS:
They were a guide if a certain assumption were correct. The whole thing depends upon the word "if."

Mr. MCMILLAN:
A matter of degree. No doubt, the extreme degree was in the absolute statement!

Mr. HIGGINS:
At all events, what I submit is, that not even approximately are these figures to be taken as correct, and they were never meant to be taken as correct. Mr. Pulsford, in the very short speech to which I have referred, goes on to say that in addition to the fundamental error with regard to New South Wales, the years 1893, 1894, and 1895 are absolutely the most unfair years which you could take in regard to the other colonies, and notably in regard to Victoria.

The Right Hon. G.H. REID:
They are unfair years for us, too!

Mr. HIGGINS:
I understand that the right hon. gentleman was in office during those years?

The Right Hon. G.H. REID:
No!

Mr. HIGGINS:
I believe the right hon. gentleman was in office during the years 1894 and 1895, and I am not aware that any year could be a bad year under his regime.

The Right Hon. G.H. REID:
It was better than it otherwise would have been, no doubt!

Mr. HIGGINS:
Mr. Pulsford also shows that the Victorian tariff which is referred to as
Mr. Coghlan's basis for his reckoning, is the tariff of 1896, whereas the figures given are for the years 1893, 1894, and 1895. The Victorian tariff, in consequence of changes made in 1895 was lower in 1896 than in the three years I have mentioned, and, being lower, produced more revenue. So that this was not fair to Victoria.

The Right Hon. G.H. Reid:

Mr. Coghlan did not favour New South Wales. He took the later tariff here. He took my lower tariff. The same tariff was used in both cases.

Mr. Higgins:

I understand that there was an alteration in the New South Wales tariff during the year 1895, but I think that with regard to Victoria the comparison was hardly fair. Mr. Pulsford gives an instance of its unfairness. In Victoria, because of the protective tariff there, the importation of a number of articles is absolutely, or almost absolutely, excluded; but these articles come into New South Wales. This does not mean that the consuming power of the Victorian people in regard to such articles is less than the consuming power of the people of New South Wales; it simply means that they consume home-made goods. Mr. Pulsford instances the facts in regard to the importation of soda crystals. He says that in Victoria there is a duty of £2 per ton upon soda crystals:

That is an absolutely prohibitive rate. Last year some portion of a ton got into Victoria, and £1 4s. 8d. was collected on it. There was no duty in New South Wales on soda crystals, and last year 700 tons were imported. It is very easy to see that 700 tons at £2 amounts to £1,400. That is the system adopted in these tables. But is the assumption correct? Already in this colony we make a certain proportion of our soda crystals without any duty. Put on a duty, similar to that in Victoria, and what becomes of our exports?

This, no doubt, should be imports. They disappear just the same as the imports of soda crystals have disappeared in Victoria, and in their disappearance disappears also the revenue assumed as possible of collection, and so much of the difference disappears. I have taken the trouble to calculate what this difference is as a matter of percentage, and those gentlemen who want to give the country a start and frighten it very much about the cost of federation, may possibly take advantage of it, The difference between £1 4s. 8d. in Victoria and £1,400 in New South Wales is actually no less than-

Let the Treasurer and Premier of New South Wales mark this-110,000 per cent.

Every hon. member will see the absurdity of the calculation. Therefore the difficulties which perplexed the Finance Committee in Adelaide, and
the financiers of the various colonies who have discussed the matter since, and which have led to the principal bone of contention in this and in the other colonies, are owing to a mistake in taking as facts what are mere assumptions. I have listened to the debate during yesterday and to-day with a great deal of interest, and I was sorry to hear that the Treasurers of South Australia and Tasmania still laid emphasis upon these figures. At all events, the Treasurer of South Australia went so far as to say that there was no doubt whatever that a uniform tariff would inflict great injustice upon New South Wales. He did not support his contention with any figures, so far as I could see, unless we are to understand that he assumed that Mr. Coghlan's figures represented facts.

The Hon. F.W. HOLDER:
I did not base my statement upon Mr. Coghlan's figures. I thought it was self-evident!

Mr. HIGGINS:
Of course I speak upon this subject with nothing like the weight which attaches to my hon. friend's utterances; but I should like to be convinced that there is a real and serious danger of large injustice being done to New South Wales by the imposition of a uniform tariff.

The Hon. F.W. HOLDER:
Would not New South Wales have to pay a tax to Victorian manufacturers for a time?

Mr. HIGGINS:
I do not think so. The hon. member is entering into a very large question, which opens up the incidence of the tariff.

Mr. GLYNN:
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Mr. HIGGINS:
There is no doubt that if you have a uniform tariff with a protective tendency throughout Australia it will, to a certain extent, develop the manufactures of New South Wales. Of course the Premier of New South Wales will say that the development would be at the expense of more productive industries. Still, such a tariff would protect the manufactures of New South Wales, and would encourage the production of articles for home consumption. In the meantime, before New South Wales has her manufactures established, she will be able to import from Victoria, and from other colonies, articles which are manufactured there. It is certainly clear that whatever may be the incidence of a protective tariff, there is no increase of price proportionate to the amount of the duty. What I regret is that the hon. member, Sir Philip Fysh, and the hon. member, Mr. Holder, seem to have taken the view that a uniform tariff would injure New South
Wales, without giving us the reason for that contention. The hon. member, Sir Philip Fysh, referred to some tables prepared by the Government Statistician of Tasmania, who takes certain articles such as tea, coffee, sugar, narcotics, and stimulants, and says, "If you take these articles by themselves, looking at what has been consumed in the past, in the future the consumption of New South Wales will be greater than the consumption of Victoria." For the purpose of this calculation, Mr. Johnston took the year 1895. I do not think, however, that statistics as to the consumption of articles during one year are of much use. I think you must take the statistics of a series of years, or else you cannot get any definite knowledge as to the trend of trade or the bulk consumed.

The Right Hon. G.H. Reid:
That is why Mr. Coghlan took a period of three years!

Mr. Higgins:
Well, I am speaking now of the figures of the hon. member, Sir Philip Fysh. I want to confine my remarks to one thing at a time. I am glad to see that the members of the Convention who have spoken are coming round to the conclusion that in regard to the distribution or adjustment of the surplus, the more you leave to the federal parliament the better. That is a view which I am strongly in favour of. If you leave it to the federal parliament—and if New South Wales has sufficient confidence in the constitution of the federal parliament that its great population will be sufficiently represented in both houses, I think you may leave it to the federal parliament—it will see that New South Wales does not suffer injustice. In fact I should go so far as this, if it were needed: I should allow the sliding scale of the hon. member, Mr. Holder, to apply, so as to avoid injustice being done to New South Wales, or I should allow the federal parliament to vote subsidies to those colonies which, by any means of investigation, might be found to be injured by virtue of the uniform tariff coming into force. With regard to the suggestion of the hon. member, Mr. Deakin, to have an unlimited guarantee for all time, I could not fall in with that, I call understand a guarantee for, say, five years. I think all you want is to have a guarantee for a time that is reasonably within your ken. If we limit the guarantee for five years, the period of transition, and make the Treasurers feel that they would not have a big deficit to face, that they could look well about them and see what arrangement could be made to meet the expenditure, that is all that is required. There is a danger in guaranteeing a fixed sum for ever. No one can foresee the position of these colonies. It might be a great injustice to some colony. Then as to Western
Australia, there is no doubt that the present scheme will not do for that colony. Both Sir John Forrest and Sir James Lee-Steere have placed it beyond all doubt that as things stand at present it will be utterly impracticable for their colony to enter into this arrangement. But, unfortunately for the Convention, these gentlemen have not quite intimated to us what they would propose as a workable alternative. I understand that Sir John Forrest wants to go back to the 1891 scheme; but his good sense will at once tell him that that would not be fair to the other colonies.

The Right Hon. Sir JOHN FORREST:

Why not?

Mr. HIGGINS:

It would not be fair to make the distribution in proportion to the amount collected.

The Right Hon. Sir JOHN FORREST:

Why not?

Mr. HIGGINS:

The figures were worked out by Sir Samuel Griffith in an article which the hon. member must have read.

The Right Hon. Sir JOHN FORREST:

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Mr. HIGGINS:

It really comes to the same thing. I imagine that we shall be able to meet one another eventually by leaving as much as we can to the federal parliament. I do not see why Western Australia should not come in under a federal arrangement under which there would be a guarantee to all the states of a certain percentage of the amount of their customs and excise duties. Say, for instance, there were a guarantee to Western Australia, Victoria, and other colonies of 70 per cent. of the amount which has been collected in a certain year. It would be a matter of detail to arrange afterwards which year should be selected. I think, however, that there was a great deal of force in the argument of the hon. member Mr. Walker, that the first year after the operation of a uniform tariff would not be a good year to select. It might be fairer to take the second year when things would be more settled under the new conditions.

The Right Hon. Sir JOHN FORREST:

-Mr. HIGGINS: Of course it would mean that we should have to keep up the book-keeping for the second year; but it might be better to do that than to have a scheme in your bill which would not be workable for so many years as the constitution was in existence. We want a scheme to bridge
over the five or six years of transition, and I would rather have bookkeeping—although I admit that it is open to objection—for two years of the uniform tariff than I would adopt a scheme which was unworkable. I think opinion is drifting in favour of a per capita distribution combined with a guarantee to the treasuries of a certain percentage, and combined also with a special provision to meet the difficulties of New South Wales and Western Australia. I think opinion is going in a direction which would leave the matter to the federal parliament; but upon the assumption that there will be a per capita distribution, except so far as it may be necessary to make exceptions. I do not think that anyone who is acquainted with these colonies and with other parts of the world can say that there are any communities on the face of the globe which are so similar in their habits of life, in their clothing, their food—I will not say in climate—as are these communities of Australia, New Zealand, and Tasmania. I have never been in Queensland, and I know very little of Western Australia; but I have been in the colonies of South Australia, Tasmania, Victoria, New South Wales, and New Zealand. You find similar food consumed and similar clothes worn in all these colonies, and, taking things all round, there is the same average degree of wealth. I say, therefore, that taking the matter in its broad aspect, a comparative distribution in proportion to population of any surplus which may be found to exist after the necessary federal expenditure is the best course to adopt. Now, with regard to having a distribution at all, I am strongly of opinion that there need be no actual distribution. I hold strongly the view that it would be possible to have matters so arranged that in place of actually paying back to the government of each state its per capita share of the surplus, it should be applied, to a certain extent, in payment of the interest on the public debt. It will come to the same thing, whether we hand the surplus to the state treasuries, or whether we apply it to a reduction of the interest on the public debt. I think the idea of paying the interest on the public debt of the states in proportion to the lowest scale of borrowing is about the best course. Supposing one colony had borrowed £67 per head, and another colony only £40 per head, all you would have to do at the most would be to insist that the surplus should be applied in paying the interest on the lowest scale of borrowing. In that regard I think the bill might be amended. We say here that the commonwealth may take over the state debts, or any proportion of those debts. It was at my instance, in the last session of the Convention, that the words referring to the proportion of the debts were inserted. I think some distinction should be made between the principal and interest of the debts. Take, for instance, an amount of £10,000,000. At 4 per cent., the interest would be £400,000; at 3 per cent., it would be £300,000. You might, for the same amount of
principal debt be paying in one colony £1,350,000, and in another colony only £1,000,000. Conversion, I think, must be put off until we can so convert as to give the benefit of the premium to ourselves, and not to speculators in London; but until the federal authority guarantee the public debt, it will be possible, I think, for the commonwealth to distribute the surplus in paying the interest in ratable proportions. I shall now proceed to refer to railway matters with which the hon. member, Mr. O'Connor, dealt. I think the members of this Convention are indebted to that gentleman for having put before us the view which he holds, and which I understand most of the representatives of New South Wales hold in regard to interference with the rates of the railways. It seems to me that in regard to the other financial questions we ought not to separate without settling them in some way. It would be an eternal scandal if we should have to separate without settling a problem which is merely a problem of transition, and which, at the most, means a possible temporary loss to some state or states. We should, as regards the main question about the surplus, be able to settle something, and we shall settle something. But, with regard to the railways, if the hon. member, Mr. O'Connor, and those who think with him persist in their endeavour there will be very grave danger, indeed, of a deadlock in our scheme. I say it with profound regret. I can look at the question from the point of view of the hon. member and his friends, and I see exactly how it strikes them. I will ask the hon. member to try to look at it for a few minutes from the point of view of Victoria. The hon. member wants to be fair, and the only question is: What is fair? The problem is this: You must in some way let the federation have control, or the right to interfere with the rates on the railways, otherwise the provision for intercolonial free-trade is nugatory. Having once done that, the question is: how far you will interfere? The hon. member's suggestion is this: He says, in effect, "Interfere with and prohibit preferential rates, the only means by which Victoria has a chance of securing the Riverina trade or any part of it, but allow New South Wales to be at liberty to impose differential rates, even to that point at which they become, in effect, preferential."

The Hon. S. FRASER:
Differential rates would not give them the traffic!

Mr. HIGGINS:
The hon. member speaks with experience as a Riverina station-holder, who gets an advantage from these cutting rates. I am sure his experience will hear me out that it is a great advantage to a producer in Riverina and all round that district to have two railway systems fighting for his business.

The Right Hon. G.H. REID:
A man gets free-trade in New South Wales and freer trade in Victoria!

**Mr. HIGGINS:**

I hope New South Wales members will understand that I think this system of competition between the two railway systems is to be deplored. It means eventually a loss to the states, to the people, and it means extra taxation and burdens. There is no doubt whatever that it inflicts a loss upon the Victorian railways to take wool from Echuca at 2s. 1d. when sent by New South Wales producers, while they charge about 6s. to the Victorian producers. That, no doubt, is a loss to the Victorian railways, and I want to stop that.

**The Hon. E. BARTON:**

There is no federal aspect in that!

**Mr. HIGGINS:**

No; neither is there a federal aspect in that system by which you charge less for the carriage of goods for 200 miles in New South Wales than for 400 miles, or convey the goods 200 miles for practically nothing. All I urge is that we must either have in play the principle of competition between these rival railway systems-

**Mr. WISE:**

Even if we federate, there must be low rates for long distances!

**Mr. HIGGINS:**

No doubt that is the case. I feel that you must either let the principle of competition operate fully or not at all. If you are going to have the purely commercial competitive principle, you must leave Victoria free to charge what preferential rates she likes. On the other hand, if you want the thing to be federal, we are with you. If you want the railways worked in the interests of the producers without regard to the interests of the individual ports we are absolutely with you. The only point is this: I do not see how Victoria can be asked to give up the only weapon with which she endeavours or can endeavour to secure any of the Riverina trade unless New South Wales consents to give up her weapon also. The hon. member, Mr. R.E. O'Connor, is one of the fairest members of the Convention, and I appeal to him to say how be can expect us to go back to our constituents and ask the people of Melbourne

**The Hon. S. FRASER:**

It has always been our trade!

**Mr. HIGGINS:**

Yes, but you will find that there is more and more a tendency for goods to be supplied to Riverina from Sydney, because of the differential rates being worked on so low a scale for long distances. May I say is this:
"Gentlemen, we are with you, as far as I am concerned—and I am only speaking on my own responsibility—if you will make the railways absolutely federal property."

The Hon. R.E. O'CONNOR:
That is to allow you to fix the rates to please you!

Mr. HIGGINS:
Nothing of the sort. Say we are with you if you will make the railways absolutely federal property to be worked in the interests of Australia as a whole. Even if we cannot get that, if that is too much to expect at this time if Australia is not ripe for such a thing, we are with you in having an inter-state commission, or in remitting the question to the federal parliament to make arrangements so that the railways shall be worked in the interests of the producers, add of Australia as a whole, without regard to the port at which the goods are to be delivered. But if you come to us, and say, "You give up this preferential rates system, but we will keep our differential rates system which will force goods to go over 400 miles more cheaply than they go to you over 180 miles," I am afraid it will be impossible to persuade the people of Victoria to agree to such a proposal. I have not the least right to speak for anyone except myself, but I am giving my own well thought-out opinion that it is impossible to ask Victoria to do that. I say either abolish the competitive system altogether, or else let competition have free play. We cannot occupy any middle position. If you have competition, competition is a war, and we shall use all our guns. The only guns which Victoria has to secure the Riverina trade are the preferential rates.

The Hon. R.E. O'CONNOR:
Then you must regulate and control trade and commerce!

Mr. HIGGINS:
Among the returns given to the Adelaide Convention there was an act from Queensland which cast a very important side-light on this question. In the act they did not distinguish very clearly between preferential and differential rates, but it is perfectly clear that they mean preferential rates. It would appear that New South Wales is doing to Queensland exactly what Victoria is doing to New South Wales. And Victoria is doing to South Australia exactly what New South Wales is doing to Victoria. It is a lamentable state of things. There is no doubt that we impose differ-

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tential rates in Victoria for the purpose of drawing trade away from Adelaide to Melbourne. There is no doubt also that New South Wales is doing the same thing with regard to Melbourne. The question is, shall or shall not all this attempt to drag trade from its natural channel be put out of
the power of the states? If you want to put it out of the power of the states to have the railways worked on any but one Australian system in any reasonable fashion, we are with you. But we cannot persuade the people of Victoria to give up this system of preferential rates unless you give up your differential rates. It does not mean an additional burden to the producers, because we are quite of the view that there must be differential rates for the back country. A uniform mileage rate is impossible owing to the circumstances of Australia. You must give the producers the advantage; but the producers would get more advantage under what I propose, because, in place of their having low differential rates to one port, they will have low differential rates to two or more ports. They will have the choice of Melbourne or Sydney. And, supposing we had a zone system of 100 miles, it must be a through system with the political lines of separation between the colonies obliterated. The recital in the Queensland Border Tax Act of 1893 is:

Whereas large sums of money have been expended by the Government in extending and maintaining railway communication with the southern and western districts of the colony, for the purpose of promoting agricultural and pastoral settlement in these districts: And whereas large sums of money have at various times been expended by the Government in harbour and river improvements for the purpose of increasing the shipping facilities of the colony: And whereas a large sum of money has been, and is being, annually paid by the Government in subsidising direct steam communication with Europe, primarily with the object of facilitating the speedy and direct shipment of goods and produce therefrom and thereto: And whereas it has been ascertained that differential rates on the railway lines of the neighbouring colonies have been promulgated and otherwise arranged for, which have had, and are continuing to have, the effect of diverting the traffic which ought legitimately to be conveyed over the railway lines of this colony, thereby entailing a considerable loss in railway revenue: And whereas it is considered desirable to prevent, as far as practicable, this diversion of traffic: Be it enacted-

And the enactment is that every bale of wool or every dray with goods that passes over the Queensland border into New South Wales has to pay a certain export tax.

**The Hon. S. FRASER:**

That does not affect goods. It affects only wool!

**Mr. HIGGINS:**

I think the hon. member will find that it does.

**The Hon. S. FRASER:**

That has never been put into force!
Mr. HIGGINS:

I see that it applies to station produce, wool, sheepskins, and hides.

The Hon. S. FRASER:

To wool and sheepskins, but not to goods!

Mr. HIGGINS:

What you in New South Wales complain of Victoria doing you do yourselves against Queensland, and you are willing to give that up; but at the same time you are not willing to give up differential rates within New South Wales. The hon. and learned member, Mr. O'Connor, said very fairly that in the United States there is nothing to prevent differential rates even if they have the effect of attracting traffic to a port of that state; that the provision of the constitution only affected the inter-state traffic rates, from one state to the other. But look at the difference between the conditions of the United States and the conditions of these colonies. Every capital here is at the seaboard; every capital is a port; whereas in the United States you have only a comparatively few states on the seaboard, and a great mass of states—forty-three or forty-four in all—behind. Only a small number of these states are affected, and, more than that, you have there no, states of the huge size which are proposed here. In talking of the states in Australia you ought really to talk of slices of a continent. You have Western Australia which would swallow up France, Austria, and Germany, and something else without those countries hardly being missed. You have also South Australia and Queensland. You cannot say that the same principle ought to apply to a place like Australia as applies to the United States. When the Constitution of the United States was framed they had no railways. With us railways are a vital part of our existence; they are the great civilisers, they are the arteries by which the trade is conveyed from one part of the continent to the other. This provision, if railways had had to be dealt with by those who framed that constitution, would have been framed on a more liberal basis than that which is proposed. Now, clause 95, about equality of trade, has to be read with the first part of clause 52. Clause 95 is divided into two parts. It first states that preference is not to be given by any law or regulation to one port over another. That has been held in America to mean that preference is not to be given by any law of the commonwealth. It still leaves the power for any state to put on a preferential rate. The 2nd part of clause 95 says that no law or regulation made by the commonwealth, or by any state, shall have the effect of derogating from freedom of trade. A preferential rate would not have the effect of derogating from freedom of trade. Freedom of trade means that you must allow the products of other countries to come
into your country free. But here a preferential rate has the effect of drawing the products of other countries into yours for a less sum than they would pay if drawn in your country. So that that clause does not at all affect preferential rates so far as regards states. Clause 96 says the parliament may create an inter-state commission -for what purpose-to maintain on the railways and the rivers the provisions of this constitution relating to trade and commerce. Now, these provisions are contained chiefly in clause 95. That does not hinder a preferential rate; but then, if the hon. and learned member looks back at clause 52 he will see that the very first subclause says that parliament may make laws for the regulation of trade and commerce with other countries and other states. It is under a similar provision that the Federal Parliament in the United States has the power to make laws which forbid preferential rates. Looking at clause 96, I think, if you want to avoid preferential rates, you, will have to add some words indicating that the inter-state commission is to regulate and maintain, not only the provisions of the constitution, but also the provisions of any federal laws made under the constitution. I shall now refer to clause 52. It is under the first sub-section of that clause that all these extraordinary powers to appoint an inter-state commission have been conferred:

The regulation of trade and commerce with other countries and among the several states -

It is under that, and under that alone, that we can stop the system of preferential rates. I cannot think of the railways except in connection with the rivers. It is under that same clause that the United States Congress has kept open the rivers of the United States. I voted at the Adelaide Convention in favour of a federal control of all the rivers-and I hope to have the opportunity of voting for it again-so far as they are navigable, and to keep them navigable. I think we could not consistently be in favour of federalising the railways unless we were in favour of federalising the rivers, as far as they are navigable.

The Right Hon. G.H. Reid:

Does that include the Yarra?

Mr. Higgins:

There are plenty of rivers in Victoria which run into the Murray. We have the Goulburn, the Campaspie, and a number of others that are affected. So far as rivers are navigable they ought to be under the control of the federal parliament, and the federal parliament ought to be able to keep them navigable.

The Right Hon. G.H. Reid:

And pay for them?
Mr. HIGGINS:
Yes, pay for them; that in quite another point. I admit that the rivers of Australia are quite different from the rivers of America, because in Australia we require the waters for irrigation. If you leave it to the federal parliament, to control the rivers, you should provide that that control of the rivers should not make it impossible for the waters to be diverted within reasonable limits for the purposes of irrigation.
The Hon. F.W. HOLDER:
so long as the navigation is conserved!
Mr. HIGGINS:
so long as navigation is conserved in a substantial form in the other colonies.
The Hon. R.E. O'CONNOR:
We do not want to provide that. It is the law now!
Mr. HIGGINS:
A mistake was made in sub-clause 31:
The control and 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.
The Right Hon. G.H. REID:
It was not considered a mistake! Mr. HIGGINS: I want to be perfectly, frank, and to say that since the meeting of the Convention in Adelaide I have looked into the matter carefully, and I find that if that sub-clause were struck out it would be better for those who want to federalise the rivers than if it were left in the bill as it stands.
As far as navigation is concerned you get navigation, and the use for irrigation purposes of a certain portion of the river, and you give up control for navigation purposes of the whole of the river.
Mr. HIGGINS:
My view is this: that we should strike out that sub-clause 31, so far as federalising the rivers is concerned, and insert a special provision to suit the circumstances of Australia, so that, while you allow the federal parliament to control the navigation, you also provide that they shall have power to give to any state a reasonable use of the waters of all rivers and tributaries for the purposes of irrigation. I think it is possible to arrange that there shall be irrigation of adjoining land without any serious interference with navigation; but a number of precautions will have to be taken to prevent interference with navigation. I feel that I have taken up as much time as I am entitled to take; but, as this is the only opportunity I shall have of placing my views before the Finance Committee, I should like to refer to one or two other matters. First, in regard to clause 88, which provides that
"uniform duties of customs shall be imposed within two years after the establishment of the commonwealth," I would suggest that the word "excise" be inserted after the word "customs." Obviously, that is necessary.

The Hon. E. BARTON:

It might not be necessary, at that stage, to impose excise duties. That is why "excise" was left out!

Mr. HIGGINS:

It is practically certain that we shall have excise duties as well.

The Hon. R.E. O'CONNOR:

That is, assuming that we want that limitation at all!

Mr. HIGGINS:

If you say uniform duties of customs, you must also include excise; otherwise a state, by imposing excise duties, could avail itself of a system of protection by catering its excise duties to a serious extent.

The Hon. E. BARTON:

it is provided that on the imposition of the uniform tariff, duties of customs and excise in the colonies shall cease; so that on the passage of a customs law, excise duties in all the colonies would cease!

Mr. HIGGINS:

It is provided that the exclusive power to impose customs duties is not to come into force until uniform duties have been imposed by the parliament of the commonwealth. That is to say, in the meantime the state shall be at liberty to alter or impose duties. I think that is dangerous, for this reason: You are giving over all the revenues by customs and excise to the commonwealth, and the states will no longer receive these revenues. But a state, seeing that it does not receive duties of customs and excise, but that these all go to the commonwealth, may reduce the revenue-producing duties within its boundaries during the two years prescribed in the clause, so as to lighten the burden upon its people at the expense of the commonwealth.

The Hon. R.E. O'CONNOR:

Will not that induce the commonwealth parliament to pass the uniform tariff as soon as possible?

Mr. HIGGINS:

Still you cannot tell how long the making of a uniform tariff may take. It would be as well to provide that there should be no tinkering with the state tariffs until a uniform tariff had been made. It is only a short time at the most.
An Hon. MEMBER:
They might want to put on a primage duty or something like that!

Mr. HIGGINS:
There might be a provision that no state should alter its duties without the consent of the Governor-General-in-Council, in order that there should be no interference with the amount of the customs revenue.

The Right Hon. Sir G. TURNER:
You might say, not to reduce the amount!

Mr. HIGGINS:
There is another matter. In clause 89 it is provided:

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.

Apart from the verbiage of the clause, I may say, speaking frankly, that one of the serious obstacles to the acceptance of the constitution in Victoria is any sudden convulsion in regard to the border duties. There is at present a stock-tax on the Murray. Personally I am strongly against the tax. At the same time I want to carry out the view so ably put by Mr. Holder that the great thing to be achieved in making a constitution is that there shall be no sudden, violent convulsions. Nothing causes so much injury as sudden convulsions. I should like to warn hon. members of this: that the stock-tax has been in operation for a few years, and under it our small farmers are in the habit of breeding calves; it pays them to do so. The men who have big runs find that it pays better to introduce store cattle from New South Wales and to fatten them. A number of our farmers are seriously afraid of having the breeding of their calves suddenly stopped; they are afraid of having their living taken from them. One of the members of the ministry has announced that he will stump the country against the Federal Bill, and he has more influence with the farming community than any other person in Victoria.

The Right Hon. Sir G. TURNER:
Of course it is not a ministerial question!

Mr. HIGGINS:
I admit that. But the point is this: The minister, who has adopted this attitude, has based his argument upon reasoning with which I cannot concur in the slightest. All he has suggested is that the duty shall be taken off in stages; that there shall be a sliding scale—that it shall slide over five years.

The Hon. E. BARTON:
Would the hon. member have the customs tariff of the federation
increased by means of a sliding scale?

Mr. HIGGINS:

There is a good deal to be said not only for taking off duties gradually, but for their gradual imposition as long as we enact in the bill what the stages shall be. There must be a provision in the bill for a graduated scale.

The Hon. R.E. O'CONNOR:

It is like pulling a tooth out by stages. Why not pull it out at once?

Mr. HIGGINS:

But it is not a tooth in this case. All I suggest is suggested not from the point of view of a protectionist or free-trader, but from an independent point of view—from the point of view of one who wants the bill to be carried. I hope a clause will be inserted allowing the federal parliament, at all events, to alter the duties by steady gradations and not all at once. I think we might produce too violent convulsions and interference with trade if we tried to do it in one year. I am frequently called, in Victoria, a radical; but I can see that I am the most conservative man here. I do not want violent changes. I do not think there is anything which does a country so much harm as violent changes. I have taken up more time than I intended, and it is only the importance of the subject and my anxiety to make the bill as acceptable as possible to a large class of the community that I have been induced to make my remarks so long.

The Right Hon. G.H. REID (New South Wales)[3.15]:

I have listened very attentively to the able speech of my friend, Mr. Higgins, and I do not think we should criticise too severely the concluding remarks of the hon. gentleman, in view of the fact that a general election is about to take place in the neighbouring colony.

Mr. HIGGINS:

There are no farmers in the electorate I represent! The Right Hon. G.H. REID: I know. My hon. friend, with his usual disinterestedness, is not speaking for himself, but for a number of friends who are members, and who wish to remain members. In fact nothing but the most ingenuous generosity of the hon. member towards the gentlemen to whom I refer would have prompted him to make such an extraordinary statement as that with reference to such an obnoxious bar to intercolonial free-trade as the stock-tax of Victoria. He would actually, as to that particular form of obstacle between the colonies, bring about freedom of Australian intercourse by safe and mild doses. It seems to me that if any such plan is put forward, we have a very strong claim on the part of this colony, in view of the circumstance that there is so strong a representation here and in the
other colonies of opposite views in fiscal matters. I think we might very fairly come forward with a request that there should be some sort of a provision drafted which, if it happened that we were eventually to be exposed to a tariff of 20 or 30 per cent. would enable us to gradually get accustomed to it. I do not ask for any such stipulation. I feel that it would be trifling with this great question of federation if the people of these colonies were not prepared absolutely, and at once, to surrender every shred of advantage which they get by putting up barriers against their Australian fellow-countrymen. If we are not prepared for that, we are simply wasting time in endeavouring to bring about this federal union. I am sufficiently in earnest about it to be prepared to risk every fiscal principle in which I believe, and for which I have fought for so many years. I am prepared to risk my fiscal principles in view of the commanding national destiny which we are called upon to realise, feeling at the same time sufficient confidence in my principles to believe that, just as we have been able to win here, we shall be able to win in the federal parliament, if not at once, at no distant date. I am prepared, at any rate, to take the risk of all these things, and every federalist must do so. We cannot make reservations about rival matters.

Mr. HIGGINS:
Not even about railways!

The Right Hon. G.H. REID:
I think we will all admit that the freedom of all the Australian colonies from customs duties set up by one colony against another is the most vital point of federal union, because the fact that the railways are in the hands of the state is simply an accident. In some countries of the world they are not in the hands of the state, and they are worked upon widely different lines. Observations have been made by a number of hon. members, in reference to railways and rivers, which I think are somewhat out of place now, although very valuable, for I think the Finance Committee, in asking for an early, consideration of these clauses, desired rather assistance as to the very difficult problem of dealing with the question of federal finance.

The Hon. E. BARTON:
It will all be useful!

The Right Hon. G.H. REID:
As the hon. and learned member says, it is all valuable, and it will probably save discussion at a later stage. I do not intend now to enter on any discussion of the matter affecting the railways and the rivers, except to make one or two observations. In the first place, I quite agree with an exclamation made by the hon. member, Mr. Deakin, this morning: We
must either take or leave the railways; and the reason is obvious. If we take the railways into the federation, we take with them all the financial responsibilities; and then, having taken the financial responsibilities, we can administer all the railways in the general interest. But if we, as the federal power, endeavour to interfere with railways the responsibilities for which and the management of which are entirely vested in individual states, we get into a very dangerous position at once, because the notion of any power being able to control the management of railways, which has no responsibility financially in respect to the management of those railways, is too absurd, I think, for any reasonable body to entertain. It has always seemed to me to be a question of handing over the railways and the liabilities, so that each and every Australian railway can be administered upon federal lines, or leaving them with those who are responsible for their maintenance, and for paying their expenses. If you leave them, then it seems to me that this attempt at having an inter-state commission is ill-advised, that the colonies must be left to make their own arrangements, and it ought to be possible that they should. We in New South Wales have, rightly or wrongly, built lines into the south-western parts of our own territory. If an inter-state commission, supposing it existed, interfered with the working of those railways, interfered

be quite in a humour to bargain with them for their sale. Therefore, I pass by the interstate commission as an endeavour to build a bridge which would not rest at either end on a solid basis.

The Hon. J.H. GORDON:
But you leave an impassible river!

The Right Hon. G.H. REID:
My hon. friend has been for many years very keen on this matter of river navigation and railway rates, and an a South Australian patriot it is quite right that he should be. I am just giving him a little bit of New South Wales patriotism in return. As to rivers, the same principle applies. If the federal power is to take over all the rivers of Australia, whether they do or do not run through different states, I can quite understand that. Then they become responsible, not only for their navigation, but also for the maintenance of the navigation. But under clauses 95 and 96 it does seem to me that there are certain rights taken over, with respect to rivers in New South Wales, which are not accompanied by the necessary responsibilities. Therefore, whilst I think it will be found that this colony will always act as the proprietor of a water-course ought to act in reference to other proprietors having rights in a continuation of the same watercourse-although I hope that we will always do that, and even carry out any irrigation works at such
time and in such a way as not to injure our natural waterways, such as we have in the Darling, the Murray, and the Murrumbidgee; whilst I hope that we will always act in that spirit-and hitherto we have done so, because we have cleared rivers for our cousins without charging them anything for it- whilst I hope that we will continue to show that free and delightful spirit, which is not always returned to us, I am not prepared to say that this country should give over rights with respect to rivers in New South Wales when other colonies do not give over their rights in regard to rivers in those colonies-I mean the navigable rivers, and I believe that the Yarra is a navigable river. Now, passing away from those two matters, I come to the difficulty we are in. We have always felt the gravity of this problem of finance in connection with federation, because we have always felt that the power of raising revenue by means of customs and excise must, in the nature of the case, be handed over to the federation, and that power being the source of nearly the whole of the Australian revenues, in handing it over we practically commit the financial interests of each colony to the supreme control of a federal power, which is a very serious thing to do. If we could by any method manage so that, instead of the commonwealth financing the states, the states should finance the commonwealth, the project would be infinitely simpler; but I feel that, in the nature of the case, that cannot be done, and therefore I have to face the difficulties to which that view leads me, and I confess that the more I look at all those difficulties the more serious they appear. Some tables have been referred to, and also some conclusions which have been drawn from those tables, and I am very glad that my hon. friend, Mr. Higgins, has most fairly pointed out that the criticism of these tables, so far as it reflected upon the person who constructed them, was entirely undeserved. It is the wrong use which has been made of those tables which might well be made the subject of criticism. As a matter of fact, they simply workout in simple figures on the basis of facts, and on an assumption which is quite open to argument and quite open to analysis, and which is indeed a matter of opinion. I agree with the hon. member, Mr. Holder-and as that hon. gentleman represents a colony whose financial interests in this matter are not very seriously at stake, because, as he says, his colony is about the middle line, I strongly point to his opinion as one which should impress itself upon the Convention. I believe, as he does, that it is self-evident putting figures and tables aside, that in the operation of any tariff applied to the different colonies which might compose this federation, for some time-the time doubtful, but the fact certain—for some time the distribution per capita—which would be a distribution we would all at once adopt if we could,
because it is so simple—would be unfair. Now why should not the hon. member, Mr. Holder, say that that is self-evident? I should think the representatives from Victoria should be the first to say that it is self-evident.

The Right Hon. Sir G. TURNER:

I admit it, and I have endeavoured to meet the right hon. gentleman's difficulty!

The Right Hon. G.H. REID:

I am glad that my right hon. friend has made this admission. It is a fact that he has always admitted it, and he has always, in a manner which has excited my hearty recognition, endeavoured to meet the difficulty. But it seems that there are others who are not sufficiently clear upon this point. It should, however, be clear, especially to the representatives from Victoria, and indeed to every man who is a party to a high tariff, particularly if his object be what is called a protective policy. The object of high duties, and the boasts which we hear concerning them all point to the same effect; that is, they result in this marvellous change, that instead of goods coming from abroad they are made in the country which is protected. That process has been going on for twenty-five years in Victoria, and, differ as we may about this or that aspect of the protective policy, everybody must admit that with any policy of high duties you have that result from the very nature of the case. Whether the result be bought at too dear a price or not is a matter of opinion, and we do not want to discuss such matters here. We must all admit that a policy of this kind, as contrasted with a policy which does not interfere in such matters, and is therefore substantially open, would yield this state of things, speaking broadly: that given the number of persons in each of two communities, in the one community the custom house would not be prolific, while in the other community it would be prolific of revenue. These are self-evident facts.

An Hon. MEMBER:

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The Right Hon. G.H. REID:

The hon. member is quite right; we do.

An Hon. MEMBER:

I know it!

The Right Hon. G.H. REID:

At the present time I am taking the view of my hon. friends. I am accepting the views of those who seem to believe that there is no difference.
The Hon. J. HENRY:
Would not goods manufactured in Victoria be consumed by New South Wales after the establishment of a uniform tariff?

The Right Hon. G.H. REID:
To a certain extent, no doubt; but to say that in a great business community such as this, accustomed for so many years to do its business in a certain way, all at once, as if by a stroke of magic, the conditions of trade will be reversed, is to speak of something which has never happened. These changes only work out gradually.

The Right Hon. Sir G. TURNER:
Is that position disputed?

The Right Hon. G.H. REID:
Well, if everybody thought as my right hon. friend does, I do not know that I should have said a word; but the observations I have heard during this debate have been quite opposed to his admissions. If it is admitted that there is a difference serious difference-I have nothing more to say. I quite admit that the difference would, gradually, and perhaps readily, disappear.

An Hon. MEMBER:
The establishment of a sliding scale would bring that about!

The Right Hon. G.H. REID:
I confess that in Adelaide I thought I was giving up a great deal too much; but the additional light I have obtained since has made me believe more in the scheme we arrived at in Adelaide. At the same time, I cannot be insensible to the fact that that scheme has created no sort of confidence, in this colony, at any rate; that, on the contrary, the clear-cut expression of the opinions of the two houses of our legislature is quite against it.

The Right Hon. Sir G. TURNER:
No better scheme has been suggested! The Right Hon. G.H. REID: No, and the action of the Parliament of New South Wales is a practical admission of that. Our Parliament does not profess to supply a better scheme; it makes the suggestion that, in view of the fact that no solution has been discovered by the convention, or any other method proposed which can be adopted, it would be infinitely wiser to leave the whole matter to the federal parliament. That is the effect of the recommendations of our houses, and I must say that the necessity of bringing about a union of the Australian people being pressed upon me, I am there again prepared to trust the federal parliament. If we cannot see our way out of this trouble-and it is no reproach to us that we cannot, because there is nothing in the
world more difficult than to appraise, with any degree of reasonable certainty, the possible effects of a tariff the constituent parts of which are all unknown—there is nothing more absurd than to attempt to do so. That being the case, the question of distribution, if we give up the theory of a per capita distribution, if we admit that it will not work fairly—and I think that that is pretty generally admitted, the extent of the unfairness being very much in dispute—we must admit that we have no solution which we can ask the people to adopt.

The Right Hon. Sir G. TURNER:

It is not admitted that a per capita distribution would be unfair!

The Right Hon. G.H. REID:

Not eventually; but we must see that, just as our friends the farmers, who, as the hon. member, Mr. Higgins, says, have become accustomed to bringing up calves, are seriously exercised about their own particular interests, so there are a number of people in all our colonies interested about many matters; and our failure to find a scheme which commands general approval being admitted, the effect of laying down a scheme which would not be accepted as satisfactory by the electors of Australia would, probably, be fatal to the whole project of union. Well, union being our main object, we must endeavour to bring the bill into such a shape that it will command the approval of the constituencies of Australia, that being the only road to union. I am prepared—and I really think we can all do so—to leave the whole financial question to the federal parliament. But I do not want this question left to the federal parliament in any such way that whilst all my views are risked and made uncertain, the views of others are made certain in advance. I do not call that fair compromise. I ask every hon. member, whatever his views, or interests, or policy, to follow my example, or rather I am prepared to follow the example of others, the example of all who are prepared to trust these financial matters to the federal parliament. I must confess my strong feeling of doubt as to whether the provision limiting the expenditure of the commonwealth for a short time was not a very good one. I attach a great deal more importance to it than most people do. Still, again, I am quite prepared to bring the bill into a shape which will command the general approval of the electors and the constituencies. So far as I can see, that project has not been received with favour. Whilst not yielding rashly or inconsiderately to what appears to be a well-expressed public opinion, I think that, under existing circumstances, we should ill-conceive our duty here if it were not our very great desire to give effect to public opinion in every possible way. Because our duty here is not to produce a constitution which will meet with our
approval. We have been sent here to perform a different task, to produce a constitution which will meet with the approval of the electors of the various colonies. I am prepared, believing that it will be better for the project, to let all the fiscal problems go, and to adopt the spirit of the amendments suggested by the Legislative Council and the Legislative Assembly of this colony, simply conferring power on the commonwealth to raise revenue to pay its expenditure and to distribute the surplus.

The Hon. S. FRASER:

The Right Hon. G.H. REID:

There, again, our trust in the federal parliament comes in. The federal parliament takes away from each of the five colonies its almost sole source of revenue. This is all done in the interests of federal union. It is done because we cannot retain this source of taxation and have federal union. No stronger obligation under such circumstances could rest upon any body of hon. gentlemen, no matter what colony they represent, than that of not exposing the constituent parts of the federation to financial-

The Hon. S. FRASER:

Insolvency!

The Right Hon. G.H. REID:

Insolvency, for it would be nothing less than that, and at the very beginning-

Mr. WISE:

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The Right Hon. G.H. REID:

Those persons who appear in the federal parliament will be there on the franchise which we provide and will be elected by the men whom we know in Australia, and with those persons, sitting in that parliament, and having the financial interests—indeed, as my hon. friend, Mr. Fraser, suggested, the solvency or insolvency—of the colonies in their hands, it is inconceivable that they would begin their existence as an Australian legislative body by a course of finance which would immediately throw all the colonies into difficulties. The situation, I think, is inconceivable. If we are not prepared to believe that the outcome of this movement will be a parliament which will protect the colonies from such obvious dangers, not to say disaster, then I say that we cannot believe in the thing itself.

The Right Hon. Sir G. TURNER:

The trouble is that unless you come to some reasonable arrangement, a large number of persons will have a doubt in the matter and will vote against the bill.

The Right Hon. G.H. REID:
Having perhaps an equal knowledge—I will not say a greater knowledge of the popular view with the right hon. member, knowing the views of Australians and the way in which Australians take things, I say, without hesitation, that I believe this project will come to Australian people with infinitely greater force if those who recommend it to them show by the constitution they frame that they, at any rate, have confidence in the machine they have constructed. People do not refine in this movement. Frame your constitution as you will, let it be the most perfect embodiment of human wisdom, there will be here and there a selfish element of opposition. You cannot escape it. It will inevitably face us in this great struggle for federal union, do what you will. But if I do not misapprehend the genius and the intelligence of the Australian people, if we show, in the construction of this charter, confidence in the future electorates of Australia it is not at all likely that the electors themselves will begin by mistrusting their own patriotism and integrity.

The Hon. S. FRASER:

What is the objection to a minimum refund?

The Right Hon. G.H. REID:

There, I say again, you would, by any such proposition, in view of the extremely divergent situation of the different colonies, nullify the advantages which a free hand would give to the federal parliament. We must begin by believing that that body, representing not this little clique, or that little clique, but representative of a great national constituency, coming for the first time into the home of Australian nationality—that these men maybe safely trusted to maintain the financial position of each of these colonies as one of the most sacred things committed to their charge. My fear would be—and I confess it—that in an anxiety to meet the varying circumstances of the different colonies, there might be, perhaps, too great a sum taken from the people in the shape of federal taxation. There are difficulties, look which way you will. There are uncertainties, look which way you will. But, looking at the fact that we are composed of gentlemen representative of so many widely divergent views as to what the policy of this future parliament should be, we ought, I think, to enter now into a tacit understanding that the spirit in which we will approach these difficulties is this: when we cannot feel sure that we are solving them properly in the interests of the constitution, we will hesitate to put there provisions which will be very difficult of alteration, and which may work, not for good, but for ill to the whole of the colonies.

The Right Hon. Sir G. TURNER:
The federal parliament could not devise a satisfactory scheme until the uniform tariff had been in operation for several years, and what would be done in the meantime?

**The Right Hon. G.H. Reid:**

The difficulties disappear at once in the federal parliament. The federal treasurer knows exactly the amount which the Victorian Treasurer, for instance, has received during the previous year. He knows the facts of trade. Suppose the colonies had been united for twelve months, the federal treasurer would have twelve months' facts of the united position before him. He would know the obligations of the Victorian Treasurer as well as did the Victorian Treasurer himself. I should not think the Victorian Treasurer would leave him in any state of uncertainty on that point any more than would the Treasurer of any other colony. So, with the latest facts before him, the construction of a tariff which would at once return a sufficient amount to, say, the Victorian Treasurer, or to any other Treasurer, would not be a difficult task. The amount might vary, as estimates; but it would be substantially near the mark—so near as to leave no colony exposed to any serious difficulty.

**The Right Hon. Sir G. Turner:**

It is the mode of distributing the surplus which is the difficulty!

**The Right Hon. G.H. Reid:**

There again the advantage of time, of union, of further experience, of reflection, will all be on the side of the federal parliament.

**The Right Hon. Sir G. Turner:**

What is to happen in the meantime?

**The Right Hon. G.H. Reid:**

In the meantime, until the uniform tariff comes into operation, the financial situation is free.

**The Right Hon. Sir G. Turner:**

But what is to happen after the uniform tariff has come into operation and while experience is being gained?

**The Right Hon. G.H. Reid:**

That is a point to which I have already referred to some extent. During that time the federal parliament must arrive at some mode of distribution which will be equitable.

**Mr. Walker:**

By book-keeping!

**The Right Hon. G.H. Reid:**

Now, my hon. friend, with the voice of the federal parliament in his throat, says book-keeping. I do not presume to know what
the voice of the federal parliament will be. I say that that body of men, elected by the people of Australia under federal conditions, will be infinitely better qualified to bring about an equitable solution than we shall, because our solution, remember, is one which is stamped in letters of iron, whereas their solution would be capable of alteration. If the federal parliament, in working out the solution as it thinks equitably, finds from experience, which will be speedy, that the result is not equitable, it can amend what it has done without appeal to the arduous and very uncertain process of amending the constitution. I leave all these matters in that way. I confess I feel some anxiety about this federal tariff. I should have infinitely preferred that in this constitution there should have been a definite time stated within which that federal tariff should be in force.

An Hon. MEMBER:
What is the penalty?
The Right Hon. G.H. REID:
The penalty is an obvious one, inasmuch as we in this constitution, a supreme court of the federation. If any tariff were passed violating the terms of the constitution, any importer, by taking proper proceedings, could recover what he had been called upon to pay under an invalid act. That is the simple and effective remedy. When we remember that we put a stipulation in the constitution that the federal tariff shall be settled in two years, when we know that the federal parliament will begin with the knowledge that, if the work is not done in two years the whole financial fabric will disappear—that their own salaries will not be payable—it is probable that the funds would be there when the due date arrived. My fear in this: We make all our sacrifices for federal union; after infinite struggle and vicissitude we see ourselves at last united. The federal tariff is a subject which will excite intense interest. It will be a time of much popular agitation, huge personal and pecuniary interests will be sleepless and active, there will be, above all these mercenary and somewhat humiliating circumstances, in the hearts and minds of the people, a deep desire, a great anxiety, that they should return men whose policy would be for the good of the commonwealth. All these things when they come down to the form of a precise tariff may lead to keen disappointment in this colony or that. Some particular native industry, highly thought of there as a great national industry, might happen in their opinion to be ruthlessly disregarded. Other duties may seem, perhaps, in the estimation of the representatives of another part of Australia to be fraught with disaster to the whole commonwealth, embodying principles which they utterly abhor. All these grave influences, conscientious most of them, may lead to a state of
difficulty in the federal legislature. If there was an escape from it something might be done. We might find ourselves with free-trade in New South Wales, across the border, and nowhere else for an indefinite time; but again, I will stand true to the position I have taken up in this matter. I say again it is inconceivable that this federation will shirk its obvious national duty in that way. The struggle may be a bitter one. There may be many disappointments, but I feel convinced the federal parliament would loyally and faithfully discharge its duty, not so soon as we might like, but, at any rate, without any great delay. I say in a word that many of our difficulties will disappear if we all agree to confide the different interests of our localities to the wisdom and justice of this great parliament representing the Australian people.

Mr. SYMON (South Australia)[3.54]:

I think I may say that there is no member of this Convention who does not feel deeply impressed with the broad and encouraging speech which we have just listened to from the Premier of New South Wales. The purpose of this discussion has been in order that the committee on finance which has been appointed should be enabled to gather the sentiments of the Convention, with the view of being assisted in the performance of its duties. I am sure that if my hon. friend, Sir Philip Fysh, instead of having addressed the Committee yesterday, had addressed it today, he would not have expressed the opinion that this debate would be really a beating of the air. He would have come to the conclusion, which I maintain is foremost in the minds of all of us, that the results both as regards the assistance to the committee and as regards the advancement of the great purpose which we hare all at heart, that is, the union of Australia, must be immense. For my part, at the commencement of the discussion I did not feel particularly sanguine as to the possibility of time being saved. Now I have arrived at exactly the opposite conclusion. Although it may be that the Finance Committee in some respects will be placed in a position of difficulty because of no resolution being adopted by the Committee for their guidance, still they will feel that underlying every criticism and surrounding every remark in the debate has been the gradual accretion of the sentiment that the federal parliament which we are about to create under this great instrument of self-government will be the best for accomplishing the purpose we have in view, and of extricating us in a just and fair manner from all the difficulties that surround this financial problem. Under these circumstances, the remarks which I shall offer to the Committee will be very few. In the first place, I should like to say a word

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in regard to the question of the railways, I have always taken the view that if it were practicable to accomplish the purpose the railways ought to be federated. I should myself like to see the whole of the railways of the continent brought under the control of the central government. It always appeared to me to be one of those matters which came well within the category of federal control. The railways in these countries affect the entire body of the people certainly as much as do the posts and telegraphs. We have not hesitated to bring under the control of the federal parliament the posts and telegraphs, and, on substantially the same principle, if the conditions were practicable-I admit that there are some conditions which make it impracticable at the present time-the railways of the states, which will be the railways of the commonwealth, ought to be under federal control. At the same time, sir, I admit that at present it is vain to discuss the federalisation of the railways. There is a strong feeling in, perhaps, all of the colonies, more or less, that the railways are matters which concern more immediately the states. At any rate, I recognise this fact: that there is a duty, a responsibility on the government of a state, to develop its own distant country, and to provide facilities for the people located in its distant parts getting their produce to market in the quickest possible way. And I recognise the fact that with that state of things existing it will be difficult, perhaps, for any state to reconcile itself to handing over the control of the railways, constructed for the purpose of development in that sense, entirely to the central authority. I do not share the apprehension on that score, because I believe that the same principles to which my right hon. and learned friend, Mr. Reid, has referred in relation to the adjustment of the financial trouble, will equally apply to the control and management of the railways. I do not believe that the federal authority, for instance, in dealing with the railways in any particular state, would forget the principles which guided their construction. I do not believe for a moment that the federal authority would seek to so interfere with rates as to do an injustice to one colony and give a special advantage to another. But, at the same time, seeing that it would not be practicable to federate the railways at the present moment, the only question is what can be adopted as a middle course in order to prevent some of those mischiefs as I think them, to which my hon. friend, Mr. Higgins, in his exceedingly instructive speech called attention this afternoon. My hon. and learned friend, Mr. O'Connor, dealt at some length with this point as to the inter-state Commission. It seemed to me that his view was one of power to the federal parliament rather than one of substance affecting the principle of control which should be exercised over the railways. He seemed to me to say that he considered
that clause 95, which provides that preference shall not be given by any
law or regulation of commerce to the ports of one state over the ports of
another state, sufficiently gave to the federal parliament power to impose
regulations and to pass laws, and that, therefore, the provisions embodied
in clauses 96 and 97 were, as I understood him, superfluous. If that is the
only point of attack which he makes, to my mind it is not a very serious
one, because he concedes, as I understood him, that it is essential that there
should be a control over the railways of the commonwealth to prevent
preferences being given so as to take the goods of one portion of the
country to an outlet to which in the ordinary course of things they would
not travel. That, I think I may say to my hon. and learned friend, is all we
wish. It may be that if the existing state of things were permitted, what
would be a differential rate in New South Wales would be construed into a
preferential rate in Victoria. That would be, to my mind, exceedingly
unjust. If the object is to have a series of rates which will not interfere with
the natural outlet of the goods of any part of the commonwealth, then, so
far as my judgment goes, it is impossible to take any exception to the
method prescribed of establishing an inter-state commission with the view
of bringing about that result. Either hand over the railways entirely to the
commonwealth or establish an interstate commission with the view of
regulating the railway tariffs so as to prevent what we all desire to prevent-
an advantage being given to one port over another. Now, instances have
been given of that, and I do not propose to go into detail except, to say this:
My hon. friend points out that, of course, any particular state regulates its,
rates, according to length of haulage, and from a variety of other
circumstances incidental it may be, as I have said, to the development of a
distant part of the country. All these things would be taken equally into
consideration, I apprehend, by an inter-state commission. Surely if you
establish a tribunal of that kind you do not limit the functions it has to
discharge, within the scope of the powers conferred upon it. You give that
body the same judicial control as you would expect to be exercised by a
corresponding power in the state, if the railways were left to the state. That,
at any rate, is my conception of what this inter-state commission would be,
and what it would do.

The Hon. C.H. GRANT:
The federal management would do exactly the same!

Mr. SYMON:
And the federal management would do exactly the same. The difficulty is
that we are bound to recognise that there is a very strong feeling in some of
the colonies against a transfer of the railways bodily to the federation.
Recognising that fact, the point then is, how are we best to prevent what
are described as cut-throat railway tariffs, not with the view of benefiting the producer employing the railways as his carriers, but with the view of injuring one state for the benefit of another. To my mind, if that state of things is to continue, federation, the blessings of union, the harmony which we expect to result, would largely disappear, and we should have each constituent part of the commonwealth watching every state in connection with the railway tariffs, and in a constant condition of irritation with regard to the progress of trade. It does seem to me, as my right hon. friend has just declared, that a dominating feature of this federation is freedom of trade, freedom of intercourse, but I disagree with him to this extent, that it appears to me that the barriers you erect in connection with your railway tariffs are now, and will in the future, be just as troublesome and just as detrimental to that perfect freedom of trade which you wish to secure as are your border custom-houses, and your border duties.

An Hon. MEMBER:
It will be a delusion altogether!

Mr. SYMON:
Therefore, I hope that if we sweep out from the measure as drafted in Adelaide the interstate commission, we shall be able to introduce something instead that will be equally effectual for the purpose. Just one word as to the rivers. That is a matter which concerns the colony I have the honor to come from very intimately indeed. The same principles, perhaps with intensified force, that apply in regard to the railways apply also to the rivers. But I gathered to-day a considerable crumb of comfort from my hon. friend, Mr. Lyne, who told us that he-and, I understood him, the people of New South Wales have no desire to so use the river Murray as to prevent its being navigable. Now that embodies the contention which I am disposed to fight for.

An Hon. MEMBER:
That is all we want!

Mr. SYMON:
All we seek is that the great stream of the Murray, which is not only a channel of communication, but a vehicle of traffic, shall be open along the whole of its course, so far as it is now navigable, for all time. We do not wish that interfered with or lessened. I hope the people of New South Wales will believe that we have not the slightest desire to interfere with that great public object they have in view in the development of their
country by means of irrigation. At least, personally, I have not. I agree that in a country like this it is impossible to treat waterways on the same footing as in other countries, where waterways and rivers are abundant, and we must all feel that to deprive New South Wales of the particular dealing with the affluents of the navigable river Murray for the purposes of irrigation would be to take away from them that control which in eastern countries was sought to be exercised over the wells of water about which there is so much dispute recorded in Holy Writ.

Mr. GLYNN:
If you let them carry out their schemes you will have to navigate on dry land!

Mr. SYMON:
I do not agree with my hon. friend as to that. My experience, which is not very extensive, but is useful as far as it goes, is that when you improve streams, in themselves originally small, for the purposes of irrigation, you develop very often, if not generally, the water supply. You may utilise streams in the way I have indicated and still preserve the navigability of the main river, where it is navigable now. At any rate, I believe that is the case, and I am not prepared to ask the people of New South Wales to yield up their control for the purposes of irrigation of the internal rivers of their present system. It may be that the federal parliament, under the powers embodied in clause 95, to which my hon. friend, Mr. O'Connor, referred, may be enabled to deal with this question should difficulties and trouble arise. But at present my view is that the arrangement made in the Convention at Adelaide will be ample for

the purposes of South Australia— for the purposes of all Australia, because all Australia is interested in keeping the Murray navigable. I believe it will be sufficient for that purpose, and I hope that to that extent, at any rate, it will be preserved. I should like to say also in regard to the taking over of the debts of the various colonies, that I hope the provision in the bill will be allowed to remain as it is—in other words, that it will be permissive to the commonwealth to take over the debts. If I had entertained any doubt on that subject before, it would have been removed by the very excellent and convincing speech made yesterday afternoon by my hon. friend, Mr. Holder. That the debts ought to be taken over some time or other, and that they will be taken over, probably, goes without saying. But if we were to embody in this constitution an obligation on that part of the federal parliament to take over the debts, it would at once send our stock to a premium, and it would paralyse the hands of the federation in making terms for an advantageous conversion.
Mr. GLYNN:

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Mr. SYMON:

We hope to convert before the stock expires, and I think we may be able to do it if—to use the word of Mr. Higgins in connection with another matter—we have a weapon in our hands, or it lever which we can use for that purpose.

The Hon. J. HENRY:

How would the hon. gentleman set about it?

Mr. SYMON:

I would set about it in the way my hon. friend, Mr. Holder, indicated yesterday. I think he put it this way: If you make it obligatory, your stock immediately increases in value, and you have nothing to offer to the stockholder in order to induce him to give up his stock and allow it to be converted.

The Right Hon. Sir G. TURNER:

The moment it was known that the federal parliament intended to convert, up would go the stock!

The Hon. J. HENRY:

Exactly!

Mr. SYMON:

If my right hon. friend were treasurer of the federal government he would take care not to intimate the intention until he had first negotiated.

The Right Hon. Sir G. TURNER:

The moment you started to negotiate the rise would take place!

Mr. SYMON:

My hon. friend would, no doubt, be astute enough and careful enough in the interests of the federal government to make adequate arrangements in that respect, and I am satisfied that my hon. friend, Mr. Holder, would be perfectly able to devise some method of securing—I would not say all the benefit—but some of the benefit for the federal exchequer.

The Right Hon. Sir G. TURNER:

He would not be astute enough for the English capitalists!

Mr. SYMON:

We can only face the difficulty when it arises. Without prognosticating on which side the advantage will be, of the two methods the better is that advocated by my hon. friend, Mr. Holder, to leave it permissive rather than to make it obligatory on the federal authority. In regard to the financial adjustment and the regulation of trade, undoubtedly that is the most important part of what may be described as the commercial bargain into which we are entering, and I would only say, after the view which has
evidently been adopted by the Convention as to the desirability of leaving
the question to be dealt with by the federal parliament, that the principle it
seems to me is to give back to each state as nearly as possible what it
contributes, less its proportion of the federal expenditure. That seems to me
to be really the guiding principle of the whole subject. If each state
contributed equally per head there would be no difficulty whatever; but
that is not so, and I think we ought to bear in mind that it never will be so. I
do not believe you will have an equal contribution per
head from the states of the commonwealth any more than you will have it
from towns, parishes, or other districts. A great deal of misapprehension
has arisen, and a great deal of what I regard as very unjust criticism has
been cast upon the labours of the Convention in Adelaide, because that fact
has been forgotten. It is said that so much per head will be produced by
New South Wales, so much by Victoria, and so much by South Australia.
These inequalities must, more or less, always exist, and all we can hope to
arrive at is a fair approximation. The object is really twofold. First, to get
as near as you can, if you are to settle it in the constitution, or to leave it to
the federal parliament with all the knowledge which will be at its disposal,
with the data by which it may be guided in order to finally settle it. I have
always been opposed to having it settled in the constitution, and for this
reason: It seems to me that we are simply going blind. Whatever effort we
may make to arrive at some approximation we are dealing with matters of
prophecy, and not matters of fact. No human being - I do not believe even
an archangel from heaven - could at this moment introduce into the
constitution which it is our mission to frame a provision which would do
justice all round upon the financial question.

The Hon. J. HENRY:

Have archangels any speciality in regard to finance?

Mr. SYMON:

I have no doubt my hon. friend is not merely a great authority in regard
to finance, but he has great qualifications for being an archangel as well.
Even a combination of the two would not produce in this constitution an
arrangement in respect of finance which would give satisfaction to the
people of the colonies. It would, at any rate, give, as it has given before,
the greatest stimulus and the widest scope for all kinds of criticism. But
that is about all. If it is a matter of prophecy, then they tell you that it is
like the Lamentations of Jeremiah, that it is all to the injury of some
particular state or some particular set of taxpayers. Therefore, I am glad, as
I think we must all be glad, that the feeling is crystallising in favour of
what was really adopted by the bill of 1891-the ultimate disposal of this
question by the federal parliament; and as the Premier of New South Wales has said, to what better authority can we possibly commit that task,-a body elected on the widest franchise available, a body which will be as patriotic as any states parliament will be, a body which will be certainly as competent as any other legislative assemblage can possibly be, and concerned not only for the interest of the entire commonwealth-the union of all the states-but concerned to see that in securing that general welfare the interests of no individual state are sacrificed? My belief is that we shall have in the federal parliament a legislative machine that will be actuated by the highest possible principles, and that it will not be open to the charge that it will be likely to view any particular section of the Commonwealth with more favour than another. I would remind hon. members that, in the bill of 1891, which was subjected to a great deal of criticism, and was condemned by its author-Sir Samuel Griffith-with very trenchant criticism, really the power of disposing of this matter was left in the hands of the federal parliament. We know the difficulties which have arisen. We know that the best minds and the best experience have been brought to bear upon this question. We know, as I have said, that in the bill of 1891 we had provisions that for the moment were considered admirable. They were condemned. We know that in Adelaide we had a Finance Committee which sat for a good while thoroughly investigating the subject, and the proposals they brought forward were allowed to slip under the table and were heard of no more. Then came a reference of the Treasurers, and we find that throughout the whole of Australia great denunciations were heard of these proposals, although I am bound to say that, looking at the sliding scale in the light which Mr. Holder has cast upon it in his pamphlet, and also in his speech yesterday, I am inclined to think that if we were to deal with the matter now, the sliding scale system is about as near an approximation to what is fair and just as we could possibly meet with.

Mr. WALKER:
Extending over twenty years!

Mr. SYMON:
I do not say anything about that. The extent of its duration is another matter. Whether it is five or ten years is a matter which I hope the experts on the Finance Committee will be able to settle. No doubt if it is adopted in the Constitution something of that kind will probably be secured. At the same time, we are not able to escape from the bookkeeping system which for some period or other must be adopted. But the vice of all these proposals and schemes is that it is not no much in the details of them as it
is in the inherent impossibility of settling prophetically a practical question which depends on data not now available, and which afterwards will have to be obtained. Passing over a number of other matters with which it seems unnecessary to deal, I wish to say a word as to the suggestion of the hon. member, Mr. Deakin, as to the establishment and payment over of a minimum. I disapprove of that altogether. It we trust the federal parliament we should trust it all in all. If we are to endeavour to fix it minimum, we are met on the very threshold with the anomalous position of Western Australia. We all agree that Western Australia must receive some special treatment; but if we are to deal with that special treatment now, we shall be entangled in the very thing which we wish to avoid, namely, entering upon the details of a financial inquiry by the light of what a particular customs tariff may produce. I therefore think, with the Premier of New South Wales, that we should leave the matter to the federal parliament. A minimum would undoubtedly have the effect of being an encouragement. It might remove difficulties from the path of some who may feel some hesitation as to the state of the particular finances of their own colony; but if we have confidence-confidence in the machine as my right hon. friend put it-then I think we may fairly say to the people of the colonies from which we come, "We recommend you to trust the federal parliament throughout, not only to deal with particular items-maximums or minimums-but to deal with the whole question, so that each colony shall be fairly served, and that each colony's finances shall be fairly maintained." I do not propose to occupy one moment longer upon some other aspects of the matter which have presented themselves, and which are of considerable difficulty, because the main question is really whether we shall or shall not remit this adjustment of the finances to the federal parliament; and if we convey that intimation, as I think, it has been very generally conveyed, to the Finance Committee, it will give them a basis upon which to work, and a beacon by which they may proceed. I will only say this further: It is a mistake to be always on the look out for a "lion in the path." We are very apt to imagine that we see a "lion in the path" when no lion exists. No one can tell what particular difficulties may crop up; and no one can deny that there are difficulties to be overcome - great difficulties; but, if any recommendation would be of influence, as I have no doubt it would be, what I would say to the Finance Committee is, if there is a difficulty - if there is a nettle, let them grasp it firmly - let them not be afraid to meet the difficulties that lie before them; and if they do grasp the nettle firmly, then, out of it, I am quite sure that we, in this Convention, with their help, will be able to pluck the flower of safety and success.
The Hon. J.W. HACKETT (Western Australia): At this late hour of the Convention's proceedings to-day I do not propose to trouble hon. members with very many remarks; but, as the tone of the debate for the last two or three hours has largely occupied itself with local questions-by which I mean questions not peculiar to any one state, but which involve the interests, not of the whole commonwealth, but of two or three states perhaps you, sir, will allow me a few minutes to speak generally on the question, and afterwards to put a few aspects of the matter from the Western Australian point of view, which, if they have been alluded to, have only been alluded to in general terms, and not specifically. I think that, in the first instance, I may congratulate the Committee on the course taken in putting into the forefront this financial difficulty. The feeling that has been evinced, and the expressions which have been called forth in the course of the debate, must very materially shorten the work of the Convention in arriving at its desired conclusion. Had indeed this matter been as fully and freely debated in the Adelaide Convention, with the materials which this Committee possesses at present, I believe that our work at this adjourned Convention would have been so shortened, would have been so satisfactory in everyway, that we might have been prepared to take a poll of the people before many months are over. I take it that the main difficulty now in our path is this financial question. The arrangement of the relations between the states and the commonwealth has never seemed to me to be of such a formidable character as to threaten a suspension of the work required to bring the commonwealth into being. But I have all along felt-and any one familiar with the history of my own colony for the last few years must also have felt, especially if he had been in my own position, labouring in a small minority on behalf of federation and against a great body of doubt and misgiving-that unless we could give a satisfactory reply with regard to the financial bearings between Western Australia and the commonwealth, we might as well spare ourselves the trouble of appealing to our people. Of course the main difficulty in the matter arises from the fact-and it cannot be divorced from it-that the one source of unencumbered revenue-by which I mean revenue, no part of which is applied in payment for services rendered-is the customs. The customs, by the terms and implication, must pass into the hands of the federal authority. It is its natural revenue. But it so happens that the transfer of that revenue to the federal authority is attended with three grave contingencies, every one of which represents a vast body of difficulties that would have to be surmounted before the commonwealth is brought into operation. The first is that the customs must inevitably bring in a revenue immensely greater than the commonwealth will require for its own purposes. That would have a natural tendency to
create extravagance-to cause carelessness and indifference on the part of the financial authorities of the commonwealth -unless they were very closely looked after. The second point is that if it interferes in a fundamental degree-and we cannot close our eyes to the fact that it must interfere in a fundamental degree-with the fiscal policy of one of the largest states of the commonwealth, the probability-I hope not the certainty-is that it would lead more or less to the reversal of that policy. That is the second difficulty which is contingent on the appropriation of the customs by the federal power. The third

is that it robs the states-or perhaps a milder phrase would be that it deprives the states-in all cases of their chief weapon for collecting money. It takes away from them that source to which they are all looking for development, and even for the payment of their way. In view of those three facts, it was inevitable that the question of seizing the customs should, the more it was looked into, constitute itself the main difficulty to be solved before we could see our way clear to establish this federation. We must remember further that it is also complicated by this consideration that we are not now engaged on the construction of a tariff; but this financial question is to be made part of our constitutional bonds. We are not looking so much for revenue as for conditions of union; in other words, finance is to be made a part of the constitution of the commonwealth. There is yet an additional difficulty-that in, that there is practically no tax at the disposal of the commonwealth, so far as we can see, excepting the customs; for it so happens that in the forty years of nationhood among the various Australian colonies they have been exploring all the fields of taxation, and, so far as I know, have occupied them all-all that are known to us and our fellow citizens in the United Kingdom-with the exception of certain special taxes which are imposed on luxuries-on what are commonly called aristocratic luxuries. They have gone beyond that. Not only have they explored and occupied all the fields of taxation; but, because of various exigencies-usually depression at one time or another-they have loaded up all the colonies with as much taxation as they will bear. There is neither room for a new tax nor margin to increase the present taxes. Therefore we are driven back upon customs duties, and we have to face the difficulties as best we may. The spirit in which they have been faced to-day to my mind bodes better for the early inauguration of the commonwealth than anything I have come across either in my reading or experience during the last three months. If we settle this matter satisfactorily to the states, to our people, and to Australia as a whole, we need have no ground of alarm for the future of the commonwealth. For so far as we can see there is no question
which will impose a greater strain upon the capacity, the good feeling, and the patriotism of the people of the commonwealth than the financial question. I have listened to nearly everything which has been said during this debater have not been absent many minutes at any time from the sittings of the Committee—with regard to the materials at our disposal for forming a judgment in regard to this question. I have heard statistics attacked; I have heard them defended; but the doubt has never left my mind that we have not sufficient figures in our hands to enable us to lay down hard and fast lines in regard to the future financial policy of the commonwealth. In other words, we have no materials so assured and so reliable that we could take it upon ourselves to crystallise them into a part of the constitution. The figures which we have tell us a great deal about the past, something about the present, and nothing at all about the future. We must remember that all the difficulty lies in the uncertainty of the future. We have nothing before us now which leads us to do anything that affords the smallest indication in our own fancies, the smallest conjectures as to what will happen when we have such new factors introduced into the situation as a wholly unknown tariff. So far we have been able to refer only to the tariffs now in existence. We do not know what would be the course of intercolonial commerce under a uniform tariff. We cannot forget that behind all these unknown factors there remains the constitution of the commonwealth, whose inevitable operation— I had almost said

whose principal object and intention—is to change the whole course of the relations between the states in regard to trade, production, and expenditure. There is a general feeling growing up, and once it is started it seems to be almost inevitable that it should grow, that the conditions are too great for us to master with the materials at hand. There is a growing feeling that a federal parliament will be in a better position to deal with these difficulties as they arise, and when they arise. In fact, the question is not now whether this and a number of other matters should be left to the federal parliament, but how much of this and other matters is to be left to the federal parliament. It seems to be perfectly inevitable that it should be so. Take one clause of the bill, for example; the final and completing clause of the financial system worked out by the Convention at Adelaide. After making an interim arrangement for seven years, it is there declared that

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 month by month among the several states in proportion to the numbers
of their people as shown by the latest statistics of the commonwealth.

Probably by a slip more than anything else, or possibly with a view to placing it there for discussion, this clause was made a binding part of the constitution. If the constitution were accepted, this provision could only be altered by adopting the designedly protracted and cumbrous course of sending the proposed amendment to the federal parliament, and afterwards to the people of the states. Now it is quite obvious that if a provision of this kind is to be registered in the constitution, and is to be made part of the Commonwealth Bill, there are only two ways in which it can be done. One is to declare that the surplus shall be returned to the various states in proportion to the amounts collected from them, which again involves the perpetual maintenance of border custom houses, if the arrangement is to be made effectual and satisfactory, and which stands condemned for that very reason. Consequently, the proposal made in the Adelaide Convention that the surpluses should be returned to the states, per capita, in proportion to population, was adopted in the bill. I would ask the attention of the Committee for one moment to the probable operation of such a clause in regard to the colony of Western Australia. It must be remembered that if Western Australia comes into the union, however late she may come in, she must come in under this clause, unless it be altered in the manner I have indicated, a most unlikely proceeding, because it is evident that a majority of the states could, if they pleased, block any attempt to alter the clause, even though a majority of the people of the commonwealth were determined to have it revised. The hon. member, Sir Philip Fysh, has calculated that, if the clause were in operation, Western Australia would lose £659,090 in the first few years, and that after the interim arrangement had expired we should lose £613,894 annually. I come now to a matter I understand better, the calculations made by our own Government Statist. He declares that during the year 1898-9 we should lose £386,360. That is a serious loss; but at the next year, 1899-1900, we should lose £411,847.

An Hon. MEMBER:
That will be the first year of the operation of the uniform tariff!
The Hon. J.W. HACKETT:
Yes. He arrives at these figures largely by deducting the loss of intercolonial customs. The chief loss would be due to the cessation of the collection of customs upon intercolonial imports. In the year 1900-1, the loss would amount to £433,975; in the year 1901-2, to £452,560; in the year 1902-3, to £466,978; in the year 1903-4, to £621,122; and in the year 1904-
5, to £652,280.
The Hon. F.W. HOLDER:
That is all upon the assumption that the present abnormal conditions continue!
The Hon. A. DEAKIN:
The figures are only hypothetical!
The Hon. J.W. HACKETT:
They are accurately hypothetical. It is simply out of the question that we could join under any system which involves a per capita return, excepting, of course, for a limited experimental period. But even these figures hardly represent the true position of Western Australia with regard to federation. Those that have been laid upon the table by the Government Statistician of New South Wales take some important matters into consideration. Now, the contribution for services of which we should be relieved, the payment for services rendered, is set down at £158,000 in the papers distributed among hon. members a couple of days ago -that is, about £1 per head. It is manifest that that is extravagant, and that later on it will have to be reduced. It is out of all proportion to the amounts contributed by the other colonies. Take, for example, Tasmania, which has about the same population that we have. The amount of expenditure in respect of the services of which she would be relieved would be £33,000, or about 4s. per head, as against £1 per head in Western Australia. In the case of South Australia, which has just about double our population, the amount of expenditure in respect of services of which who would be relieved would be £41,500, or about 2s per head, as against £1 in the case of Western Australia. Now, adjustments of that kind will have to be made all along the line, if a fair view is to be prevented of the position of Western Australia. It must not be forgotten either that we have no excise, and as our customs in most cases quadruple the normal customs rates of the rest of Australia, it is fair to take for our excise about double the average excise. That being about 2s. 6d., if we take it at 5s. a head, that will be a still further contribution to the federal treasury which will have to be returned; so that, the more you look at it, the more serious the prospect becomes, so far as Western Australia is concerned. Let us now take the other side. We have expended very little in defences. New South Wales and Victoria have expended money liberally in this direction. We have not had the means to expend, nor have we had the opportunity to expend them. No doubt, in time to come, we shall rival the other colonies in an extravagant expenditure in this respect; but, as matters stand at present, the defence bill in New South Wales and Victoria stands at about 4s. per head of the population, while our defence bill is only about 2s. per head. There is not
the slightest doubt that something like an equality will have to be established in that direction if Western Australia is to be satisfied and is to be defended. In fact, it is more than likely that the expenditure per head for defences will be larger than that per capita of the other colonies owing to the vast extent of territory to be defended. The coast-line virtually commands three seas, north, west, and south. There is another matter. Take the ocean lighthouses. New South Wales, with between 700 and 800 miles of coast-line, expends a sum of £16,000 a year on lighthouses. According to the latest particulars which I have been able to obtain, in our own colony of Western Australia the sum expended per annum is £3,000 upon a coast-line 3,000 miles in length. Now, these facts emphasise the importance of us from this western colony, not only looking closely into this financial question.

but doing all that we can to impress upon the Convention the great inequalities of the position of that colony as compared with the rest of the colonies. In view of all these facts, I am afraid I cannot agree with my right hon. friend, Sir John Forrest, that Western Australia does not need exceptional treatment. It is unquestionably the case. Either we must compel the rest of Australia to accept the conditions applicable to us, and in the highest degree unjust and injurious to all or nearly all the other states, or we shall have to accept conditions which will be absolutely ruinous to ourselves. Indeed, it appears to me that if a common rule is to be laid down, we shall have to stand out of the commonwealth until we can make terms under that clause of the constitution which enables the commonwealth to bargain with a state in regard to the conditions of its admission. We are abnormal from first to last. The hon. member, Mr. Higgins, referred to our tariff. The hon. member did not pursue the argument; but, if he intended to show the abnormal conditions we stand in, I would take the opportunity of correcting him in regard to several points, especially as they concern the honor of those who are interested in the Government of the country, which has endeavoured to make the burden of taxation on the people as light as possible, insomuch that at the present time we stand in the position of the most lightly-taxed colony in the Australian group. We have no direct taxation whatever, excepting death duties on a limited scale. We have no property, income, or land tax; and, if you measure our tariff by the rest of the Australian tariffs in succession we come out at the bottom, New South Wales only excepted. With regard to the number of articles, the hon. member will find that we stand lower, with the single exception of New South Wales, than all the other colonies. The year before last we remitted taxation on twenty-one articles, and the year
after on sixty-seven articles-altogether on nearly ninety articles.

Mr. HIGGINS:
There has been a change within the last two years!

The Hon. J.W. HACKETT:
Yes. Most of those articles are not single articles, but groups of commodities. In fact, as it stands now, out of a total import value of £6,500,000 at the very least £2,500,000 worth of goods come in free of duty.

An Hon. MEMBER:
How much of these imports come from the other parts of Australia?

The Hon. J.W. HACKETT:
£3,000,000, and I would point out that that will be very largely diminished within a very short time, because it consists mostly of farm produce, and in three or four years we shall be able to produce all we want in that respect.

Mr. WALKER:
Without protection?

The Hon. J.W. HACKETT:
Yes; we have no protection, except small duties levied on food, and the Right Hon. Sir John Forrest will bear me out in saying that they are left as much for the purpose of revenue as for protection. It is true that our customs revenue now is £7 15s. per head. That is thoroughly anomalous, and a belief has been expressed all round the Committee that that amount will diminish to something approaching £2 per head, which is the average for the whole of Australia. But we have always been abnormal in that respect. What the reason is I cannot say. It maybe that in a thinly-peopled country, possessing large productive resources, there is a smaller number of unproductive inhabitants than in the more densely-populated colonies. Ever since I have known the colony, since 1886, the customs revenue per head has never fallen below £4, and it has exceeded £5 even in years when gold was never heard or dreamt of.

Mr. SOLOMON:
Under a higher tariff!

The Hon. J.W. HACKETT:
Under a higher tariff than we have now, but under a lower tariff than we have had.

Mr. SOLOMON:
The male adults in Western Australia are seven-tenths of the population,
and they earn £4 per week as against £2 per week in other colonies.

The Hon. J.W. HACKETT:

That is the case.

An Hon. MEMBER:

But it will not last!

The Hon. J.W. HACKETT:

It has lasted for ten years, but it will not last for ever. What is to be done under these circumstances? I entirely agree with the Right Hon. Sir John Forrest that we should revert to the provisions of the bill of 1891. In common with the great majority of the members of this Committee, I earnestly hope that the policy indicated of trusting an Australian parliament will be pursued. It seems to me that nothing is more cheering than the different spirit of this Convention now compared with its spirit when we met a few months ago. This Convention has reverted to the spirit of the Convention of 1891, when we were all for trusting to the federal parliament. For some reason doubts seem to have come across the minds of many of the now members of the Convention, if I may say so without offence, and they are unwilling to accord those large powers to the federal parliament which the Convention of 1891 had most willingly and unreservedly given. In fact, we are now beginning to trust the federal parliament. At the same time there is a great deal of force in what the hon. member, Mr. Symon, has urged, that, after all, we are asked to go into this union blindfold. What I would ask the Convention and its Finance Committee to bear in mind is that if we do take this leap in the dark they will at all events let us know how far we shall have to fall, so that there may be some limitation to our descent. I shall not be behind any me in trusting a parliament of our fellow-citizens of Australia. I have the most implicit confidence that when the time comes, even if we stand out for a time, the terms that an Australian state will ask will be fair ones, and that the terms that an Australian parliament offers will not be less fair.

Progress reported.

LEAVE OF ABSENCE.

Motion (by Hon. E. BARTON) agreed to:

That leave of absence for one week be granted to Mr. George Leake on account of urgent private affairs.

Convention adjourned at 5.9 p.m.
Wednesday 8 September, 1897

Petition - Federation of the Railways - Commonwealth of Australia Bill.

The PRESIDENT took the chair at 10.30 a.m.
PETITION.
Mr. MCMILLAN presented a petition from the responsible officers of the New South Wales Local Option League, praying that a provision be introduced into the constitution to prevent the forcing of alcohol and opium into any State against its wish.

FEDERATION OF THE RAILWAYS.
Mr. WISE:
I wish to ask you, sir, whether you have received a communication from the Wagga Farmers Conference, presenting a resolution to the effect that federation will not be acceptable to the producers, unless it provides for the federation of the railways; and if so, by what means such resolution can be laid on the table of the Convention?

The PRESIDENT:
I have received such a communication, and have consulted with the leader of the Convention on the subject; but it was thought that as the representation was not in the form of a petition, which is the proper mode of addressing this Convention as regards any action it is desired to take, the best course would be to acknowledge its receipt, and to point out what should be done. At the same time, if I understand it is the wish of the writers that publicity might be given to the communication, of course there will be no objection to handing the communication to the press.

COMMONWEALTH OF AUSTRALIA BILL.
In committee (consideration resumed from 7th September, vide page 155):
Clause 88. Uniform duties of customs shall be imposed within two years after the establishment of the commonwealth.
Amendment suggested by the House of Assembly of South Australia:
In line 1, after "customs," to insert "and excise."
Question-That the words "and excise" be inserted-proposed.

The Right Hon. Sir G. TURNER (Victoria)[10.32]:
I have to express my regret that, in consequence of serious illness, I shall be unable to speak, perhaps, as clearly or as fully as I ought to do as
Treasurer of Victoria; but I feel perfectly certain that hon. members will, under the circumstances, overlook any shortcomings on my part. I think this discussion has shown the wisdom of the course we are pursuing in having a general debate on financial matters before the Finance Committee undertake the very difficult and onerous task of once again endeavouring to devise a scheme in connection with the finances of the commonwealth which will bear scrutiny, and be satisfactory to the people interested. Certain tables have been circulated, and representatives here have referred to them, and I feel bound also to refer to them briefly. We recollect how those tables were sprung upon us in the Finance Committee and at the Convention in Adelaide. They were rammed down our throats, and we were led to believe, and people outside were, unfortunately, led to believe, that they were justifiable. On the basis of those tables we were told that the mother colony would have to bear the whole burden of federation, and that, while she was inclined to be generous to her poorer daughters to the extent of a few hundred thousand pounds, when it came to a million or so it was necessary to draw the line. Unfortunately also, the use of those tables has not stopped there, because others have unwittingly used them as being correct. Even my hon. friend, Mr. McMillan, in an address he delivered to the Chamber of Commerce, which he has published in a very useful pamphlet, referred to them in such a way as to lead a casual reader to believe that New South Wales, under the proposed system, would lose £668,000 a year and that Victoria would gain £812,000 a year.

Mr. MCMILLAN:

I think I, to a certain extent, said that I did not absolutely consider them reliable!

The Right Hon. Sir G. TURNER:

The hon. gentleman qualified it to some extent.

Mr. MCMILLAN:

As much as I could!

The Right Hon. Sir G. TURNER:

No, I do not think the hon. gentleman did, because he might have said that these figures were wholly and totally unreliable, as they undoubtedly are. The foundation on which they rest is absolutely rotten, and the hon. gentleman, as a financial man, must know it as well as any one here. That statement, coming from that hon. gentleman, has had great weight, and will do, to my mind, a considerable amount of injury unless it is clearly shown now, as may be done by this Convention, that these figures should have no reliance whatever placed on them. Fortunately for us, Mr. Pulsford has taken this task out of our hands, and he has shown clearly and distinctly by many examples, and if necessary I could add many others, and give further
reasons—that these figures ought not to weigh one iota with us in considering this question. This bombshell was thrown in amongst us. Why it was thrown in I do not know, but it was thrown in, and at the time it had some effect. I believe it led some of my colleagues from Victoria to the conclusion that the only means of getting rid of this difficulty was the imposition of a land-tax, and as they were strongly against a land-tax, they were prepared to agree to almost anything. Unfortunately, like many other bombshells, although it did not accomplish its object, it has, to my mind, done more injury, especially in this colony, to federation than anything which has happened during the last ten years. The sooner we make it clear that we are perfectly satisfied that these figures should be put on one side the better for the cause we have at heart. No one, I think, will deny that ultimately the uniform tariff will, as nearly as possible, realise a uniform rate throughout the whole of Australasia. There may be variances in some colonies. They may contribute more on one line than they do on another; but in the colony where they contribute more on one line, they will probably contribute less on another line. Taking it all round, in my opinion, after thinking the matter out carefully and getting all the information I could, there is no reasonable doubt that we will, after some reasonable period, contribute equally per capita to the amount under a uniform tariff.

Mr. WALKER: Excepting Western Australia!

The Right Hon. Sir G. TURNER: In all my remarks I intend to leave Western Australia out of the question, because the abnormal conditions existing there put us in a difficult position to deal with that colony, unless we treat her in an exceptional way, as undoubtedly the Finance Committee will do. The Victorian Government appointed a committee of gentlemen holding responsible positions—the Secretary of Customs, a gentleman who was for many years an accountant in the Customs, the accountant to the Treasury, the Government Statist, and a well-known accountant in our department—to investigate this matter. Hon. members will find their report in a document which Victoria's representatives have brought here for their consideration. On page 5 of their report they show that taking the customs and excise duties collected in 1896 on Australasian goods, and deducting that amount from the total customs revenue derived, the net amount per head in Victoria, New South Wales, and South Australia approximates very closely. I will give the figures. In Victoria, the total we collected was £2,047,000, the duties on Australian goods, £291,000, leaving a net amount of £1,756,000; in New South Wales, the total was £1,848,000, the duties on Australian goods, £201,000, leaving a net amount of £1,647,000; and in South Australia, the total was £1,452,000, the duties on Australian goods, £195,000, leaving a net amount of £1,257,000. These figures show that we contribute equally per capita to the amount under a uniform tariff.
South Wales the total was £2,259,000, the duties on Australian goods, £372,000, leaving a net amount of £1,887,000; and in South Australia the total was £556,000, with duties on Australian goods, £42,000, leaving a net amount of £514,000. Working this out the amount will come for Victoria to £1 9s. 9d.; for New South Wales to £1 9s. 10d.; and for South Australia to £1 9s. 1d. Mr. Pulsford follows that up by showing that, allowing for the difference in populations, the imports of New South Wales in 1896 would stand, after allowing for the exports, at about £10,000,000, against £8,000,000. He further quotes certain statistics from the Government Statistician's book which show that of tobacco and alcohol both colonies consume somewhat alike, the proportions being—New South Wales, tobacco, 3.38 lb.; Victoria, 3.01 lb.; alcohol, New South Wales, 2.17 gallons; Victoria, 2.32 gallons. Taking all the figures available, and looking at the position fairly, I think we are forced to the conclusion, as I have said, that we may fairly base all our calculations of the future on the assumption that in a few years time we may deal with the matter on a per capita basis. I think Mr. McMillan very fairly put the difficulty before us which is raised by the fact that we have in New South Wales a free-trade tariff, and in the other colonies practically a protective tariff. Whilst dealing with this subject and looking at it from a states point of view, I join my friend, Mr. Holder, in saying that we are not fairly or rightly subject to any charge of provincialism. We know that we are giving up to the commonwealth the elastic source of our revenue when we part with our customs. We are bound to see exactly where we are going to be led before we do that. Therefore, in the remarks I make with regard to the various proposals, I am bound, as Treasurer of Victoria for the time-being, to ascertain what amount of loss will be forded on the colony by joining the commonwealth, and also by what means we are going to make up that deficiency. We have had various schemes submitted for dealing with this troublesome situation. In 1891 we had a scheme which, I confess, I took to be fair and reasonable; but afterwards, when figures were applied to it, it was admitted by the authors, and is generally admitted now, to be one which would not be acceptable to a great many of the colonies. Then the Convention at Bathurst formulated a scheme which has met with no acceptance, because it would involve, practically for all time, bookkeeping; and book-keeping is so foreign to federation that I think we are fairly unanimous in our opinion that we should get rid of that system at the earliest possible date. Then our Finance Committee evolved a scheme, which received little support in the Convention. Ultimately the Treasurers were requested to formulate a scheme, and they did so, and that is really
the only scheme at all practicable to my mind which is at present before us for consideration. We must not lose sight of the basis on which this scheme rests. It rests on a per capita distribution of the surplus. That is the leading principle upon which it is formulated, and many of us thought that the per capita distribution should come into operation at once on the imposition of uniform customs. But, again, the trouble of New South Wales having a free-trade tariff brought us face to face with a difficulty. It is pointed out by the representatives of that colony on the Finance Committee that if we brought the per capita system into operation at once we would deal somewhat unfairly with them, because they would, in the calculation of imports, receive a larger amount than they would get credit for in the distribution. It was pointed out very strongly that the uniform tariff, enabling manufactures to be started, would not take effect in that colony for a number of years. I myself thought there was some considerable force in that argument. We then came to a compromise that instead of having a sudden drop in that colony we should extend it over a period of five years. I think that was a fair arrangement. Indeed I have now come to the conclusion that it was somewhat too liberal an arrangement. I do not think there is so much in this question with regard to the imports, because there will be almost two years in which it will be known that a uniform tariff—an admittedly protective tariff to some extent is about to be imposed, and we may fairly assume that manufacturers in New South Wales will say, "We are to have this tariff, and we will be prepared as soon as it is imposed to compete with the outside world, and will start our manufactures at once." Then manufacturers in Victoria will not be blind to their interests. They have their machinery; they have their means of manufacturing; and they will lay in good stocks, and be prepared to supply New South Wales as soon as they have free-trade. Therefore, I think the amount of customs which will be collected will decrease much more rapidly than is anticipated. I think in one or two years my friends in New South Wales will probably find that the decrease will have taken place.

Mr. MCMILLAN:

The right hon.

The Right Hon. Sir G. TURNER:

If they, have not it is because politicians, in many instances, have not very great faith in themselves. If we are thought little of outside it is because we are in the habit of belittling ourselves inside.

Mr. MCMILLAN:

I mean the chances of politics!
The Right Hon. Sir G. TURNER:

The chances of politics, so far as this matter is concerned, as I will endeavour to show later on, are pretty certain to be that for many years under federation we will undoubtedly have a protective tariff against the outside world, so that in allowing the five years' sliding scale period I feel that we have treated the mother colony not only fairly, but liberally.

Mr. WALKER:

Does the right hon. gentleman think that Queensland would agree to that if she came in?

The Right Hon. Sir G. TURNER:

Queensland I have not considered, because she has so far not attempted to come here and show us what her difficulties are, or to endeavour to arrange such a scheme as she may eventually, come under.

The Hon. E. BARTON:

She has done a good deal of sliding already!

The Right Hon. Sir G. TURNER:

Undoubtedly she has, and I do not know that we ought to add to our many other difficulties by considering a colony which will not come here to help us to formulate such a scheme as might be satisfactory to her. I admire our friends from Western Australia; they do come here and point out their difficulties, and they find us all ready and willing, as we would be in the case of Queensland, to meet any fair and reasonable difficulties placed before us. The position in New South Wales in regard to free-trade is no doubt difficult to that colony, because, as was pointed out at the last Convention, and as has been pointed out in our parliaments and here, it will enable merchants to stock very largely under a free-trade tariff with, the view of ultimately sending the goods into the different colonies without the payment of duties. That is something we ought to endeavour to prevent. So far as the other colonies are concerned it has been-provided that although the goods may come into Sydney free of duty if they pass over the borders into other colonies those colonies are to get credit as if the duties had been paid by them. That of course places them in a fairly good position, but it places the commonwealth in the unfortunate position of having to pay money which it actually does not receive. There is another point in regard to that. Although the colony would not suffer to any appreciable extent, there is no doubt that the manufacturers in Victoria would suffer very largely in consequence of those goods being sent into that colony free of duty. The difficulty arises in New South Wales, and I say that New South Wales ought to be prepared to obviate it. We can to some extent in the other colonies obviate it by insisting that those goods, for a period at all events of twelve months, shall be charged with duty on passing into our
colony-goods which have been imported with a view of putting profit into the merchants' pockets, doing something that may be perfectly legitimate in itself, but which is injurious to the commonwealth. Another suggestion has occurred to me, and I give it to the Convention for what it is worth. It may appear on further consideration that it is impracticable. I take it that the object of free-trade in New South Wales is to let the people of New South Wales have the benefits which it is alleged accrue from free-trade; but it is never intended to give what I, without wishing to be offensive, would call illegitimate benefits to the merchants; therefore I offer this suggestion: That if this federation is to take place it ought to be a condition that the Parliament of New South Wales shall impose a protective tariff, not for the purpose of doing away with free-trade—of course if they choose to impose a protective tariff for that purpose, well and good—I, as a protectionist, will be glad to see it; but, independently of that, I think it would be quite competent for them to impose a protective tariff for the purpose of getting rid of this difficulty by charging a duty and then allowing a rebate to all the importers who can show that the goods imported have actually been consumed in the colony during the specified time honestly and bona fide.

Mr. WALKER:
Would it not be better to make the intercolonial free-trade commence from the second year?

An Hon. MEMBER:
Where would New South Wales be able to get her revenue from?

The Right Hon. Sir G. TURNER:
New South Wales would to some extent be able to get rid of the difficulty by imposing a reasonable tariff.

The Hon. J. HENRY:
How would you reach all the stocks in hand prior to the duties coming into force?

An Hon. MEMBER:
To prevent speculation?

The Right Hon. Sir G. TURNER:
The object that I have in view is to prevent illegitimate speculation, and I have no doubt that, if the Finance Committee thoroughly thrash out this scheme on a basis somewhat similar to that, we might, with the assistance of the representatives of New South Wales, come to a satisfactory arrangement, for they, in their own interest, ought to be anxious to prevent
what I have mentioned from being done, because it is admitted, and it is true, that, if goods can be imported into New South Wales without any duty being paid upon them, and if we, in the other colonies, can get credit for them, not only will manufacturers be injured, and the commonwealth have to pay money it does not receive, but New South Wales, in the year of calculation, will be put at the bottom of the list, and that would form the basis for the other four years. If we can, on a reasonable basis, such as I have suggested, charge a duty, and if, as in our colony, we have an allowance of drawback to those who are not attempting to take advantage of us, we may to some extent obviate the difficulty. However, I admit that this idea occurred to me only lately. I have not thought it out as thoroughly as its importance may deserve, and, perhaps, other hon. members may be able to show that it is impracticable or unjust. I give it to the convention for what it is worth, in the hope that some hon. members for New South Wales will be able to discuss the matter, and show whether it is a reasonable and fair mode of dealing with the difficulty.

Mr. SOLOMON:

The right hon. gentleman's suggestion will give a lot of ammunition to the opponents of federation!

Mr. LYNE:

There is a great deal of ammunition left if you do not agree to it!

The Right Hon. Sir G. TURNER:

The hon. members Mr. McMillan, with his usual frankness has admitted that the per capita arrangement is the most scientific and simple means of dealing with the matter eventually, although it should not be enforced at present in the exceptional circumstances of New South Wales. If the period is not long enough we could, of course, lengthen it. The hon. gentleman also says that it is only fair to expect that the merchants of Sydney will load up. I desire to help the hon. gentleman to get a fair system, and to prevent the merchants of Sydney from loading up if we can do so fairly. This idea about loading up is apparently looked upon as a somewhat new one; but it was pointed out at the last Convention that no doubt the merchants would take advantage of this provision, and we knew that we had ultimately to devise some scheme as far as we possibly could to prevent this difficulty from arising. I ask hon. members whether any other scheme has been placed before us which is better than the one which is submitted. The hon. member, Mr. Holder, says that unfortunately this scheme does not appear to have been challenged. I have listened to all the other proposals, and I am still of opinion that this scheme, whether we adopt it here or whether the federal parliament adopt it hereafter, will be
the basis of the system of distribution of the surplus that must ultimately come about.

Mr. MCMILLAN:

The only objection to that scheme was basing it upon the first year. As a mere matter of form it is perfect!

The Right Hon. Sir G. TURNER:

I am glad that my hon. friend has gained experience, and will support me. There are two objections alleged. One in that the sliding scale term is not long enough. I think it is too long, but I will not go back on the compromise which has been made. I think five years is ample for New South Wales, and I do not object to five years, because we shall be actually dealing with the amount collected in one year, and if we extend the period to five years we shall not be giving too great an advantage to New South Wales.

Mr. MCMILLAN:

I think that five years is conceded!

The Right Hon. Sir G. TURNER:

No it is not. Some hon. members desire five and twenty years. As my hon. friend has pointed out, the real objection is that we have taken the wrong year. If we limit it to that point surely we can, among ourselves, devise a means of getting over the difficulty. It has been suggested that we should take the second year. If we do so it means another year's bookkeeping. But what is that if we can get a fair and equitable arrangement? If, by taking the second year, we can prevent this loading up and it would prevent it, though not altogether—and we can make this scheme fair and equitable, I shall be prepared to throw in my lot with those who say, "Let us take the second year, or an average of the first and second years." This is a matter with which I have no doubt the Finance Committee, if it comes before them, will, upon talking it over, be well able to deal. So far as I have been able to see, it is really the only objection of any weight which has been raised against this scheme, which has been open to criticism for so many months. It is true that many of the parliaments have simply wiped out the scheme, and they have not attempted to suggest any clauses showing what their ideas on the subject are. I consider that an admission on their part that, with the further length of time they have had, and the further information they have derived from the many criticisms which have been delivered in the various colonies, they are not prepared to submit any scheme which they think would be more acceptable to the people than that which the Treasurers suggested after the hurried consultation which they held over the matter in Adelaide. I have said that, so far as bookkeeping is concerned, I am one of those who desire to obviate the difficulty at the
earliest possible moment. One writer in the press—evidently a very able
gentleman—has told us that the whole difficulty can be got rid of by making
savings equivalent to the amount we shall lose. It is apparently admitted
that, if Queensland comes in, we shall lose intercolonial duties amounting
to, probably, £1,000,000, and that if Queensland does not come in we shall
lose less than half that amount. Of

the £290,000 odd which we collect from intercolonial duties in Victoria,
£190,000 is obtained from duties on sugar, most of which comes from
Queensland, while £60,000 of what is left is collected by means of what
our friends look upon as the very obnoxious stock-tax. Now we are told
that we can save £1,000,000 a year by handing over and consolidating the
debts of the various colonies.

The Hon. H. DOBSON:
I think it is £500,000!

The Right Hon. Sir G. TURNER:
Well, £500,000.

Mr. MCMILLAN:
How shall we be able to save if we do not consolidate?

The Right Hon. Sir G. TURNER:
We cannot. That is the difficulty. I have always argued that, eventually,
we will, as a commonwealth, be able to save £1,000,000 a year, and
perhaps more, as the loans of the various colonies expire, or as the time of
expiration drawn near, though, no doubt, the colonies, if we do not
federate, will themselves be able to save almost as much. I am not at all
sure that, upon the renewal of the existing loans, the money-lenders will be
very much more pleased with the commonwealth securities than they are
with the securities which are offered to them now by the different colonies.
They know that they are perfectly safe now, and, as astute business men,
you are perfectly satisfied that the colonies are always solvent enough to
pay the interest. While, no doubt, they would like to have a larger
consolidated stock for market purposes and it is our curse now that we
have no large stock-

Mr. SOLOMON:
They would like to have an interminable stock!

The Right Hon. Sir G. TURNER:
Yes. That would be better for market purposes. Therefore, when we came
to renew, or when we came to borrow further, we should probably get
better terms. But so far as security is concerned, I am perfectly convinced
that the securities of the individual colonies are just as good as the
securities of the federal government would be. So that any saving of this
kind is at the present time a myth; and that is a point which we must very carefully bear in mind. We know that a loss must take place if we have federation, and that, unless the states recover almost as much as they contribute to the federal government, they will not be able to carry on their work. The saving which would be gained by consolidating our loans would no doubt take place eventually; but it is a saving which we cannot take into consideration now. The same remark would apply in regard to the saving which would take place upon the consolidation of the railways. I believe that if the railways were consolidated, and managed under federal control, free from the pressure which can be brought to bear by the states, higher rates could be charged and more revenue could be raised. But the amalgamation of the railways is, at the present time, admittedly impossible. Therefore we must put any saving on that account out of the question altogether. Dealing shortly with the loans question, while I usually agree with the hon. member, Mr. Holder, I do not agree with his position that we ought not to say in the bill we are framing that it shall be compulsory upon the commonwealth to take over the loans of the colonies, because that will be giving a bonus to the English capitalist. If we say that we are going to amalgamate, and we propose to convert and to consolidate our loans at once, no doubt the prices of our stock will go up, because the holders of it will ask for more. But we are not likely to do that. It will be only as the stock falls due that the commonwealth will be able to convert upon anything like terms which will suit us. If we simply say that the commonwealth may take over these loans

-as, we ought to do to avoid the difficulty—will not the same difficulty arise when we come to convert and to consolidate, if we ever do? The moment it is intimated that the commonwealth intends to consolidate the loans of the various colonies, the holders of the stock will say, "This is going to be more valuable and we shall want more for it." If we are to bargain with individual holders of stock, and to say, "We will give you so much if you will take the new stock on our terms," then we shall have, not one large stock, but partly old stock and partly consolidated stock.

An Hon. MEMBER:

The holders of the stock must take payment if we offer it to them!

The Right Hon. Sir G. TURNER:

They need not take payment for the stock until it falls due. If we wait until the stock falls due, it is immaterial whether we say that it shall be optional, or that it shall be compulsory, to take it over. But if we make it compulsory, I say that even then it will make no difference.
The Hon. F.W. HOLDER:
We cannot make it compulsory, because there are two parties to the bargain!

The Right Hon. Sir G. TURNER:
Well, as the Convention was against me upon this point before, I will not press it any further at the present time. I am against the proposal to take over only a portion of the loans. I think it would be a great mistake for the commonwealth to take over loans to the extent of £30 or £40 per head, if that were a fair mode of arranging the matter, which it is not, anymore than the per capita scheme is. I would not be in favour of taking over a portion of the debts of the colonies, making the commonwealth responsible for a portion of the debts of the colonies, and the individual states responsible for another portion of it.

An Hon. MEMBER:
That is not proposed!

The Right Hon. Sir G. TURNER:
It is proposed by some that the commonwealth shall take over the debts of the colonies to the amount of £40 per head of the population.

The Hon. J. HENRY:
Take over the whole of the debts, but make it obligatory on the colonies to be responsible to the federal government for all in excess of a certain proportion.

The Right Hon. Sir G. TURNER:
That, I believe, is the proposal put forward by Tasmania; but the proposal was made at the last sitting of the Convention at Adelaide that the commonwealth should be at liberty to take over only a portion of the debts of the colonies.

An Hon. MEMBER:
A ratable proportion!

The Right Hon. Sir G. TURNER:
That is objectionable, because it would never do. We want to have one stock.

The Hon. E. BARTON:
Power is given in the bill!

The Right Hon. Sir G. TURNER:
Yes, I know it is there; but it would be unwise to exercise that power. However, it is only a power in the bill, and the federal parliament would exercise its wisdom in dealing with the matter. Now, it is perfectly clear that we must not have a surplus. That has been a trouble to Treasurers in
days gone by, and will be a trouble to the federal treasurer unless we take the surplus away from him by some definite and distinct means. On one occasion in Victoria we had a surplus of £1,700,000, and we have been in trouble ever since. We do not want a surplus like that again; we are satisfied with smaller ones now. But it is admitted that we must hand over to the federal government the customs if we are to have a federation, and that source of revenue will undoubtedly furnish a surplus. Now, we have to divide it. There are only two ways of dividing it either in proportion to the collection from each colony or per capita. Those are the only two propositions it is possible to suggest. If we are to divide the surplus on the basis of collection it will necessitate book-keeping accounts for all time, or for as long a period as the practice is continued. Therefore, I think we have come down to only one mode which is feasible, and that in the per capita distribution, subject to such modifications as will make it fair from the present time. We have had two or three suggestions to that end which are well worthy of consideration. One is: that we shall deal with narcotics and spirits as distinct subjects. That might to some extent get over the difficulty. I am not now in favour of it; but I admit that it is well worth consideration. It has also been suggested that in calculating the population we should deal with adults or with males, and that might enable us to meet the views of the other colonies. I have no decided view upon the question, and I am quite willing to consider it with our hon. friends upon the Finance Committee if the scheme will get us out of the difficulty. One thing we must keep before us: we cannot have an absolute equality. If we are to enter this federation there must be give and take; and certain of the colonies must be prepared to sacrifice something for the assistance of the smaller colonies—to enable them to tide over their difficulty. We must keep this one point always before us, and be prepared to tell those we represent that we are making sacrifices, but that we think the end in view justifies them—that we must be prepared to make some reasonable sacrifice for the purpose of bringing us together in the great scheme we all desire to see accomplished. Now what suggestions have been made which would enable the Finance Committee to arrive at any decision in this matter? The most popular—and it is one which seems to have been well received, as far as I can judge—is that we should shelve the matter—that we should leave it to the federal parliament to decide it—that we are not competent to deal with the question—that we must give it up as something beyond our powers, and must trust the federal body with this great matter as we have trusted them with other matters. But even those who advocate that particular proposal are divided into three classes.
Some are prepared to trust the federal parliament if they will guarantee a certain amount for all time. Some are prepared to trust them if there be a guarantee of a fixed amount for five years. Others, again, are prepared to trust them absolutely. Now, how are we to meet these three classes? My hon. friend, Mr. McMillan, also says that he will trust the federal parliament, but he says that he thinks that in deference to the views of the other colonies-and this was elicited by an interjection—we should have a period of five years.

Mr. MCMILLAN:

In deference to their peculiar position!

The Right Hon. Sir G. TURNER:

New South Wales, with its enormous land revenue, the hon. member tells us, is in a position different from the other colonies. I think she has about £2,000,000 a year from land, and, as a matter of fact, about £1,250,000 of that is derived from the sale of land. Now, I think that if New South Wales can manage to get a certain amount of extra revenue without much injury to the people, it would be a good thing to do it; and instead of eating up all this capital and using it for current purposes, she might very fairly deal with the money in the direction of forming a sinking fund, with a view to the payment of some of her liabilities. That would be a grand idea. We have started it in a small way in Victoria, and it is gradually growing with us. For instance, we have taken the whole of the mallee country, and we say, "Whatever we get from this land we will put into a sinking fund for the purpose of eventually helping to pay off our debt." Now, New South Wales has £1,250,000 of revenue from the sale of land. She could put the whole of that into a sinking fund, and could in a few years wipe off her debt, and be free from the interest she has now to pay. I throw that out as a suggestion. If my protectionist friends are in office they might collect another £500,000 from protective duties. They would then be able to take a large proportion of this capital and apply it to this particular purpose.

Mr. MCMILLAN:

We might give you an area for a federal capital free!

The Right Hon. Sir G. TURNER:

You might give us Riverina. I will make a bargain with my hon. friend. If New South Wales, with her usual generosity, is anxious to help us, let the hon. member advocate before his constituents, or in the next Parliament, that Riverina should be handed over to Victoria.

Mr. MCMILLAN:

You say you have it now!
The Right Hon. Sir G. TURNER:

We have it practically. Now my hon. friend, Mr. Deakin, who is an ardent federationist, cuts the Gordian knot very simply. He says we shall get rid of all the difficulty if we take a certain fixed sum calculated on the receipts, as at present, or for a series of years, and making that the amount to be handed over to the states. On its being pointed out to the hon. member that it that were to be done the interest on the debts might be reduced, whilst the customs might steadily increase until they brought in a very large amount under the uniform tariff, the hon. member said, "Let that be the minimum amount" - that being the amount proposed by the hon. member. But we should deal with the whole surplus. In America they handed over the whole duties less a fixed amount, thereby having a very large sum, and there was a continuous demand for its extravagant expenditure, and I am afraid that under the arrangement suggested by the hon. member we should have taking place that which has taken place in America. On the other hand, if we make it the minimum amount there would be continual logrolling, and continual pressure would be brought to bear upon the federal parliament to get better terms, as has occurred in Canada. While I agree with the hon. member on many subjects, I cannot agree with him as to this mode of getting rid of the difficulty. The hon. member, Mr. Walker, brought forward a scheme to capitalise the discrepancies. I endeavoured to understand it; but I confess that so far I have not mastered its intricacies. As, however, we shall now have the benefit of the hon. member's advice upon the Finance Committee, I have no doubt that we shall eventually understand the matter. If the hon. member's scheme obviates the difficulty, we shall no doubt be very glad to deal with it. It carries on book-keeping, however, for a period of five years. The hon. member says, "Let invoices be sent in"; but we know that if we have to trust to the merchants to send in invoices, in a number of cases it will not be done.

Mr. WALKER:

Make it compulsory!

The Right Hon. Sir G. TURNER:

You may make it so, and you may impose any penalty you like; but the matter will be left to clerks; they will be careless, and invoices will not be sent in. However, I have not yet had an opportunity of thoroughly understanding the hon. member's scheme. I have no doubt we shall do so when we

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there be extravagance. It is all very well to say that we should trust them; but we know that when a Treasurer has money to spend, pressure is
brought to bear on him to spend that money. Look at what is occurring in Victoria. For the first time in many years we have a trifling surplus. Is not pressure being brought to bear upon me from all sides to spend it?

Mr. MCMILLAN:

Does not the hon. member resist it?

The Right Hon. Sir G. TURNER:

I do resist it, and intend to resist it; but if I had a surplus of £400,000 or £500,000 the pressure would be too strong. No Treasurer could resist it. So surely as you allow the federal parliament a surplus to spend, so surely will the Government of the day insist on spending a great deal of it. There has been the same experience in every colony, and we shall have the same experience wherever we have to deal with human nature. I am strongly of opinion that we ought at once to saddle the federal parliament with such liabilities that there will be no surplus. The only way is to give them a greater expenditure than they will have receipts from customs to meet. The mere ordering of them to pay interest on the debt will not get rid of the difficulty of distribution of the surplus. It must be provided for on the per capita basis or upon some other system.

Mr. MCMILLAN:

What about the future debts?

The Right Hon. Sir G. TURNER:

There will be only one consolidated debt for the whole of Australia. The federal parliament will have to take over the whole of the present debt, and when once they take over the present debt-

Mr. MCMILLAN:

Future borrowing will have to be done with the consent of the central government!

The Right Hon. Sir G. TURNER:

The borrowing will have to be by the central government for a particular colony, and that particular colony will become responsible for the interest.

Mr. MCMILLAN:

The federal government could not be responsible for all the states might borrow!

The Right Hon. Sir G. TURNER:

Not unless it assented, and that would be the most effective check upon improper borrowing. I quite admit that we must have one authority to deal with the loans.

Mr. LYNE:

Supposing one state wanted to borrow money for a railway, would you give the federal government power to prevent that?

The Right Hon. Sir G. TURNER:
I think it necessarily follows that if we hand over the existing debts, we cannot make the federation liable for one portion of the debts and separate colonies liable for other parts of the debts. It is impossible to have two systems running concurrently with any satisfaction; but I am quite open to hear argument on the other side of that question. I am quite certain that if that course is to be taken, we must have only one borrower. As far as New South Wales is concerned, I think, as I have said before, that she has been very liberally dealt with. We have met her very fairly on the question of the aggregate distribution. The first idea was that a limited amount of the surplus was to be handed back to each state. It was pointed out to us that owing to the unfortunate policy—I will not say the unfortunate, but the present policy—of New South Wales, she would get less under that arrangement than she contributed. We then agreed, in fairness, to make the amount an aggregate sum. To meet New South Wales, we agreed to a sliding scale. We must not forget that although New South Wales may contribute a considerable sum, she will undoubtedly save a large amount in expenditure if the surplus is distributed per capita instead of an exact amount. The Hon. Sir Philip Fysh has shown by his tables that the saving will be a large sum. Whether his figures are absolutely correct I am not prepared to say. It is admitted by all the writers in New South Wales that a distribution per capita is favourable to this colony, so on the whole I think New South Wales has not much to grumble about in connection with the various proposals which have been put forward. I shall now deal shortly with the questions of the railways and the appointment of an interstate commission, because, although they are hardly before us at the present time, they have been introduced into the discussion. As far as the inter-state commission is concerned, I think it is somewhat peculiar that when the Finance Committee recommended such a commission, with certain powers and authorities, when we came to consider the draft bill, we found in it a proviso which was very objectionable to Victoria, although we were told it was put in for our benefit. We could not see the benefit to us of that particular proviso, which was as follows:—

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 neighbouring state.

After careful consideration we asked that that should be struck out. Now that it has been struck out, all interest in this inter-state commission seems to have died. It is not wanted; it is of no use. It is rather a curse. It is
somewhat peculiar that this inter-state to commission should have been somewhat popular at the last Convention while the proviso existed, and that it should now be so unpopular after the proviso has been struck out. I put very shortly the views I held with regard to this railway rate question at the last Convention. At page 1129 of the official report, it will be found that I said:

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.

I now say, after months of further opportunity for consideration, that that is the true federal principle whether it be a question of railway or water carriage. If we are to have a true federation we should wipe out all our imaginary lines, our platform speakers, and after dinner orators. It is the object of federation to wipe out our imaginary lines of demarcation, and to have one great island continent. If that is the true principle on which federation is to be based, then we ought to deal with the railways so that our people in all parts of the country shall be able to send their goods to their natural port, and not be forced by any artificial means to send them to a port which is not their natural port. Of course, this is a serious subject for South Australia, and it is also a serious subject for Victoria.

Mr. McMILLAN:

By natural port do you mean the nearest port?

The Right Hon. Sir G. TURNER:

Not always. All things being equal the nearest port is the natural port. Of course, it might be that being closer to a railway line, it would suit some people to send their goods to Sydney and not to Melbourne.

Mr. WALKER:

The right hon. gentleman said it was a serious matter for South Australia; how is it so?

The Right Hon. Sir G. TURNER:

Because by the railway rates that we impose we prevent traffic from going to South Australia which ought to go there; If we have federation we are perfectly prepared to consent that that traffic should go there. The serious subject as between New South Wales and Victoria is the Riverina trade. Victorian capital and the Victorian people brought Riverina to the front while New South Wales neglected it.
Victorian railways have been taken there as far as we could take them. If we had had the Riverina district, as we ought to have had, we would have taken our railways further on. We opened up that territory years ago. Until lately we had undisputed possession, but New South Wales has since claimed it.

Mr. MCMILLAN:

Does Victoria pay for the roads, the gaols, and courthouses in that part of the country?

The Right Hon. Sir G. TURNER:

No; but we have not sent any of our criminals there. There is no doubt that we have opened up that part of the country, and it cannot be expected that our people and our merchants are going to quietly submit, by the provisions of this bill, to have the present cut-throat policy abolished as far as Victoria is concerned, while the same cut-throat policy is to be continued by New South Wales. We are prepared to have that cut-throat policy on both sides swept away, but we are not prepared to give up our weapon of defence or offence while that weapon is still to be used by New South Wales.

The Hon. E. BARTON:

Just because you happen to be there!

The Right Hon. Sir G. TURNER:

Just so, and, geographically, the district belongs to us.

The Hon. E. BARTON:

That is one way of getting a title! The Right Hon. Sir G. TURNER: So far as this railway question is concerned, it must remain as it is, or, otherwise, there must be an independent tribunal established to settle the difficulty. We care not whether it is the federal parliament, the federal judiciary, or an inter-state commission. That is immaterial; but unless we are to have some independent tribunal you may rest assured our people will be determined to fight, not for the purpose of getting the trade, but for the purpose of keeping it, because we have it already. The hon. member, Mr. McMillan, admits that. It may mean that we shall have to reduce our railway rates all round, and give concessions to people in our own colony similar to those we give to people outside; but I am perfectly certain that our merchants and I do not look upon this as a strong bar to federation—will insist on reducing our railway rates, so as to keep the trade we have already. I do hope some means will be devised to prevent this conflict in future. I think no power should be allowed to use the railways so as to destroy the benefits of intercolonial free-trade. Unless we have some independent tribunal to decide this question, I say unhesitatingly that, to a, very great extent, the railways can be worked so as to prejudice what we
desire to see, namely, intercolonial freetrade. I do hope that some provision will be inserted in the constitution, or that some independent tribunal will be established, so as to enable us to get over that difficulty. I now come to the last point I purposed to deal with-I have been longer than I intended—and it is the most important of all. I allude to the popular idea that we are to leave this entirely to the federal parliament. We know that we are going to have great difficulty in convincing people to enter into this bargain at all. It has been said that Victoria is going to gain immense benefits from federation. But I do not know that that is so. I am not so sure about it. To begin with, we shall have a larger number of people to contend with, who are interested as farmers in keeping on what is called the obnoxious stock-tax, which five years ago was imposed by a unanimous house immediately after a general election.

The Hon. A. DEAKIN:
Not a unanimous house!
The Right Hon. Sir G. TURNER:
Well, as unanimous as a house is possible to be on a subject.

An Hon. MEMBER:
There was a majority!
The Right Hon. Sir G. TURNER:
A practically unanimous house. My hon. friend, Mr. Deakin, will recollect that so strong was the feeling that the government of the day was almost forced to take up that subject before the great question on which their existence depended—the question of the railway commissioners.

The Hon. A. DEAKIN:
Hear, hear; that is right!
The Right Hon. Sir G. TURNER:
Although my hon. friend and one or two others were opposed to the stock-tax I think he will admit that it was passed by a practically unanimous House. Now, we do not want to give a handle to the class of opponents I have referred to, enabling them to say that we should not enter into federation. Then there are our manufacturers. They will naturally look at the question in this light: While expecting to gain an advantage during the first few years, they will recognise that there are just as clever men in New South Wales, that New South Wales has a far larger territory, that New South Wales has its coal and minerals to work upon, and that ultimately in its manufactures it will catch up to and probably excel Victoria. For many other reasons I have come to the conclusion that it is a
mistake to think that federation is going to be such a great boon to Victoria, and such a great loss to the other colonies, I believe that New South Wales is the colony which has more to gain from federation than all the others put together, and the people of New South Wales should be those most anxious to see federation brought into existence.

Mr. MCMILLAN:

The Right Hon. Sir G. TURNER:

There is no question that it will be so ultimately. My hon. friend must see that the feeling I have referred to will grow in Victoria, and that the people there who are interested will say, "The benefits we are going to derive for the first four or five years will be more than swept away by the losses we will ultimately sustain by the competition to which we shall be exposed. We shall not be able to have the trade of New South Wales, and we shall have New South Wales competing with us in our own colony of Victoria."

The Hon. A. DEAKIN:

We in Victoria have the New South Wales market open now, but New South Wales has not our market!

The Right Hon. Sir G. TURNER:

We certainly have the New South Wales market open, but we have to contend on equal terms with the outside world.

The Hon. R.E. O'CONNOR:

The hon. member must not look upon that as permanent?

The Right Hon. Sir G. TURNER:

I do not think it will be permanent. Therefore, the aspect of the case I have mentioned will be found to be rather a serious one when we are advocating federation in our colony. We shall go to the people knowing that we have a large number who, in their own interests as farmers and manufacturers, will be opposed to the scheme knowing also that there are a large number of the people who are apathetic. We know that we have to get a vote of 50,000 to carry federation. We know there are hundreds and thousands of people who will not trouble themselves to go to vote-men who do not go to vote at a general election unless you drag them there. They will not care to vote on federation, and there will be no one to drag them there. Knowing that we have these difficulties to contend against, is it wise for us, sitting here as a body, to admit our inability to deal with this subject, and to go before our people and say, "Shut your eyes, open your mouth, and swallow whatever the federal parliament may give you"? Why should we give such a handle to those who are opposed to federation and strongly object to it? Then there is another class whom we must not omit.
There are a large number of people who are strongly opposed to direct taxation. Will they not be afraid that, if they are to trust the federal parliament altogether, there may be just a slight possibility that the federal parliament may say, "We are not going to raise all this money from customs. We do not care for the states. It is true we here are the representatives of the states" -

The Hon. A. DEAKIN:
They care for the people!

The Right Hon. Sir G. TURNER:
That is true, but still they will represent very large constituencies. I do not say absolutely that the view I have suggested will be taken by the federal parliament. But my hon. friend known as well as I do that it would be a very catching argument to those opposed to federation. It caught on here. When it was put to the Finance Committee, it caught them. It was put to them in the light of the land-tax. That very same argument would have some effect put to the people of the class to which I refer. They will say, "There is going to be a land-tax. A few of us only are going to be taxed to raise all these millions, and we had better not have federation at all." That argument would have a strong effect upon those who are wavering in the balance-those who are not very strong in their opinions in favour of federation.

Mr. MCMILLAN:
Does the right hon. gentleman think anybody would believe that for the first few years of federation any taxation would be imposed, except through the customs? It would be impossible!

The Right Hon. Sir G. TURNER:
I think a large number of people would believe it. I do not say that there would be direct taxation under the commonwealth. What I mean is that the commonwealth would raise what it required, and would say: What do we care for the states? Let them raise what they require by direct taxation." I do not believe the commonwealth would do that; but such an argument would be put by the opponents of federation. It would be a very catching argument, and would take with a very large number of people. I want to avoid the possibility of that argument being put forward, because I honestly desire to see federation brought about. I do not believe that the colony of Victoria, my native land, is going to de all the benefit. I believe that we shall derive some benefit, and I believe that even if we suffer some losses, it is well that we aboard suffer those losses in order that we may have the greater advantage of federation. I believe that the benefits we shall derive from federation will counterbalance the losses we may sustain. Although I am not strongly impressed with the idea that we are going to
derive all the benefit, I believe that we shall derive some benefit, and that we ought to join in the proposed federation. But I believe New South Wales is the colony that is going to derive most benefit. The difficulty that occurs to me in connection with this scheme is that we are going to ask the people to accept it blindfold. We are not prepared, to formulate any reasonable scheme to be placed before them. We are going to say to them, "We cannot tell you what the basis of this will be. We have to trust entirely to the federal parliament." Although those of us sitting here who have watched the matter with deep interest, and have thought it out carefully, may be perfectly prepared to do that, I venture to say there are hundreds of thousands in all our colonies who will be afraid, who will not trust the federal parliament, and who will abstain from voting altogether, and that under those circumstances we should run a great risk of not getting a majority in favour of the proposal. The proposal in the bill is that we should continue as we are for two years, and that then we should have a uniform tariff. It is said that the Convention cannot decide this question, because we do not know what the uniform tariff will be, and we do not know what the effect of the uniform tariff will be in the different colonies. In what better position would the parliament be for two or three years after the uniform tariff was in operation than we are at the present moment? It will not be able to know what the effect of the tariff will be, and it will not be able to say what should be a fair means of distribution, and either it will have to work in the dark, as we are working in the dark, or we must devise for some period a scheme on which the federal parliament should proceed. It is possible for us in this Convention to deal with the matter in a fair and equitable way. Personally, I do not know that I would object to, leave the matter to the federal parliament, for this reason: that the great issue at the first election would undoubtedly be, protection of free-trade. While I believe that there would be an overwhelming majority of protectionists, I admit that from each colony would be sent some free-traders. I do not think we should have a mass vote in any one colony. I think that all classes should be represented in the federal parliament. But, surely as we leave this an open question, to surely will the protectionists get a block vote, because those who are afraid of a land-tax, and who are free-traders, will say, rather than run the risk of having a land-tax, "We will vote for the man who is a protectionist, and will raise revenue by customs duties." As a protectionist, I shall be very glad to leave the whole matter to the federal parliament, because I believe there will be a unanimous vote for protection in all the colonies except New South Wales, and in that colony I believe a good
many protectionists will be returned if this is left an open question. I know the difficulty in which our friends here are placed. They do not want to put anything in the bill which will tell their people that it is going, to be a protectionist tariff; they want to leave it an open question. They say "there is a majority of free-traders in New South Wales, and if we tell them that it is going to be a protective tariff they will vote against us." I think the other difficulty will be just as great, and if these free-traders fear that the whole of this large amount is going to be raised by direct taxation, of some sort or other, then they will probably rather send men to the federal parliament who are in favour of protection against the outside world than men who will take such a course as to force individual colonies to impose direct taxation to make up their requirements. My hon. friend, Mr. Holder, touched a sore point. He said, "Before I agree to leave this to the federal parliament, I want to know how that parliament is going to be constituted." What is going to happen? As the matter is now, we are leaving the smaller states power, practically, by their veto, to decide what the tariff is to be. Are we willing to go a step further, and at once allow them to say, not alone what that tariff is to be, and what the surplus is to be, but how that surplus is to be distributed? With equal representation in the senate, and with the power of veto they possess there, are we prepared to leave to them this power of saying how this surplus is to be distributed? I am not afraid of a combination, but other people are. That is another argument which will be used outside by the opponents of federation. Then, those who are advocating, and will advocate hereafter very strongly, that the smaller states are not to have equal representation, will use this fact as a strong lever; they will say "We are going to leave to the federal parliament the distribution [P.172] starts here of this immense surplus. Do you think we are going to leave it to them if they who contribute only in a small amount are going to have the absolute power of saying how it shall be distributed?" They will argue very strongly that the federal parliament has that power, and that, therefore, there should be proportional representation of the smaller states. I warn my friends from the larger states that they are met with the difficulty that the smaller states are going to control this matter, and I warn my friends from the smaller states that they will be met with the argument that they must not have equal representation, because they will be met with the argument that we cannot give them equal representation, because they are going to dictate to us. We must agree to a compromise; although my colleague does not agree with it, I hope it will be carried out. I feel that, if we are going to put this extra difficulty in the way, in all probability those who represent the smaller
states, and who voted with us on that occasion, will not feel justified in voting with us on this occasion; and, that being so, the question which was fought then of giving equal rights in regard to money bills will be reversed at this Convention. So surely as it is reversed, so surely you make an end to any federation. My hon. friend, Mr. Holder, touched that sore point. It is undoubtedly, a sore point. It is one which we ought to obviate if we can. This is a great difficulty, but we ought not to say we are not to make a further effort; even if we spend months more over it, if necessary, we ought not to say we are going to give it up in despair until we put our heads together, until we have thought it out once more, until we can see whether we can meet the difficulties which are raised, until we see whether outsiders or ourselves can suggest some other or better scheme. I have said that I am against the scheme of leaving it to the federal parliament. I believe, even if I am charged with provincialism, that the states must be protected. I believe the state treasurers must know, at all events, for five years, that they are going to receive a certain amount of money. I believe the states must have that money to enable them to carry on. I believe, if we are going to get our people to go into a federation, we must be prepared to tell them, "The utmost you can lose during the first five years will be so much. We think you ought to lose that sum. We know by the ever-increasing customs that ultimately we will get more than sufficient returned to us by way of surplus on whatever basis may be adopted, and, therefore, we advise you to accept the scheme." But unless we can tell our people that, then I feel that we are asking them to do something which is impossible for them to do. There is one difficulty I can see in this scheme, and that is, that it is hard and fast, that once we embody it in our constitution it will be very difficult indeed to alter it. I have not been able to give this matter the full consideration which its importance demands, and which its seriousness entitles it to receive. I think we may possibly evolve some means of obviating that. We ought to lay down in our constitution principles somewhat on the lines which are laid down in the bill as it stands, but I quite admit that if they are found to work inequitably there should be some means of altering them. In other instances we have left to the federal parliament the right to alter provisions. I throw out for thing from giving the federal parliament the power to initiate a new scheme. Although I do not think the difficulty will ever arise, I think it is wise to have some simpler mode of dealing with that difficulty than is proposed in the bill. The bill makes it hard and fast, and if we can by some modification of the scheme leave it to that body to ultimately say that the scheme is unfair and inequitable, then I think we might fairly be prepared.
to say that having provided for five years, having guarded the first difficulty of the various states for the time during which they are going through a period of transition, the time when the customs revenue is not increasing at a sufficiently rapid rate to give them back all the money they have parted with at the present time-having protected them for five years, we may fairly then trust the federal parliament to alter the scheme if it is inequitable. We are now trusting them after the interval of five years, because we are placing no limit on them. I think if we went to the full length which some of us would desire to go, we would say that even after five years they should return to us a certain percentage of the customs revenue-that they should return to us for all time 70 per cent. of the customs, keeping 30 per cent. for themselves; but as we are giving to them, necessarily, the power of saying for themselves what the customs revenue at the end of five years shall be, I, for one, do not press the idea of insisting that they should return us a certain percentage for all time. I think that suggestion may possibly obviate the difficulty. Therefore my view of the matter is this: that as no one has yet been able to suggest a better scheme than the despised scheme of the Treasurers-the one that has been swept away so quietly, the one upon which the power of destruction has been brought to bear-we are bound to follow it out. Let us modify it and meet the difficulty with regard to the test year; let us modify it with regard to the period after the five years. If we cannot devise a better, let us, as representatives of the various colonies, put that scheme forward. Let us not finally decide it now; let us allow the Convention to stand over for a period-

The Hon. J. HENRY:
That's the point!

An Hon. MEMBER:
Better that than ruin it altogether!

The Hon. J. HENRY:
It would be ruined altogether!

The Right Hon. Sir G. TURNER:
I confess I desire to see federation brought about as much as any man. That is the object I have in view.

An Hon. MEMBER:
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The Right Hon. Sir G. TURNER:
What we do now is final. If we put a scheme before the people now we shall have no power to alter it.
An Hon. MEMBER:
Nor have they!

The Right Hon. Sir G. TURNER:
The people will have no power to alter it; it will be a definite and distinct scheme to which the people will have to say "aye" or "no." We are asked-I care not how long we may sit to do it-to formulate a distinct and definite scheme, which, when completed, we cannot alter, to be put before the people. After an adjournment some of us may be able, from information we may obtain from outside, to suggest something none of us have yet thought of.

The Hon. J.H. HOWE:
But that would apply to anything at any time!

An Hon. MEMBER:
And are we to have no further opportunity of considering that?

An Hon. MEMBER:
The people have been considering it since 1891!

Mr. MCMILLAN:
What is the good of discussing this now?

The Right Hon. Sir G. TURNER:
I am only stating what I think we ought to do. We ought not to shunt the matter to the federal parliament. We ought to decide definitely the best scheme we possibly can. Then we shall have to adjourn—there is no doubt of that—unless the Convention is prepared to go on in the absence of Victoria. We ought not at this sitting to finally decide any scheme, but we ought to decide the best scheme tentatively, and we ought to have another opportunity of making it permanent, and of hearing any objections to it in the meantime. It may be that we may afterwards propose an entirely new scheme. Are we to positively say, "The scheme submitted to this Convention is the best and only scheme"? I cannot see why there is an objection to the idea of adjourning for a little time.

The Hon. J. HENRY:
Does the right hon. gentleman want to adjourn for ever?

The Right Hon. Sir G. TURNER:
No, a couple of months.

Mr. MCMILLAN:
Suppose there was more danger in adjournment than in completing the
The Right Hon. Sir G. TURNER:

If there are some schemes with which I am not acquainted, well and good. We are putting forward as our last conclusion a scheme that we have no power to alter.

An Hon. MEMBER:

That would be an objection to any heaven-born scheme!

Another Hon. MEMBER:

Let us have a scheme from the other place!

The Right Hon. Sir G. TURNER:

There are a good many members of "the devil's brigade" here, and possibly the lawyers may agree upon a scheme although it does not seem as if the Treasurers ever will. The Finance Committee have had the benefit of all the arguments which have been adduced, and I would like them to have the benefit of a few more. After listening to the arguments I have come to the conclusion that many of us are prepared to leave the matter to the federal parliament. If we are, let us take the responsibility of passing a direct resolution, and saying at once, "We are prepared to leave the whole matter to the federal parliament to be dealt with without any restriction." If that is done, the work of the Finance Committee is at an end, and they have nothing to recommend. It is of no use the Finance Committee spending days in discussing various ideas and schemes if the majority of the Convention are prepared to eventually send, the matter to the federal parliament. If we do that we end the matter, and finish the whole of our business.

Mr. MCMILLAN:

If we decide on a definite guarantee, the scheme we propound is as good as any—that is, if we alter the first year!

The Right Hon. Sir G. TURNER:

I do not know that that would necessarily be adopted; but if we are prepared to, take the responsibility to which I have referred let us take it at once, and shorten the work we have to do. Whilst the members of the Finance Committee are discussing the matter the Convention will not be able to proceed with important work, and it is useless wasting day after day discussing the details of the various schemes, and then to have the Committee telling us, "Our mind is made up; we are going to leave the matter to the federal parliament." Again, if we are prepared to leave the matter to the federal parliament after a period of five years, let us say so by a distinct resolution, and limit our labours to devising a scheme in
respect of that five years. My idea, after hearing all that has been said, is
that the scheme proposed by the Treasurers is the best that has as yet been
submitted. I do not know that a better scheme could be proposed. I am
prepared to stand by it, and, to do the best I can to advocate it in the colony
I represent. I am prepared to meet the various objections which have been
raised to it by modifications. I would ask hon. members, however, not to
put hindrances in the way of the Finance Committee, but to give them
direct instructions as to what we desire.

Let us tell them we are prepared to leave the matter to the federal
parliament to be dealt with at once, or to be dealt with after a period of five
years. If we do that we shall shorten the work of the Convention and of the
Finance Committee. I regret I have trespassed on the time of hon. members
so long, but as the other Treasurers have expressed their views, I felt
bound, representing the colony of Victoria, to place my opinions as fully as
I could before the Convention. Otherwise it might possibly have been said
that I had something to conceal, or that there was something to which I was
afraid to give utterance.

Mr. GLYNN (South Australia):[12]

I am sure that hon. members have been gratified by what has been
already referred to, that is, the marked advance made in the federal spirit
since our assembling in Adelaide. If the result of this debate should be to
lessen the work that would otherwise devolve on the Finance Committee, it
will not be a subject of regret. The Right Hon. Sir George Turner pointed
out that it might be urged that there were two objections to the suggestion
that has been made to handing over the settlement of the financial question
to the federal parliament. One objection might seem to be of considerable
weight; but I think that on a little reflection the sense of its importance will
be greatly diminished. The right hon. gentleman stated that if you allow
this question of finance to be settled with a perfectly free hand by the
federal parliament, objection might be made to granting to all the states the
right of equal representation in the senate, and those who are still
advocating the application to the senate of the system of proportional
representation will find their opposition strengthened by additional
arguments. But I would say that, as far as I am concerned, I am still
prepared to take up the position which I assumed in the Convention at
Adelaide—that of, to some extent, tying down the hands of the senate as
against the house that represents the people at large. Notwithstanding the
fear expressed by the right hon. member, Sir George Turner, I, at all
events, and I believe the right hon. the President of the Convention, will
adhere to the votes which we then gave, and on questions of finance will not allow the upper house equal power with the house that represents the population. If that is the case I do not see where there is an opening for very much fear on the part of the larger states that a settlement of the financial question inequitable to the larger states will be arrived at, inasmuch as the ultimate work in connection with the financial question will practically rest with the house of representatives. Did such a fear animate those who suggested the great type on which we are now basing our federation-did it animate the men who framed the American Constitution? It was after exceedingly bitter fights that the principle of equal representation in the Senate was granted in the United States, and they did exactly what is now suggested-they left the settlement of the financial question to a parliament in which the smaller states had equal representation with the, larger states. Therefore, as a matter of reason, and I submit, also, as a matter of precedent, on which there can be no doubt, we, notwithstanding what the right hon. member, Sir George Turner, has said as to the possibility of objection being made to equal representation of the states in the senate, are justified in taking up the position that the larger states will not, as a matter of reason-because they have nothing to, fear from it-find in that an additional argument strengthening their opposition to equal representation in the senate. I speak of the larger states, because the bulk of the opposition to equal representation in the senate comes from their delegations. The right hon. member, Sir George Turner, has mentioned that it ought to be a condition - though I do not think be mentioned it very emphatically - of the handing over of this matter to the federal parliament, that New South Wales should assume a protective tariff to start with.

The Right Hon. Sir G. TURNER:

I did not say it ought to be. What I say is that New South Wales has got us into a difficulty, and can get us out of it by doing that!

Mr. GLYNN:

I do not think that the right hon. gentleman urged it with as much emphasis as he would have done if his convictions on the point had been very deeply rooted. But if such a proposition were made in this Convention I should certainly oppose it. There are many grounds of opposition to it. One is that, as a free-trader, even if it were not proposed to fix it in the constitution forever, I should object to fix in the constitution for an indefinite period what I regard as an economic heresy. Furthermore, I should like to know what particular tariff New South Wales would be asked to establish. We know that continual fights are made on the question
of what is and what is not a protective tariff. We know the countries that apparently have a protective tariff claim to be free-trade countries. Would it be the tariff of Queensland, which, with a population of something like 100,000 more than that of South Australia, obtains nearly three times as much revenue from customs as South Australia does? Whatever tariff you may take, it will be open for people to say that its character either is or is not free-trade, and we are further met with the difficulty that in speaking of a protectionist tariff it is impossible to reduce your ideas to a common understanding. The right hon. member, Sir George Turner, made this as a suggestion, which was, no doubt, intended at all events for the careful consideration of the Committee. Again, the right hon. gentleman has referred to the question of direct taxation and the fears in relation to the possibility of a land-tax being particularly heavy. I think he mentioned the possibility of its running into millions of pounds. On the question of direct taxation, we are met, no matter what may be our preference for any particular kind of taxation, with two difficulties. I mention this, because, if we were not met with these difficulties, I certainly would go in for a direct tax as a method of meeting the general expenditure, in preference to the system of customs duties which so unduly absorbs the earnings of the people. We are met with two difficulties. One is, that we are not sent here to start new policies - that the adjustment which we frame must be on conditions which already exist, leaving the question of development on fiscal lines to the future parliament. If that were not the case, the settlement of our difficulties, looked at from one point of view, might be exceedingly easy. We would not require to raise millions of pounds. The total new expenditure will not be very much more than £400,000. The loss from intercolonial free-trade is really more nominal than real. Up to the present time we have been viewing federation very largely from the point of view of its possible disadvantages. Very little has been said about its undoubted advantages, and one of these will be that a given tariff will be more productive than a protective tariff. But a free-trade tariff will undoubtedly be more productive to the revenue than the system of diverse tariffs which exist at present, and the loss on free-trade which is gauged on the existing tariffs might almost approximate to being nominal. If that is so, the addition made to the cost of the federation, in connection with the loss of intercolonial duties, may be exceedingly small, and if you bring that amount down to, say, £500,000, instead of its being put as it has been at millions of pounds, and if you add on the new cost of federation, you will not have to raise as the total cost of federation a sum exceeding £1,000,000. I believe that the sum would not
exceed £600,000. A land-tax to raise that amount would not require to be
more than 1/2d. in the £, as in the case of South Australia, where it
produces about £100,000 a year; for, with the enormous taxing capacity of
the other colonies, it would certainly produce whatever is likely to be
required, and it would have the great advantage that it would not be
disproportionate. The value of the land which would be taxed would be a
perfect barometer of the state of the industrial and commercial atmosphere.
The rise and fall of the wealth of the state might be accurately gauged by
the existing condition of land values. But we are still met with this
difficulty, which shows that we cannot exercise our individual preferences
in this matter: As your first object of federation, you have to bring about
intercolonial free-trade, and in doing that you have to pool your revenues,
and that would have the effect that if you wish to give back, on the
amalgamation of your tariffs, the same revenue to the various states as they
have lost, you must keep up the disadvantages of the existing system -that
is, in order to gauge what those losses are, you must keep up the border
customs officers. I say then that you will not get rid of these difficulties,
which necessarily follow from the extension of the principle of
intercolonial free-trade which faces you at the present time, without finding
out-and we do not wish to keep up these border officers-what the loss to
each colony would be by the amalgamation of the tariff. Therefore, at the
present time we are, for these two reasons, practically stopped from the
advocacy of a policy of direct taxation. I think it should be exceedingly
gratifying to us that we have swept away the mass of statistics, which,
instead of adding to our knowledge, have really deepened our ignorance
upon this question. I believe that if the heads of hon. members were
trepanned, there would be found printed upon their brains a tabulated
impression of the financial difficulties of federation.

An Hon. MEMBER:
Several tabulated statements!
Mr. GLYNN:
Tabulated statements by the dozen have been submitted to us, and I have
come to the conclusion that the result of the erudition evidenced by them
has been merely to extend by confusion our ignorance of the financial
question, so as practically to cause us almost to despair of its solution.
There is one matter which I have already mentioned to the Committee, and
that is, that we have laid rather too much stress upon the possible
disadvantages of federation from the Treasurers' point of view. Because it
is only from the Treasurers' point of view, and the loss to the Treasurers
may be a gain to the people. If that is not so, the very basis of our argument
for the adoption of federation will disappear. We have laid rather too much stress upon the possible disadvantages of federation from the Treasurers' point of view, without laying sufficient stress upon the advantages, some of which arise in connection with this very financial question. For instance, we should save at once—and it is a matter to be taken into consideration in connection with the cost of federation—a sum which is now spent upon the collection of intercolonial duties. The total amount of the customs expenditure is something like £230,000; but a portion of that amount is the result of the system of border duties which we propose to abolish. Believing as I do in the advisability of at once taking the bull by the horns, and leaving the settlement of the whole financial question to the federal parliament, I would like to point out to the Committee that we must not, in considering the advisability of doing so, too nicely balance the possible loss and advantage to each particular state, that is, the loss and gain from the abolition of the border duties. On the figures submitted by the statisticians, applying the proportions paid by each state for the collection of customs both from outside and inside the various colonies, Tasmania, of course, would gain nothing, the gain to Western Australia would be exceedingly small, the gain to New South Wales would be largest, and the gain to Victoria would come next. But we are not going to quibble, about these matters. Let me view the question, again from the point of view of South Australia. I mention this solely to show that there are loans and advantages which we must overlook. We must not sit down in a huckstering spirit to tot them up in so many columns. Take the case of South Australia, We have an advantage over the other colonies in the matter of telegraph revenue. In 1895 our telegraphic system—leaving altogether out of consideration the postal system—produced £89,000.

An Hon. MEMBER:

Mr. GLYNN:

Of course, that is the reason. I am dealing with the proceeds of our telegraphic system to show that we, have an undue advantage there which we are willing to give up. In 1895, South Australia received £89,000 from telegrams New South Wales, with a population of something like four times as large as ours, received £126,000 from this source; Victoria, with a population not very far from four times as large as ours, £95,000; Queensland, with a population exceeding ours by about 120,000, only £71,000.
An Hon. MEMBER:
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Mr. GLYNN:
Of course not If we were animated by an anti-federal spirit—which we are not—we should oppose the abolition of the advantage which we get in connection with our telegraphic system through being wedged in between the other colonies, and thus being able to charge special rates.

An Hon. MEMBER:
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Mr. GLYNN:
My contention is that we do not want selfishly to preserve special rates. At the present time we have special advantages, because of the separation of the colonies. Instead of raising a small sum from our telegrams, we receive practically as much as Victoria, whose population is nearly four times as large as ours; and only £50,000 a year less than New South Wales, whose population is four times as large as ours. The reason is we have special rates, and we are enabled, by our situation, to practically levy a tax upon our neighbours. Hon. member sought to approach the whole financial question in the spirit which we are prepared to assume in South Australia in regard to this matter of telegraphic revenue. Then in regard to the uniform tariff, and what is the very crux of the financial question, the possible loss to each state of the amalgamation of the revenue and expenditure, it is an exceedingly strong point that Western Australia makes when she says that she at present receives something like £6 8s. per head from her customs duties. I think the hon. member, Mr. Hackett, pointed out that, although this might seem abnormal, the regular receipts from customs in Western Australia had been something like £4 per head. That is shown by the figures submitted to the Convention but I feel confident, knowing what has occurred at Broken Hill, and as the result of every flush in the industrial progress of any country, that the exceptional rate cannot be maintained, and that the other rate will not be maintained either. The railway revenue of Western Australia will gauge the exceptional prosperity of that country as accurately as, if not more accurately than, the customs revenue, and for that reason I think that its present prosperity will not continue, Four or five years ago the railway revenue of Western Australia was something like 1/3 per cent, and it rose by almost regular gradations, until it is now something like 11 per cent., showing that
there has been an amount of importation into Western Australia which cannot possibly be kept up. We find also that the prices of articles which in Coolgardie and Kalgoorlie were formerly exceedingly high, have now, if we may rely on the evidence of Western Australians sunk to a point lower than the prices in Victoria and South Australia, showing that there is a glut there. Consequently you will have a cessation of importation, and, therefore, a loss of revenue.

An Hon. MEMBER:
The railway revenue is not likely to fall off!

Mr. GLYNN:
The railway revenue, must depend upon the amount of supplies carried over the line; and if these supplies are not wanted they will not be shipped. No mining population, unless it is a very large one, can absorb at the rate of consumption which has prevailed in Western Australia. I do not say this as an argument against the claim for exceptional treatment put forward by Western Australia; but I say that her position, is not likely to continue abnormal, that it will approximate towards that of the other colonies, and that she may trust the federal parliament to deal fairly with her conditions until that takes place. The same thing occurred in Canada, and the Canadian states have not suffered from it. To come to the question of the railways. The Right Hon. Sir George Turner has very properly said that, although we may be prepared to hand over the settlement of the financial question, to the federal parliament, we ought to offer some specific solution, if one is open to us, and we ought not to allow the fear which may operate with some people, that the federal parliament will deal unjustly with particular states, to be of any force in determining the acceptance of federation. Why should we not hand over the railways? Has not that course the recommendation, that, apart altogether from the question of abolishing the surplus by taking over the debts and the railways, by amalgamation very large economics might be effected? I find here in the Constitution of Germany, with the extraordinary diversity of interests which existed in the case of the states which are federated under that constitution, that uniformity, of rates was declared, to be one of the fundamental principles of the federation at the very start. The railway system of all the states for the future were to be practically in the hands of the federation. Clause 42 of the Constitution states:

The governments of the federal states bind themselves in the interests of general commerce to have the German railways managed as one system, and for this purpose to have all now lines constructed and equipped according to a uniform plan.
Clause 45 states:
The empire shall have control over the tariff of charges. It shall endeavour to cause (1) uniform regulations to be speedily introduced on all German railway lines.

All the German railway lines to be constructed are by these special powers in the constitution vested in or to come under the control of the federation. I advocate the taking over of the railways as a matter of policy. By the saving we shall make more out of them as assets, and the plan is one which has not been much dwelt upon up to the present. The Indian railways are now practically one system, and the result is that there is a revenue of about 6 per cent. The Belgian railways were bought by the state, and they have since become more largely productive than formerly, with the result that the rates have been reduced by something like 40 per cent. In Switzerland, also, there is a great and growing feeling in favour of the purchase by the federal body of the local railways. The experience of Pennsylvania also shows the economic effect of amalgamation. There are seventy-two railways there which are all under one management covering 8,000 miles of line. The Erie system, which formerly consisted of forty lines, has also been brought under one management, and is another instance of economy. In England there have been several select committees dealing with railway matters, and their recommendations have been in the direction of diminishing the evils of competition by amalgamation under one central management. Tyler, an expert in railway matters, in the evidence he gave before one of the committees of the House of Lords, stated:

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, labour, and obstruction to traffic which arise from diversities of interests and of managements of the various boards.

I come down now to the effects of the inter-state commission, because, if we do not take over the railways, we shall have to fall back upon the other alternative as a cure for differential and preferential rates, that is, the establishment of an inter-state commission. Now, it is an additional argument in favour of the purchase of the railways, that the Inter-state Commission in America was practically a failure. I will endeavour to give a few reasons, because I do not wish to rely merely on bare statements. I will give a few reasons upon which I base that assertion. In the first place, the sanction of the obligations of the law under which the inter-state commission carries on its operations are fines and imprisonment. Now, I cannot see how you are going to imprison a state, nor do I see how you can
levy a fine upon a particular state without such bickerings and jealousies as might lead almost to a disruption of the union. Again, it will be of no use merely to declare that the rate is invalid because it is contrary to the principles laid down by the inter-state commission. How is such a provision to become of any effect? Is the person who is called upon to pay the rate to urge the objection? He is the person who will reap the advantage, because, under preferential rates, the advantages are given to shippers from outside, and they are not likely to raise a point which will tell against their own pockets.

The Hon. I.A. ISAACS:

What about the others who pay too high rates?

Mr. GLYNN:

Internal rates are supposed to be justified by the charge which should be made as a return for capital, and are therefore, by supposition, not too high. External rates, on the other hand, are ridiculously low. They are preferential rates; they are penalties on the whole people of the colony which grants them to outsiders for special trade benefits which tell for the advantage of the few. The same system of secrecy as to a specific or special rate would be impossible under this new system; therefore the definition of rates to be declared invalid will become a great difficulty. If am justified in the expression of this opinion, because in a work published in 1896, Shaler - I quote from his "History of America"-states that in America the evasions of the Inter-state Commerce Act amount to something approaching a general disregard of it, and he goes on to amplify this in the manner suggested by the following quotation:-

It must be admitted, however, not only that the law against unjust personal discrimination is not thoroughly enforced, but that it is not clear that it can be thoroughly enforced without some great increase in the powers and resources of the Inter-state Commission, or some radical change in the organisation of railways.

The Hon. E. BARTON:

That does not show that the Inter-state Commission is a bad thing. It shows that there is a bad act!

Mr. GLYNN:

It shows this: that the powers vested under the act of 1886, in the Inter-state Commission, enormous though they are-that will be admitted, I think-are being found in efficacious. There has been a cry for the extension of these powers, and there has been, by various writers, a declaration of opinion that the true solution is not by regulations under the act or by the continuance of an Inter-state
Commission, but by the purchase of the railways by the government. It is contended that it is only by this means that you can secure that which the Inter-state Commission has, to a large extent, failed to accomplish. Here is another quotation from the same writer. After pointing out the great disadvantages inseparable from the existing system, he says:

Still more serious have been the difficulties arising out of the exemptions from the action of the law of what is commonly called state traffic in distinction from inter-state traffic.

We propose here to keep up the distinction between traffic confined within the limits of a particular state and traffic extending beyond those limits. This distinction has been found, as the quotation I have read shows, to destroy a large part of the benefits predicated as the result of the establishment of the Inter-state Commission. As regards the uniformity of rates, the writer to whom I have referred points out:

Notwithstanding the advance in consolidation, the management of the railroads in this colony presents to-day a diversity, a working at cross purposes, a tendency to feverish and unhealthy competition inconsistent with proper performance of the work of transportation, rendering railway regulation extremely difficult, and hurtful in many ways to the country as a whole.

Now it might be asked what, under the circumstances, I recommend? I recommend the position taken up by thirteen or fourteen members of the Adelaide Convention-the position that the purchase of the railways is the only method of dealing with the difficulty. In purchasing the railways you take over the debt as part of the payment; it cannot be done in the way set up for the purpose of criticism by some members of the Convention. You cannot take over the debts without arriving at a common denominator, and we have debts at various rates of interest, with periods of currency, which are also different. If therefore, if you are to take over the debts, you must convert them on paper to some common stock, at the current rate of interest. That it is not an exceedingly difficult thing to do is shown by this fact-that the average period which the loans have to run, for the whole of the five states, starting from 1897, is twenty-one years. The lowest average-that of Victoria-is seventeen years; the highest average, which is New South Wales, is twenty-two and a half years' currency. So that, even if you do not do that, and if you take over the debts as they stand, as the variation from the average rates of duration of the loans, from the highest to the lowest, is very small, very little injury would result. Looking at it again, from the point of view of interest, the average rate of interest paid by the five states is 3.846; the highest-Victoria-3.925; the lowest is Western Australia, 3.801.
The Right Hon. Sir G. TURNER:
That is a new loan with a long currency. When we renew the loans, which bear heavy rates of interest, we will get below that!

Mr. GLYNN:
It is not a question of a number of loans maturing next year. It is a question of average duration of loans. That must be determined by the average currency, and the average interest paid.

The Right Hon. Sir G. TURNER:
They are pretty well all alike. The average value on the London market is about the same!

Mr. GLYNN:
I am glad that the right hon. gentleman agrees with me substantially. If you take the loans as they stand, making no distinction between their varying terms of maturity and rates of interest, very little would happen, because their average is approximate. The average rates of interest only differ about one-tenth between the highest and lowest; therefore, very little injury would result by pooling the debts at once. As to the financial difficulty with regard to the railways, what we would really be doing would be to enter into a partnership. When partners come in with different capitals, it is a question of balancing. The man who brings in the largest amount of capital is credited with a larger amount than the others. Therefore, if you amalgamate the railways, even by purchase, it will only be a question of settling a balance between one or two states, which will not be particularly difficult. The same applies to the debts. If you amalgamate the debts, it will still be merely a question of settling the balance, because certain colonies have a comparatively small indebtedness. I believe that is the case with Victoria. You would practically cancel the debts. Therefore, I think there is no difficulty, which we should be unprepared to face in connection with taking over the railways and debts at once. It has been very well pointed out this morning in the Daily Telegraph, by Mr. Nash, that you would practically get rid of about half the surplus at once by taking over the railways and the debts. The receipts from the railways amount to about half the interest; and the surplus after the other half was paid, would be practically abolished.

The Right Hon. Sir G. TURNER:
Is that the net railway receipts!

Mr. GLYNN:
Yes, it must be the case, because the railway receipts are set off against the interest on the debts. The proposition is not to separate the railway debt
from other parts of the debt. The leader, when he advances us money, does not fix upon any particular asset. He supplies his capital upon the credit of the whole community. The objection to this principle of taking over the debts at once has been urged with considerable force by the hon. member, Mr. Holder; but I think he has been practically answered by the Right Hon. Sir George Turner. I would further point out that it is the knowledge of solvency rather than solvency itself which operates in the mind of the English creditor when advancing money. A knowledge of the solvency of South Australia could not be so easily obtained as a knowledge of the solvency of the whole federation. But I do say that the moment the federation agrees to take over the debts, and that becomes known to the English public, it would have a practical value over the present knowledge of the solvency of each state within the union.

The Right Hon. Sir G. TURNER:

Does not the English creditor know that solvency is secured at present?

Mr. GLYNN:

Undoubtedly the majority do, but they all do not. The hon. member, Sir William Zeal, has interjected that there is a difference in the price of the several stocks at present.

The Right Hon. Sir G. TURNER:

That is accounted for by the different terms of the loans and the time that the stock has to run!

Mr. GLYNN:

Not altogether. South Australia floated a loan recently on the principle of terminable annuities. It has twenty years' currency, with the right of redemption on notice. That brought a much higher price than the last Western Australian loan. We must also take this into account in connection with the price offered for our loan that our indebtedness was £64 per head of the population against a comparatively small indebtedness per head in Western Australia.

The Right Hon. Sir G. TURNER:

You must also take into account money market conditions!

Mr. GLYNN:

I am simply dealing with it from the point of view of knowledge of our solvency. There are different degrees of knowledge with respect to each colony. It is absurd to think that Western Australia, with her abounding resources and her lower per capita debt should get a lower price than South Australia, when the latter offered terms less open to acceptance than those offered by Western Australia. The hon. member, Mr. Symon, and the hon. member, Mr. Holder, dwelt upon this point of the possibility of conversion
to the advantage of the federation if you do not go in for conversion at first. But there will be no greater possibility of conversion afterwards than there will be by banding over the debts at once. That there will be no possibility of a premium being given has been shown by Sir George Turner. There never has been a conversion except when loans matured.

The Hon. Sir GRAHAM BERRY:

Oh, yes!

Mr. GLYNN:

Certainly not on a large scale. For instance, take the three great conversion schemes which have been carried out in England. There was Pelham's in 1749, in which case all the stock had matured. Then there was Goulburn's scheme in 1844, in which £300,000,000 were involved. The stock had all matured in that case. Then there was Mr. Goschen's scheme in 1888. There was a conversion of two classes of stock in that case. One class had matured, and another was capable of redemption on one year's notice. The difficulty with which Mr. Goschen was faced was that in the case of £150,000,000 payment on non-conversion should be made at once. If he offered a lower-priced stock and it was accepted, could he find the cash necessary to secure that stock which would be exchanged for the lower priced stock? He took the risk of finding the money in the event of his offer being accepted.

The Right Hon. Sir G. TURNER:

They offered in South Africa to convert stock not becoming due and which he was not ready to pay off. It was not a large amount—about £10,000,000!

Mr. GLYNN:

At all events, except in a few small cases, conversion has not taken place unless the stock had matured. I think it is undoubted that you cannot possibly convert without giving a quid pro quo. Where then is the possibility of great benefit accruing to the federation subsequently by putting in the words "may convert," and leaving it optional, so as to prevent the possibility of stockholders getting a premium out of the conversion? The very moment it was decided to convert, the terms would be known, and the price of the stocks would be increased by the knowledge that federation had taken place, and of the implied guarantee of the solvency of the states within the compass of the federation. I refer to this because my right hon. friend, Sir George Turner, very properly said that we ought before we separate to offer some solution of the question which does not necessitate the handing over of the matter altogether to the federal parliament. At all events, I, for one, will say this: that if no solution is adopted—and I believe the taking over of the railways and the debts is the
proper one—I can see no danger that should deter us from allowing the matter to be settled by the federal parliament. They did it in America under circumstances of prejudice much more difficult than those which exist here. All their troubles arose from the taxation question. All the writers on the Constitution of America have shown that the mutual animosities of the states were far more intense than any animosities which could possibly exist between the states that would constitute a federation in Australia.

**The Right Hon. Sir G. Turner:**

There was no question of a surplus there!

**Mr. Glynn:**

Were they not bringing into existence a federation of thirteen states, some of whom had practically no customs tariff, and no political organisations, while others had very high political organisations, and large customs tariffs? Were they not bringing into existence a federation, in which the states who had not those organisations and tariffs would have the very strong objection that they would become part of a federation which would be bound round at once by a high protective tariff?

**The Right Hon. Sir G. Turner:**

That is not the difficulty here. The difficulty is the distribution of the surplus!

**Mr. Glynn:**

The difficulties of jealousy, and of the economic effect of the fiscal policy operated quite as strongly in America, and yet did not deter them there from handing over the whole question to the federal parliament. At all events, as has been very properly emphasised during the debate, I do not think there is any possibility of injustice being done. It is a solution by which we shall get rid of most of our difficulties, while it will not render our constitution hide-bound from the very start, and it is the one we should be prepared to adopt.

**The Hon. H. Dobson (Tasmania)**

In response to the intimation of the leader of the Convention that those members who are not on the Finance Committee should ventilate the points which they think worthy of discussion, I desire to say a few words on one or two matters which face us in this complex financial problem. I desire to thank Sir George Turner for his very practical speech, and I think we should also be very grateful to our friends, Mr. Reid and Mr. Holder, for one or two sentences that filled me, at all events, with hope and with comfort. Mr. Reid told us that he thought more favourably of a sliding scale now than he did when he left Adelaide, and if we could not fix up a financial scheme upon that sliding scale, or upon some modification of it,
he was willing to leave everything to the federal parliament. Mr. Holder
told us previously that the principle of the sliding scale could not be wrong,
and in view of the confidence which Sir George Turner has in the scheme,
I think it is pretty plain that the way is being made clear for us to settle this
financial problem. There are three ways of doing it. First of all we ought to
go on and tackle the work we commenced by putting the principle of the
problem in the bill. Secondly, there is the idea that we should leave the
whole thing, without defining any principles at all, to the federal
parliament, and, thirdly, there is the compromise between the two-that we
should adopt something like Mr. Deakin’s idea, which has also been
suggested by several others, namely, that we should leave everything to the
federal parliament after we have provided for the security of the state
treasuries by giving them a guarantee of so much money-in perpetuity, if
you like; but I think that would be a very wrong course-for the term, say, of
five years, and then to reconsider everything. I am quite in accord with Sir
George Turner when he says that to leave everything to the federal
parliament is open to the very gravest objections. When I left the
Tasmanian Parliament I was not of opinion that it would be particularly
wise or expedient to leave everything to the federal parliament; but I
formed the impression that we should perhaps have to do that. My friend,
the Hon. B.S. Bird, who is one of our ablest men in Tasmania, and whom it
is well known was a member of the Convention of 1891, when I expressed
that view, immediately interjected that leaving everything to the federal
parliament would mean taking a leap in the dark. I answered that
interjection by saying that it would, I thought, be taking a leap with the
light around us, as the federal parliament would have before it all the true
facts and correct figures, which we have not, and, therefore, would be able
to settle the question with an advantage which we lack. But when you have
said that, I think you have stated every advantage which the federal
parliament would have over this

Convention in settling the matter. Let me add also the advantage on the
part of the federal parliament-that it would, of course, be better able than
this Convention to say the exact time when we could, with fairness and
equity, commence the distribution of the surplus customs duties on a per
capita basis. But, having given the federal parliament credit for these two
advantages, I think there the advantages end. These are the reasons why I
think it is fraught with danger to leave the matter to the federal parliament:
First, it is the duty of this Convention to do the work; secondly, the people
expect it of us, and have sent us here that we may do it; and, thirdly, I feel
the greatest possible danger in asking the people of Australasia, who are
composed of ardent federalists, of lukewarm federalists, and anti-federalists, and who are composed also of men like our hon. friend, the Attorney-General of New South Wales, and Sir Julian Salomons, and other hon. gentlemen, who may be described as the absolute wreckers of federation-men who say they are going to stump the country against the great movement—

An Hon. MEMBER:
And wreck themselves!
The Hon. H. DOBSON:
I think they will wreck themselves if they are going to try to wreck federation. I think you are going to put a weapon in their hands which will be of the greatest use to them with the many lukewarm and anti-federalists throughout the electorates, if you hold up to them the fact that we are incapable or incompetent to settle this financial problem, and that we are therefore going to leave it without any principles or any guiding star, so to speak, to the federal parliament. But the greatest objection of all, to my mind, is this: Although I am one of those who think with Sir Samuel Griffith, and to a very great extent, in fact, entirely, with you, sir, in believing that federation will develop a better form of government than our party and responsible government, and believing as I do that there is not the same room in the federal parliament for party politicians as there is in the state parliaments, I am bound to face this fact, that we shall have the party politician on this everlasting question of free-trade and protection, a leading feature in the federal parliament the moment its doors are open. But if you leave the whole financial problem to the federal parliament you will create party electorates and party would-be politicians before the doors of the federal parliament are open; and if you are going to hold up a sliding scale to the people of the colonies without passing it into law, what will you have? It is obvious that there is a difference in the wealth and consuming power, and the spending power of the various colonies. No mortal man can say when that will end. It may never end. Therefore, the sliding scale to a very great extent is a contribution from the richer colonies to the poorer colonies, and the people of the richer colonies may be very naturally and properly asked, "Are you going to consent to absolutely hand over a part of your revenue to the poorer colonies?" At election times we all know what force a cry of that kind would be certain to have. If that is so, you will have every electorate in a rich colony like New South Wales—we may take the three colonies of New South Wales, Queensland—which I hope will come in—and Western Australia as the three wealthier colonies, according to their customs revenue—you would have every elector, who is a
democrat and likes his own way, asking every candidate for the federal parliament in those three wealthier colonies, "Are you in favour of a per capita distribution? Are you in favour of a sliding scale?" And I suppose in a weak moment—we are all of us more or less weak when we face the electors—in a weak moment perhaps, the candidates, to a very great extent, would bind themselves before they entered the federal parliament to vote in a particular way—the way in which the electors wanted there to vote; the way in which self interest on their own side—and who can blame them for looking after their self interests?—would dictate that they should vote. Every elector in the small or poorer colonies, if he was alive to his interests, and the interests of his state, as he would be, what would he ask his candidate? Exactly the opposite question: will you favour the per capita distribution, and will you object to the distribution of the surplus on the basis of collections. Therefore the poorer colonies would endeavour to send, and in most cases they would send, delegates to the federal parliament who would be pledged and bound to do every possible thing they could to get a per capita distribution, in order that they might win a contribution from their richer neighbours to their own treasuries. For these reasons, unless they are all moonshine—and I do not think they are—I think there are great dangers in leaving the matter entirely to the commonwealth to determine. If you could leave it to the federal parliament with some guiding principle where you would have that eminently satisfactory tribunal, the high court of the commonwealth at your back, whose eminent judges would be able to take evidence from their statisticians and commercial men and people all over the commonwealth; if you had that at your back to see that the federal parliament carried out the principles which this Convention laid down, then there would not be very much objection. But if you are going to leave the thing to the federal parliament, without any guiding principle, without any appeal, without any hope of getting an error rectified, except by the parliament itself, then I do see some danger in that course. I am inclined to adopt the language which my hon. friend, Mr. Higgins, used yesterday. To some extent it will be a disgrace to us unless we can see our way out of this difficulty. Surely there is some way out of it; and instead of giving the Finance Committee a direction that we are going to leave it all to the federal parliament, I hope that when this debate is finished the Finance Committee will believe that it is their duty to set arduously to work, as they did in Adelaide, until they have threshed out some good proposals for the consideration of this Convention. Now, allusion was made that the question of trusting the federal parliament to
some extent depended on how it should be constituted. I am not going into that question any more than to say this: When I am talking about the constitutional clauses of the bill I dislike entirely the word "compromise," because I do not quite understand, although you sometimes have to do it, compromising a principle. The question of equal representation in the senate, the question of the referendum, and what control you are going to subject the will of the people to, are more or less principles, which we ought to determine from the books we have in front of us, from the four constitutions we have to guide us, and from the experience of mankind in working out those four constitutions. Those are what I call principles, I do not quite understand compromising these principles, except so far as it may be we will have to draw closer to one another, and give and take, and then we do come back to the word "compromise;" but I hate the word "compromise" in reference to what I conceive the framing of the machine you are going to make to carry on your federal government. It would be just like when you were asking one man, who has a particular kind of railway brake, and another man, who has an utterly different kind of railway brake, if somebody were to suggest that you should try and have a compromise between the two, and get one man, to alter his brake and the other to alter his a little, and to take half the quantity you want from each of them. Now, sir, on the terms and conditions on which you are to go into this federal parliament, which means the financial clauses, there I do understand the meaning of the word, "compromise." You must have a compromise. You there make a bargain; and although it is very necessary that we should all show a federal spirit, at the same time we are going to make a bargain. We are going to lay down terms and conditions, and these are the terms and conditions forming the bargain which it is our duty to frame, and not leave to another body. Hon. members will see that I am trying to draw a distinction between compromising principles and compromising the terms of a bargain which, in the latter case, I think we must compromise more than we ought to do in the former. I think, from the language we have heard from other speakers, we will find that we will have no better scheme put before us than the sliding scale which is contained in the bill, and the whole of that sliding scale must absolutely depend on the accuracy of your year-test. I am inclined to think that we are making a very woful mistake in fancying that we can build up that sliding scale with anything like justice to the people of these colonies, if we make the first year after the imposition of the uniform tariff a test of the sliding scale. It is absolutely the worst year we could choose. We might make it one, two, or three years-I do not know, and I am
hardly capable to say; but I do think that if you make one blunder there, if you are out in the slightest degree in fixing the test amount, which is to be the amount up to which the poorer colonies are to rise, and from which the richer colonies are to descend, you will, indeed, make a blunder which may involve the grossest injustice to some of the taxpayers of federated Australia. That, I venture to say, will require the most earnest attention of the members of the Committee.

[The Chairman left the chair at 1 p.m. The Committee resumed at 2 p.m.]

The Hon. H. DOBSON:

When we adjourned for luncheon, I was quoting a sentence from a speech of the Premier of Victoria, to the effect that the fight at the first election of the federal parliament would be in reference to free-trade and protection. Mr. Holder told us that what we required was a broad revenue-producing tariff, and I am inclined to think that the latter announcement is more correct, because, from the very circumstances of the case, the federal parliament, if it does its duty, will be compelled to look to a revenue-producing tariff, and if it strays away into the paths of protection, and imposes duties which it thinks will help its local manufactures or industries, it is certain that Tasmania, and some of the other colonies, will be left without the revenue which they require. We only have to look at the figures to see that that is apparent. The tariff which the commonwealth would produce if collected upon the Tasmanian tariff, would be £7,430,000, whereas if it were collected on the very much lower tariff of Western Australia, it would be £4,712,000. Therefore it is perfectly certain that the federal parliament must devote their energies to framing a tariff which will produce revenue; but if it is tried to frame a tariff which will be protective that adds another argument to the admirable arguments used by, the Premier of Victoria, that there is a very great danger in leaving the adjustment of the finances to the federal parliament. In reference to the question of conversion, it appears to me that some little misunderstanding has arisen. Whilst it is quite true that we find no ease in the books where debentures have been converted which have a long time to mature, it is equally certain that you can convert long-dated debentures, and do it on a sound basis, if you provide a sinking-fund, so as not to put on to posterity the bonus which you have to pay to induce the holder to convert, and exchange his stock at a high rate of interest for stock at a low rate of interest.

Mr. MCMILLAN:

You may, if the holder is reasonable; but you cannot say for certain!

The Hon. H. DOBSON:
You cannot say for certain; but if you offer a man a quid pro quo, and better security in addition, and a larger and interminable class of stock, there are some reasons which may induce the holder of the debenture to convert. The reason I have alluded to this matter is to draw the attention of the Finance Committee—and I think it requires their earnest attention—to the question as to what security a united Australia is going to offer to the investors of England. I tried in vain to get some information from Mr. Goschen on this point. Mr. Walker tried, with better success, to gain information on the point from Mr. George, who for thirty years has been the manager of a large bank in London, and who must have had a great deal of experience in floating loans, and who, therefore, ought to know something about conversion. He tells us, after consulting experts, that you ought, in addition to your customs duties, to hypothecate some part of your railway revenue as additional security. It appears to me that the Finance Committee will make a great blunder in framing their financial clauses unless they seriously consider what is the best position for us to occupy in the English market when we come to convert; because if they adjust the financial clauses to suit all the states, and do not adjust the other clauses so as to give us the base of a conversion scheme, they will make a blunder which may cost us £500,000. If you are going to have, as I think you must have, a sinking fund, you cut down the profit on your conversion scheme from £1,000,000 to £500,000. I think you may safely put it at that.

The Right Hon. Sir G. TURNER:
Not immediately!

The Hon. H. DOBSON:
Yes, immediately.

The Right Hon. Sir G. TURNER:
Does the hon. member say that £500,000 will be docked immediately?

The Hon. H. DOBSON:
The profit of £500,000 will go immediately if you convert immediately. I am pointing out that if you wait until the debentures mature, it will not be for thirty-five years in some cases, and whenever debentures mature, it goes without saying that you do not convert them, but exchange them, and pay them off with debentures at a lower rate of interest. Most of us, in our speeches to the electors, have pointed out—Sir Philip Fysh also has pointed it out—that there is a way of converting your debentures at once.

The Right Hon. Sir G. TURNER:
Does Mr. George advocate that in his letter?

The Hon. H. DOBSON:
He does not say it cannot be done; I think he says it can be done.
An Hon. MEMBER:
   How can it be done?
The Hon. H. DOBSON:
   By giving the holder of the debenture a proper quid pro quo. You save a lot in interest, and at the same time you add to the debt of the commonwealth, and in adding to the debt of the commonwealth, you have a financial transaction which is unsound. In order to get rid of that unsoundness, you take part of the saving you make in interest, and pay it into the sinking fund.

An Hon. MEMBER:
   How can you force a man to take what he is not agreeable to take?
The Hon. H. DOBSON:
   You do not force him to take anything. But by giving him a quid pro quo—a sovereign for a sovereign—and by giving him interminable stock, and the better security of the commonwealth, you give him a slight advantage.

The Right Hon. Sir G. TURNER:

The Hon. H. DOBSON:
   I quite agree that that is so; and, therefore, I am inclined to think that the quid pro quo we will have to give will be a little more than you otherwise would give. In answer to the Premier of Victoria, I would point out that we all know that the demand for consols is increasing, and that the supply is decreasing. Why? The supply is increasing because the British Government are paying off the national debt at the rate of £7,000,000 or £8,000,000 a year. The demand is increasing, because all the numerous friendly societies of England, the savings banks, and other institutions, are increasing their wealth and funds, and want more and more of these consols. Therefore, I think that, in three or four years' time, after the federal constitution has been established, we shall find that there is a demand in London at a low rate of interest for good stocks, where the security is undoubted.

The Right Hon. Sir G. TURNER:
   That will not affect present loans, because they are already held; but it will affect new loans. It will not benefit present holders!

The Hon. H. DOBSON:
   It might benefit them if you could offer them a fair quid pro quo, and if the saving is so great that you can save £500,000, and at the same time provide a sinking fund. I agree that if you have to add to the debt of the
commonwealth to pay the quid pro quo the transaction would be so unsound that there would be an end of it. As Sir Philip Fysh has pointed out, however, you add to the capital debt of the various colonies; but if the reduction of interest will still leave you a saying of interest and give you sufficient to establish a sinking fund, it will be a sound transaction.

Mr. MCMILLAN:
It is a pure assumption that you will convert!
The Hon. H. DOBSON:
No; it is an assumption based on a very great fall in the rate of interest.

An Hon. MEMBER:
It is a pure fallacy!
The Hon. H. DOBSON:
I do not think it is. It would be if the rate of interest had not fallen greatly. But the rate of interest has fallen so greatly, and the demand for interminable stock and good securities has become so great that the difference in the rate of interest will enable you to get rid of the sum you add to your capital and at the same time give you some reduction in your own interest.
The Right Hon. Sir G. TURNER:
If a man gets £1,000 interest now you will have to give him an equivalent amount of stock to give him £1,000 a year interest or he will not take it!
The Hon. H. DOBSON:
That maybe so. Then, a great many of us have been telling our electors what is not the case, because we all know perfectly well that, apart from federation altogether, each colony could quietly wait until its debentures matured and then float a new loan, to pay them off, at a much lower rate. I have always understood that a large majority of the members of the Convention, in speaking to the country, have said that they thought some kind of conversion scheme was feasible, with long-dated debentures. I am inclined to think that it is feasible now; but what I desire to call the attention of the Finance Committee to is that they must be very careful in framing their financial clauses, or we must be very careful in framing our constitution, not to do anything which will detract from the additional security which we all hope the commonwealth will give to the English investor. If you ask the English investor to take your consolidated Australian stock, and he is to have no security whatever but your customs duties, I am inclined to think that you are making a mistake; and I am also inclined to the opinion that you will not convert your debentures on any terms making it worth your while to do it, and this is the
opinion Mr. George seems to hold. Mixed up with this question is the most important question to which the right hon. member, Sir George Turner, has alluded, namely—that of making our consolidated Australian stock such an admirable security that the Imperial Parliament will pass the necessary act to enable trust moneys to be put into it. Now, as far as I can understand the reasons which induced the Imperial Parliament before to refuse that, or which induced her Majesty's ministers not to suggest it—I forget which was the fact that they did not consider the security quite sufficient, and—they did not think that trust funds in England ought to be lent to people 12,000 miles off when the English people have no control whatever over the revenue. I have read a pamphlet—I forget whom it was by-in which it was said that if this were an insuperable objection to the Imperial authorities consenting to enact that trust funds could be lent upon Australian securities, a scheme might be adopted whereby your customs duties alone might be hypothecated—that they might be received by an Imperial officer at home who would simply deduct the £5,000,000, or whatever sum it was, for interest, and transmit the balance to Australia.

The Right Hon. Sir G. TURNER:
We would never agree to that!

The Hon. H. DOBSON:
If it would get rid of all the difficulties and troubles of the question of security, it is worth thinking about. We will all admit, I am sure, that there will be, to some extent, a blot on our consolidated stock so long as the Imperial Parliament refuses to pass an act authorising trust funds to be invested in it. I do not say that the suggestion in this pamphlet is a particularly good one; but I do say that we, as statesmen, ought to adopt any feasible scheme we can, to get rid of that blot on our credit, for no doubt it is a blot on our credit. I understood the right hon. member, Sir George Turner, to say that, when the commonwealth was established, all future borrowings on behalf of the state—for state railways, and so forth—he was inclined to think, should be made through the commonwealth. Here, I think, the right hon. gentleman will see that he is getting rather into a difficulty. If you are going to leave all your assets—land, and so forth—to the states, and if you are going to leave them your magnificent railway revenue, and are going to give over nothing but the customs to the commonwealth—

The Right Hon. Sir G. TURNER:
Customs, and unlimited power to tax!

The Hon. H. DOBSON:
Is it expedient or wise, under those circumstances, to say that you will leave borrowings for state purposes only to the commonwealth? It appears
to me that that is rather mixing up the affairs of the commonwealth with those of the state, and that while in one clause we have set forth all the things that are to be delivered over to the commonwealth, we are now delivering over to the commonwealth another thing which is far more important than all the others put together.

The Right Hon. Sir G. Turner:

You have to chose the less of two evils. You cannot very well have two stocks running at the same time. It would reduce the value of state stock enormously if you did!

The Hon. H. Dobson:

This is a matter to which I think the Convention has devoted very little attention, and I think we shall have to devote a great deal of attention to it, for it is a most important question, which is at the very root of the progress we all hope to make. I have only one or two more words to say—that is, that two colonies will, I think, have to be specially provided for. Now, although we all seem favourable to the adoption of the sliding scale, either with or without modifications, I cannot help thinking that it will hardly suit our friends from Western Australia. I think that the words used by the right hon. member, Sir John Forrest, were rather misquoted in the newspaper this morning when it said that he very generously stated that he wanted no concession or no-special favour. The right hon. gentleman did say that, but provided that you return to each colony the amount of revenue which it collects less the federal expenses.

An Hon. Member:

It would not answer for the other colonies!

The Hon. H. Dobson:

It would not answer altogether the federal spirit; it would not answer so well as the sliding scale; but if you adopt this it is absolutely certain that you will have to make special provision to do justice to our friends from Western Australia. I also desire to point out that I think that to some extent you will have to make one or two special provisions in favour of the colony which I represent. The sliding scale gets rid of the book-keeping after one or two years, and the sliding scale would suit Tasmania.

The Hon. J. Henry:

It would not!

The Hon. H. Dobson:

I understood that my hon. friend, Mr. Henry, was in favour of the sliding scale.
The Hon. Sir P.O. FYSH:

It would suit us well after five years!

The Hon. H. DOBSON:

I have just come to the point to which the hon. member, Sir Philip Fysh, has called my attention. You will have to make some special provision in regard to this smallest colony of the group, and will have to do it in terms that are absolutely fair and just to yourselves. They are these: We are joining with colonies which certainly are richer than we are, and whose spending powers are greater than ours, and, therefore—I will not say—their extravagance; but if their spending powers are greater they spend more money in keeping up the services of the state. As we are able to do, we administer our state departments with more economy than the larger colonies do, and, consequently, if you ask us to join with you and share in your larger or more extravagant expenditure—if I may use the term—then of course we will lose money which we cannot afford to lose, and I think that that will have to be got over by putting in one or two lines providing that for the first five years at all events you shall not ask Tasmania to contribute more towards the federal expenditure than she contributes now for her own expenses. That is to say, if we conduct our departments at a certain rate per head, do not ask us to contribute more at first to the federal finances. Another point is that we are now making a profit of about £15,000 from the postal and telegraphic departments. The hon. member, Sir Philip Fysh, said that if we lost £50,000 a year it was equivalent to New South Wales losing £300,000, but I would point out to the hon. gentleman that he is a very great deal under the mark. I look upon the great colony of New South Wales as being about ten, twelve, or fifteen times as wealthy and more able to pay than Tasmania, and if we have to give up £15,000 a year profit from our postal and telegraphic departments it is equivalent to this colony giving up from £150,000 to £200,000 a year in one state item; therefore, as a matter of fair play and justice, I think we are entitled to ask the Convention to consider that profit which we make as against the loss which some of the states make in conducting their postal and telegraphic departments, because it is perfectly certain that the sum of £15,000 a year is a very great deal to Tasmania. It is more than the whole of the revenue we receive from our tax upon incomes derived by personal exertion. Therefore, hon. members will see that Tasmania may demand some special concession. One word more in reference to the position of Queensland. I have always been of the opinion that it would be a very great mistake, if we could avoid it, to start our commonwealth without every colony joining it at the same moment. Just as surely as you leave out one colony, and
especially a colony which has had no hand in the framing of the constitution, so surely will the public men of that colony-its politicians, and its newspaper writers-instead of applying criticism of a generous and fair character to the constitution, apply criticism of a hostile and ungenerous character. Whenever a man has an opportunity to join, with his eyes open, an association or a society, and he does not join it, he always finds very good reason, or he thinks be does, why the society is not worth joining, and why he is justified in his own eyes, and in the eyes of the world, in standing out from it.

The Hon. Sir W.A. ZEAL:
That was not the experience of Canada, at all events!

The Hon. H. DOBSON:
One or two of the Canadian states joined the Dominion of Canada only quite lately, and I would point out to my hon. friend that one of the states has not joined the Dominion to this day.

An Hon. MEMBER:
They are the losers by it!

The Hon. H. DOBSON:
That may be so; but if Queensland has no hand whatever in framing the constitution, and if she does not enter the commonwealth when it is established, no man can predict when she will come in. I desire to say, with all deference to the Right Hon. Sir George Turner, that in framing a constitution we ought to think of all the colonies; we ought to think of the colony that is not with us. Although nothing would induce me to favour a proposal to adjourn now, or one hour before it is necessary to do so, yet when we have come to the end of the three weeks when we must either adjourn or close our proceedings, I shall be in favour of adjourning if I can see any reasonable hope in any ministerial utterance from our friends in Queensland that after an adjournment they will come in and help us to frame a constitution.

Mr. JAMES (Western Australia)[2.24]:
I do not for a moment intend to propose any scheme the effect of which will be to bring Queensland into the Convention. I think it would be entirely wrong to permit the absence of any one colony to interfere with the progress of the movement towards federation. We are assured by some parties in Queensland that they are thoroughly attached to this movement; other parties there say that they are not attached to it. I think it would be wise if we in this Convention extended the warmest sympathy and consideration towards Queensland, and, having shown that sympathy and consideration, we got on with the practical work before us. So much
sympathy and generous consideration has been shown towards Western Australia, that one is invited in dealing with the financial part of the scheme before us to ask for a concession which, in my humble opinion, is necessary if Western Australia is to come into the federal union. I am not competent to deal with the merely financial aspect of this matter, the aspect which involves the consideration and discussion of more or less unreliable statistics. I only wish to say a word in connection with the political aspect of it, and to express my thorough approval of the speech delivered by the Right Hon. Sir George Turner this morning. I cannot understand how it is possible to remove the difficulty in connection with the financial question by putting it on to the shoulders of someone else. The difficulty does not exist because it has been crystallised into part of the bill; but as it exists, it has to be faced before we can have a federal union. It seems idle to attempt to, as it were, pasteurise the question, to free it altogether from the germs of future discord by passing it on to the federal parliament to deal with. It has to be dealt with, and the difficulty we have now in connection with it is, not so much in dealing with the details of it, but in a want of confidence—perhaps unworthy of us—in the central parliament which is to have control of our affairs in the future. If we have that complete confidence in the federal parliament which we must have before we can trust them with the determination of this important question, will it not be sufficient for us to pass an act saying that we shall have a senate with certain powers, and a lower house with certain powers, and then to hand over to them the settlement of this vexed question, giving them absolute power to do what they like? If we can afford to hand over to them the settlement of this vexed question, I do not know any other power more important which we should refuse to give them. So far as Western Australia is concerned, we asked for this concession in no mercenary spirit. It is not because we desire to make money out of the remaining colonies of the group, but because we desire to work out our own development. For years past—as a matter of fact ever since Western Australia was established—we have had this difficulty to face, that, despite the work which we have done there, the money which has been made in the colony has been spent somewhere else. We have found enormous difficulty in settling the country, in securing to ourselves a settled agricultural population. We have not been blessed with good country as you here in the eastern colonies are blessed. We have had enormous difficulties to contend against, and now when the opportunity has arrived, and we have a chance to secure to ourselves the benefit and enjoyment of some of that wealth which the colony yields, it is difficult, however strongly one may be attached to
federation, to hand over for ever the power which have come to us after sixty years of existence. Hon. members no doubt will agree with me when I say that our gold, valuable though it may be, will be useless unless we can succeed, while we have it, in settling upon our lands a good agricultural population. For years and years past, as our good friends from South Australia know, a great deal of money has been made in Western Australia and spent elsewhere.

Mr. SOLOMON:
A great deal of money has been made elsewhere and spent in Western Australia!

Mr. JAMES:
I am not aware of it, and I have lived a long time in Western Australia.

Mr. SOLOMON:
The hon. member has not been a shareholder in many companies then!

Mr. JAMES:
I should be very glad if the shareholders in Perth had made as much money in Western Australia as the shareholders in Adelaide have made there. We have the opportunity now, and it is not only because we want to develop Western Australia for our own selfish purposes that we ask for a concession. We say that if we succeed in developing Western Australia, and in settling there an agricultural population, we are adding a new province to the commonwealth; but we shall not succeed in this unless we have the power of levying customs duties. At the present moment, with the assistance of customs taxation, we can encourage the settlement of an agricultural population upon the land. During the last twelve months an enormous increase has taken place in this direction. Thousands of acres of land have been opened up, and thousands of people have come to our shores and settled down there. It has been the want of population that has been our drawback in the past. This has isolated us, and has made us a small, and, to that extent, a narrow-minded country. If we could attract to our shores a great many of those whom you have the good fortune to have in the eastern colonies, not only would it be a great assistance to Western Australia, but it would add a province to the commonwealth. Therefore I think we are entitled to ask for this concession. Unless you give to Western Australia the right to impose its own customs duties for the next five or ten years, I venture to think that that colony will not come into the federation. That feeling has marvellously strengthened over there in connection with this question. It is not merely a question of money. I am vain enough to believe that if a sacrifice has to be made, Western Australia is broad-shouldered enough, as the diagram before you shows, to bear the sacrifice,
so far as mere money is concerned. But that is not the point. It is vital to
the future development of Western Australia that, for five or ten years, she
shall collect such duties under a system of protection as will assist, as far as
is possible, the agricultural industry of the colony. Provision might be
made, if this concession were granted us, that no duties levied in the
western colony should be less than the duties levied in the commonwealth.
That would be quite right. Or we might take a still more limited power, and
agree to the levying of taxation on certain articles, because we have no
desire to build up industries other than those which will directly settle
people on the soil. We have no desire to have a protective system applied
to all sorts of industries. That which we want to do is to get people on to
the soil, and now that the opportunity has arisen to do this we do not want
it taken from us. There is nothing narrow in that view of the question. After
all, ten or twenty years in the life of a nation is a very short time indeed. If
we approach a question like this under the impression that ten years is an
important period of time, then I say, with the utmost respect, that we are
not capable of dealing with a question so great as is that involved in this
Commonwealth Bill. If such a concession as that which I have suggested,
is not granted, then I think Western Australia will stand out until she can
secure a more settled and larger population. But whether you grant this
concession or not, so far as the eastern colonies are concerned, they will
not have the benefit of the trade of Western Australia. We do not ask you
to accept a burden for our sakes. But those of us who are attached to
federation say this, "Leave a side door by which we can come in. Do not
throw obstacles in the way of our entrance." No one can tell what may
happen in ten years' time. In that time Western Australia may become
greater and infinitely more populous than both New South Wales and
Victoria put together. Those on the western side of the continent might
then take up a position somewhat similar to that taken up by some good
people in New South Wales at present when they say, "We can get along
very well, independently of federation. We do not want it." I say that
Western Australia might assume the position I have indicated in ten years-I
do not at all think that it will—but at the same time that which we ask
involves no injury to those from whom we ask it. We are willing to give
the federal authority power to interfere in all matters except in the matter of
customs; but we do ask for that concession, and unless we get it, the
probability is that our entrance to the union will be delayed for some
years. I am not asking for any concession which is unreasonable, having
regard to the great object to be gained. It may be said that you gain nothing
if Western Australia does come into the federal union upon these terms;
but do you not secure that which above all things you desire to secure, the operation of those forces—moral, social, and political—which above all things are the most valuable fruits of that federal union into which we wish to enter. For these reasons, I hope the Committee will take into serious consideration the question whether they cannot give to Western Australia the right to control customs taxation for a period of, say, ten years.

The Hon. Sir P.O. FYSH:

- Mr. JAMES:

Undoubtedly, and that is the question involved. Surely the hon. member must know that it is the competition in intercolonial produce which will injure us in connection with the desire I am emphasising—namely, the desire to settle people on our soil. Perhaps the hon. member will tell me where the concession will be if we are to have intercolonial free-trade? I am asking for a concession.

The Hon. Sir P.O. FYSH:

It strikes at the very foundations of a federation!

Mr. JAMES:

I repeat that I am asking for a concession. I have used the word "concession" all through, and where is the concession, as far as we are concerned, If you are going to have intercolonial free-trade?

The Hon. Sir P.O. FYSH:

I thought the hon. member was asking for a concession in the shape of power to collect duties on foreign products, as Sir Samuel Griffith suggested!

Mr. JAMES:

I make no qualification of that kind at all. We wish power to levy duties having for their object the settlement of people on the soil. Foreign products can come in as they do now. We do not want to levy duties in connection with foreign products, but in connection with agricultural products; and we want to do this solely for the purpose of settling people on the soil, and, as I have pointed out, adding a new province to the commonwealth. Unless we have this power, not only shall we not come into the federation until we have settled people on the soil; but I question—strongly attached though I am to the cause—whether I myself would advocate any entrance to a federal union which would have the effect of destroying the one opportunity we have had for sixty years of securing a population for Western Australia.

Mr. SOLOMON (South Australia)[2.36]:

I have no desire to protract this debate in Committee; but I do think that the Finance Committee appointed by the Convention has so far received
very little indication of any definite course of action which they are expected to take. I was somewhat pleased to hear yesterday from the lips of the Right Hon. the Premier of New South Wales that, as far as the delegation from this colony is concerned, he, as representing that delegation, or the bulk of it, was willing to trust the future parliament of a federated Australia, not only in matters of minor detail, but also in this great and important question of finance, and the distribution of any probable surplus. Following upon that speech, the tone of which was certainly conciliatory and cheering to most members of this Convention, we had today a speech by the Right Hon. the Premier of Victoria, which at once swept away all, or a very great deal of the hopefulness we had taken from the address of the Right Hon. G.H. Reid, and which threw in our path all the difficulties which have ever been mentioned by any enemy to the scheme of federation.

Mr. JAMES:

The difficulties are there, and they have to be faced!

Mr. SOLOMON:

There is something to be said for the hon. member's candour in mentioning the whole of these difficulties to the members of the Convention. But there is such a thing as playing a game of cards fairly, and there is such a thing, especially if it be a game of euchre, as giving to the other side all the "bowers." This may not have been the intentional attitude of the hon. gentleman, but it was certainly the result of his speech this morning. He certainly put into the hands of the enemies of federation in New South Wales every possible argument which could be put there by the worst wrecker of federation. I admit with the Right Hon. Sir George Turner that there is a great deal to be said in favour of our framing some definite proposals in regard to the financial position, and that although it may smooth over the difficulty to say that we will trust the federal parliament to deal with this subject entirely, it will, as the right hon. member stated, give the enemies of federation a considerable argument. As the right hon. member pointed out, if this Convention, chosen by the whole of the colonies, cannot frame any equitable system of dealing with the finances, the enemies of federation may ask, "How will it be possible for the future federal parliament to deal with the question?" I admit that there is a great deal in that argument. But now in this Convention we are faced with precisely the same difficult problem that the Finance Committee were faced with when the Convention sat in Adelaide. There we found that, although the smaller colonies were prepared to make considerable
concessions, the two larger colonies were the ones with which the greatest difficulties occurred. We have had from the Premier of New South Wales a declaration that he is prepared to trust the federal parliament. We have had from the Premier of Victoria a declaration that he rather desires to deal with this matter at once, and that the Finance Committee shall present something that maybe placed before the people. In this morning's paper we find another solution of this financial problem given to us by a gentleman who bears the character of being one of our deepest thinkers on the financial problem. I refer to Mr. Nash. Although his solution of the problem is not a new one, coming, as it does now, in the light of all the difficulties that have been raised, and all the objections to previous solutions, it certainly seems to me to be well worth thinking of. The hon. member Mr. Glynn, dealt very clearly with this question of the debts and the railways, and the advisability of the federal parliament taking over both the debts and the railways. He dealt with the question from several standpoints. Especially among his arguments may be noted the one that taking over all the railway services would do away with all the difficulties and all the jealousies in connection with the question of an inter-state commission. I think we may consider that taking over the railway systems would mean a great deal more than that. We know that at the present time, taking the statistical figures, which I think can be relied upon, that the railways of the colonies as a whole mean a loss to the revenues of the different colonies in round figures of £1,000,000 per annum. If these cut-throat rates which we have heard so much about in the Finance Committee and in this Committee could be done away with by the administration of all the railways being placed in the hands of the federal parliament, there is little doubt that the bulk of this loss of £1,000,000 per annum might be easily made up without any great tax upon the producers or the people who use our railways. In fact, £1,000,000 divided amongst all the colonies over a year's traffic on the various lines, would represent an infinitesimal advance in the rates for the haulage of goods and for passenger traffic. Then, again, we must consider this branch of the subject in connection with the handing over of the debts of the commonwealth. Here we find opposition raised to handing over the whole of the debts to the federal parliament on the ground that the federal parliament can do no better in the way of converting those debts than the states themselves can when the debts mature. I venture to think, however, that if the whole of the debts are placed in the hands of the federal parliament to deal with, an immense saving can be made in the way of interest, not an immediate saving certainly, because, as the hon. member, Sir William Zeal, pointed
out by an interjection, we can pass no law to force the present holders of our bonds and stocks to hand them over. Whenever we desire to give a new stock or a new bond in place of those at present held, we shall undoubtedly have to pay the top market price and it fair equivalent. But there is this to be considered: that the value of the stock with the endorsement of the whole of the colonies behind it must certainly be somewhat greater than the value of the stock of each individual state. I do not say that it will be very much greater, because the credit of the individual states at the present time is very high indeed in the London market; but it undoubtedly would be somewhat higher. With the power of converting the whole of the debts into one interminable stock somewhat similar to English censors, undoubtedly a vast saving could be made. Let us come to definite figures with regard to the debts. It has been pointed out that you cannot look for any great immediate saving with regard to the conversion of our debts, and it has been pointed out with a great deal of truth that we can hardly hope to convert any of these debts into one regular consolidated stock until such time as these debts mature. In looking through a statement of the debts of the commonwealth contained in the Votes and Proceedings of the last meeting of the Convention, I find that during the next three years, between 1897 and 1900, we have colonial debts maturing to the amount of £9,000,000. These debts at the present time are bearing interest at 4, 4 1/2, 5, and 6 per cent., so that within the next three years we can certainly look forward to the federal parliament being able to reissue that amount of £9,000,000 of stock at a saving of at least 1 1/2 per cent. That is to say, within three years from the present date sufficient of our debts will mature to enable the federal parliament to make a saving of £135,000 a year.

The Hon. J.H. GORDON:

The states could also make a large saving!

Mr. SOLOMON:

I admit that, but I do not think the states could make the same saving, and be as sure of a conversion on favourable terms as the federal parliament would be. Taking a further term of five years, from 1900, we find that about £12,000,000 of the colonial debts will mature. For that amount we are paying 4, 5, and 6 per cent. per annum. Here we find a further saving can be made. Supposing that stock can also be issued for this amount at par, at an average rate of interest of perhaps 3 per cent. - which I do not think is unfair - a further saving of £180,000 a year could be made; so that in eight years' time, under favourable circumstances, we would be able to save at the very least over £300,000 per annum, which at the present time is being lost by the individual colonies. Before passing from this question of the debts and the railways, it seems to me that the suggestion that in
handing over our debts we should also hand over those tangible assets consisting of the railways of the various colonies is only a reasonable one, although there seems to be a great prejudice, especially in New South Wales, amongst many I have spoken to, against handing over the control of their various railway lines. I cannot understand that prejudice, in the face of the declarations of the trust and reliance they are prepared to place in the federal parliament. We an not going to hand over the control of these railway lines to any body of man who would be likely to use them unfairly. We would not hand over the lines of the different colonies to the control of an administration that would be likely to use them, as they are used now, for the purpose of injuring one colony or another. The object of making these lines pay fairly, and at the same time develop the producing interests they are intended to serve, would have just as great care, and just as much watchfulness on the part of the federal parliament as it now has on the part of the parliaments of the various states. Then, we come to, perhaps, the more difficult problem of the customs duties; and here, I think, as has been so openly pointed out, is the great stumbling-block to federation-not a stumbling-block on the part of four out of five of the colonies-at least, three out of five, I suppose I may say now, after the declaration of Mr. James, representing Western Australia-but a stumbling-block in New South Wales, not openly declared, for it is a question that many of the representatives of New South Wales do not care to declare themselves very definitely upon. It is admitted, I think, on all hands that, in order to obtain the same aggregate revenue for Australasia through the customshouse that the various colonies obtain now, it will be necessary to have a moderate degree of protection. That, I think, most of us at least regard as a sine qua non.

The Hon. J. HENRY:
A revenue-producing tariff!

Mr. SOLOMON:
A tariff not for protective purposes but for revenue-producing purposes—a tariff, nevertheless, which will very nearly equal in some respects a protective tariff as we at present understand it.

The Hon. J. HENRY:
Not necessarily framed as a protective tariff!

Mr. SOLOMON:
Not necessarily framed for the protection of industries, as the tariff in Victoria is, but framed for producing revenue. At the same time it would undoubtedly be in effect a protective tariff to some extent, and it is useless for us to shut our eyes to that fundamental fact. As far as four out of five of
the colonies are concerned there seems to be no difficulty in regard to this matter; but as far as New South Wales is concerned it seems that the representatives do not care to pin themselves to any definite instructions being set out in the financial clauses of the bill which will in effect mean the imposition of a protective tariff. It is no use mincing words over this. It is no use attempting to evade the question by suggesting that other modes of taxation may be adopted. We know perfectly well that the only mode of taxation which will be tolerated by the states, if they come together in this union, is at the first, at any rate, a moderate taxation through the customs. Then the difficulty crops up as to the returning of the surplus to the various states. After a great deal of argument, after a great deal of trouble on the part of the Finance Committee in Adelaide, and after a great deal of light thrown upon the subject by various writers in the press, we found at the last that it was necessary for the Treasurers of the various colonies to frame a clause dealing with what is known now as the sliding scale of adjustment. That sliding scale has not been fairly and fully debated, and it has been very little understood. I venture to think that until my hon. friend, Mr. Holder, from South Australia, in the pamphlet he issued a few days ago, explained the operation of the sliding scale upward and downward, very few people thoroughly understood what was intended by it. In dealing with this question it may be an

instruction of this Committee that the Finance Committee shall draft resolutions somewhat in that form. There is no instruction at present. We have had a pretty equal expression of opinion on the one side in favour of trusting the federal parliament, and on the other side in favour of a sliding scale with some variations in respect to certain colonies. If it is the desire of this Committee that the sliding scale should be adopted, I should like to point out that the operation of the sliding scale will not be as drafted, that the colonies receiving a greater amount than the aggregate ascertained in the first year shall lose one-fifth in each year of its operation. I should like to direct the attention of my legal friends in the Convention to the wording of this provision in subsection v of clause 92. By the drafting of this sub-clause it would appear that the colonies having an excess would lose one-fifth of that excess in each year. On the other hand, we know perfectly well that it was intended, if the plan set forth in Mr. Holder's pamphlet in correct, that, during the first year after the ascertained average contribution, each colony having an excess should lose one-fifth, during the second year two-fifths of that excess, during the third year three-fifths, and so forth; and that, in the same ratio, the contribution of the colonies having less would increase. But, if hon. members will look at that clause as drafted,
they will see that it does not carry out the intention of the Drafting Committee.

The Hon. E. BARTON:
The words are those of the Finance Committee itself!

The Right Hon. Sir G. TURNER:
It is very questionable whether it does or does not; but we can reconsider that point!

The Hon. E. BARTON:
We need not trouble about the form!

Mr. SOLOMON:
In its present wording, the clause is liable to somewhat mislead those who seek to find out what the result of its operation will be.

The Right Hon. Sir G. TURNER:
It is a question as to whether you take the beginning of the year or the end of the year!

Mr. SOLOMON:
It will not, I suppose, be difficult to make a verbal amendment. What I was about to say was this: Have hon. members really studied from such figures as are available what the result of the adoption of this sliding scale will be? Representing as I do a colony like South Australia, where a considerable advantage would be gained, I feel that this scheme would certainly suit my constituents, but would it suit the constituents of some of the other delegates?

The Hon. J. HENRY:
New South Wales, for instance!

Mr. SOLOMON:
Yes. If we take Coghlan's figures in table 5 of that little pamphlet which was provided for us in Adelaide, showing the relative contributions of the various colonies for the years 1893, 1894, and 1895 as a basis of calculation-

An Hon. MEMBER:
Does the hon. gentleman think we ought to take that as a basis?

Mr. SOLOMON:
I do not care what figures you take. I do not for a moment pretend to say that these figures are likely to represent what the results will be when a uniform tariff has been established.

The Hon. Sir P.O. FYSH:
They will serve as an example!

Mr. SOLOMON:
I am taking them as an example, they being the only figures available,
and I find that according to those figures New South Wales would lose in
the first year something like £106,000.

The Hon. F.W. HOLDER:
If they are taken as absolute facts!

Mr. SOLOMON:
They are arithmetically correct, because the losses are balanced by the
gains of the other colonies. If a table is worked out, it will show hon.
members that that is so. I am pointing this out not to raise another
difficulty, but in order that those members who are on the Finance
Committee may have some more definite instruction as to what policy we
wish adopted in framing resolutions. This debate, of course, is only held
with a view to give the Finance Committee some information. I would ask
hon. members what information have we as to the general views of this
Committee on this financial problem? Little or none. Those speakers who
may be taken to represent the opinions of their various delegations—I refer
to the Treasurers especially—are all at a tangent: they are all going in
opposite directions, and the Finance Committee will have no more
information to guide them when they meet after this debate is concluded
than they had when it started. The most equitable scheme so far that has
been submitted—and we have had none submitted to take its place—is the
scheme submitted by the Treasurers at the Adelaide Convention, with
certain variations which must be made to deal with certain colonies. Take,
for instance, the position of Western Australia. Undoubtedly, some clauses
will have to be introduced which will secure to that colony, irrespective of
what the division of the surplus may be to other colonies, an absolute
return of the surplus in accordance with her contributions. It will be
ridiculous to think that Western Australia, with a revenue from customs of
£7 per head could go into this federation knowing it was possible that she
would only receive back, after paying her contribution to the expenses of
the commonwealth, perhaps £1 or 30s. a head. And in this connection I
would point out that there is little or no difficulty in dealing with Western
Australia in a totally different way from that in which we deal with the
other colonies. Western Australia in its isolated position will be able to
keep an accurate account of the whole of the contributions through customs
without one penny of additional expense, in regard to the customs-houses
or their officers, so that little difficulty need arise in that respect. With a
view to meeting Western Australia, not as suggested by the hon. member,
Mr. James, by allowing her a free hand as to the imposition of customs—if
such were Western Australia's idea in joining the federation, I am rather
surprised at any delegates coming here from that colony but with a view to meeting her special conditions—the condition of the enormous amount per head she is receiving by customs—I think a simple clause might be inserted in the bill. I do not imagine for an instant that this enormously increased contribution through customs is likely to continue. The reason of it is simple and plain to those who will seek it. The bulk of the population—I suppose seven-tenths or eight-tenths of the population of Western Australia consists of adult males, who are earning twice as much as are adult males in the southern portions of Australia in the same position. That is to say, none of these tens of thousands of men employed in mining throughout the length and breadth of Western Australia are receiving less than from £3 10s. to £4 a week as against from 35s. to £2 a week, which they would receive in the southern colonies. Here is the simple solution of the question how it is that their revenue is so enormous. The spending power of a community is the test of what the revenue from customs will be. So long as this abnormal rate of wages continues, and so long as the bulk of the population continue to be single men, or rather adult males, without their wives and children accompanying them—so long will the contribution of Western Australia, through the custom-house, be greatly disproportionate to the contributions of the other colonies. But all this will, in a very few years, come down to the same level, or to nearly the same level, as that of the other colonies, and although, during that operation, the population will increase, the customs revenue will not increase per head in the same ratio. As to the other colonies there seems to me to be little difference between them; so little indeed that I think that we might easily prophesy that within three or four years at the outside, the customs revenue contributed by men, women, and children in Victoria, South Australia and New South Wales will be very much about the same. I have listened to what has been said as to the necessity for some guarantee to the treasurers of the states that the division of the surplus received from customs will be made on an equitable and proper basis. I do not think it will be necessary to lay down hard and fast lines demonstrated by figures as to what percentage, or what proportion of the contributions through customs shall be returned to individual states. But I think that for a period of years, at any rate—the hon. member, Mr. Holder, names five years, and that seems to a very fair term, during which the federal parliament can settle down to its work, and financial matters can adjust themselves in the states—provision should be made at least to secure to those states a just and equitable return in accordance with their contributions. I do not wish to delay the Committee longer, because there
will be other opportunities to speak after the Finance Committee have dealt with the matters relegated to them. But I do urge upon hon. members to give that committee some definite expression of opinion, by resolution or otherwise, as to whether the majority desire to leave the whole of these matters to the parliament of federated Australia, or whether they desire to follow out more the lines laid down by the right hon. member, Sir George Turner, and the lines laid down in the financial portion of the bill, and frame clauses to deal with the finances on that basis.

The Hon. E. BARTON (New South Wales):

I cannot commence the remarks I have to make without joining in the congratulations which have been showered upon hon. members for the development of the federal spirit which has taken place since our meeting in Adelaide. And when I speak of such development, I do not assume, as some of our critics assume, that that very federal development is a forgetfulness of the interests of the colonies we here represent. The whole principle of federation depends on the framing of a constitution which maintains an even line of justice between the general authority and the provincial authority. To depart from that on one side or the other would seem to me to be a forgetfulness of the interests of Australia, or of the interests of one's own colony. But so long as justice can be secured on both sides of that line, it seems to me that we are pursuing the path which the statute that sent us here commanded us to pursue. How then, will these matters work out? Is it not true that considerations of this kind suggest a principle on which we can act? We all admit that we are constituting a free people; we all admit that we cannot withhold from that people every attribute of power which is necessary to the consummation of the purpose for which they are constituted. If we surround the federal power too much with safeguards for itself, not for provincial interests, we shall be derogating from the rights of the citizens whom we do not call into existence, but to whom we hand larger powers of self-government. If on the other hand we make the powers of the commonwealth so extensive that they necessarily result in an absorption of the interests and the properties of the states, then, correlative, we depart from the path which we ought to pursue. That suggests to me that there are some quarters in which guarantees are necessary, and others in which guarantees are decidedly unnecessary. It suggests to me that in all those matters which are purely federal, which are either the matters which no province can undertake for itself, or are the matters which a province cannot effectively deal with, and which she consents to hand over, there is no necessity to hamper the federation with any guarantee; but that where the interests of the federation
and of the state are inextricably involved, as in the case of the distribution of the surplus of customs revenue, some principle must be laid down—you may call the laying down of that principle a guarantee or not—but it must be safe to enter into the federation. It must be understood that the line of safety in observed for the states which join it, otherwise you may bid good-bye to the hope of the electors of those states accepting the constitution. Well, then, in such matters, as for instance the federal franchise, the choice of the federal capital, and so on, I am prepared to impose no guarantee whatever upon the federation because they are purely federal matters. In such matters as the essence of government—if it in true that finance is government—in such matters as those financial adjustments, the maintenance of which on both parts is alike necessary to the federation and the states,—that is a point where something like a principle—if you can call it a principle—something like a guarantee, if you prefer that name—must be inserted in the constitution. While we must fully and thoroughly trust the federation in respect of all matters which are purely federal—and we must trust it as much as we can even in other matters—we must also safeguard the continued entity of the states, because with the states wiped out there is no longer a federation. If we observe these principles I think we shall be on the safe path. I do not think that this question can be fully discussed, as has been suggested by one or more hon. gentlemen, without some relation to the question of the railways, because one of the strongest arguments used in favour of the vesting of the railways in the federation, is that by that investiture the financial difficulty will be solved. I am not at all sure in the first place that that investiture would solve the financial difficulty—in fact I am pretty confident that it would not get rid of the great question which we have all the while to determine: given a federal surplus what is the just proportion in which it should go back to each state? You may wipe out the federal surplus by taking over the railways, by taking over the interest on debts, but your federation has to set what it gets out of that surplus against the proportion which would otherwise be payable to the state; and therefore it is a moot question what is the proportion payable to that state. No expedient of one kind or other can ever get rid of that question.

Mr. GLYNN:

You might be applying it to smaller figures!

The Hon. E. BARTON:

You might be, but if you arrive at a surplus out of one source of revenue or another—if you observe the principle—and I think we all desire that returns should be as nearly as possible according to contributions—if you observe that principle and you have a surplus, the amount to be credited to each state, even if you amalgamate the railways, must be ascertained upon some
definite principle. That is the difficulty which is unsolved by every suggestion. But I believe there is one suggestion which has been made out of doors, and which has been to a certain extent made by Sir John Forrest, which goes some distance to meet it. I am heartily at one with the Premier of New South Wales, whose speech, of yesterday must be regarded as an admirable contribution, not only to the finance of federation, but also to that federal impulse upon which we rely to obtain popular support for our movement. I am heartily at one with him, as I think I have said a great many times in previous discussions, in saying that we should trust the federal parliament, but we must have one qualification to that. First, we do away with the solvency of the several states. If we do that those states die, and we have no longer a federation, but a legislative union. If we are to preserve that solvency, then the question arises, are we to arrange for it upon a speculative basis, or upon a basis of fact? It seems to me that there can be no question that the basis of fact, which means experience, is the right basis upon which to proceed. I am as heartily opposed to a prolonged system of book-keeping as is anyone in this chamber. I am as heartily opposed as anyone here to that dealing between state and federation which has been characterised in Canada as the system of better terms, that designation being a convenient euphemism for corruption. The hon. member, Mr. Fraser, who has knowledge and experience with regard to the working of the Canadian Constitution, knows how good a constitution on the whole it is, and yet how the loopholes that are left for dealings, for bargainings, for transactions between the states and the federation, have resulted in some cases in bargains which were not wholly creditable. That we wish to avoid, and it seems to me that if we are to combine those two principles, if we act not upon speculation but upon facts, and if we also act at that earliest possible moment in such a way an to determine all bargainings, all transactions for better terms between the state and the federation, we shall have arrived at something, like a solution of this problem. Yew I revert to: what was said by Sir John, Forrest. He said that the principles laid down in the, bill of 1891 were, after all, the most feasible that had yet been suggested. Without committing myself as far as that, I am inclined to think there is in the provisions of the bill of 1891 the germ of the solution at which we ought to arrive. I have said-and I am sure I have the concurrence of the Convention in saying it—that if we can arrive at a decision based on facts instead of a decision based on speculation, we shall be nearer the truth. All the figures that have been, laid before us by statisticians are admittedly speculative in this: that their calculations-no doubt very good sums in arithmetic-depend upon the assumption that under
a tariff which may in one place be higher than the previous tariff, and in another lower, the rate, of the collection of duty will remain the same. There is only one objection to that method of calculation, and that is that it leaves you a sum in arithmetic, but it does not leave you any facts. What, then, is the position? Must we not at once acknowledge that the purely speculative basis, the attempt to prophesy—and it will be an audacious attempt on our part—must be abandoned, and that we cannot venture to predict what will be the operation of a uniform tariff because in a people conditioned as ours we have never seen any attempt at such an operation? If we once realise that, we may still give due weight to, the fact which has been so much emphasised by the Right Hon. Sir George Turner, that there will be, after the federation is accomplished, and after the uniform tariff is established, a gradual approximation in consuming power, purchasing power, and payment of duties between all the colonials. But we cannot foresee the result of that approximation, and if we attempt to place on record in the constitution a fancied result of that approximation we shall probably be leading, either to a considerable convulsion in our federation, or to an agitation which could only be satisfied by amendment of the constitution by way of referendum, because experience is almost certain to falsify any predictions we may make. We should be more than human if predictions of this kind could succeed. What, then, is the alternative? The alternative is to proceed upon facts. We have not yet the facts to proceed upon. Experience alone will show the way. It is to experience that we must revert, and that is an experience which can be gained only by a federal authority. That, it seems to me, leads us to the conclusion that, notwithstanding our repugnance to book-keeping, we must still bear in mind that the final determination of this matter must be based upon experience, upon fact; and it will be just to all the colonies—just particularly to the smaller colonies—that we should reserve a time during which this book-keeping—much as I object to it—may go on in order that a basis of fact may be once for all established. Take a period of three years, or of five years if you prefer it, for the uniform tariff. Let the collections be estimated somewhat on the principle laid down in the proposed 92nd clause during that time. Let it be ascertained as nearly as the statistics of the commonwealth enable you to ascertain it—and they will be much more effective than those of any single colony as the colonies now exist—and on the experience of those three or five years you will have had an answer to the question, what is the tendency to approximation in the consuming and importing powers of the various states? You cannot answer that question today. If the answer to it is at the root of the question, and if only another
authority can find the answer, then the solution of this problem lies in putting off the answer until there are such conditions as I have named.

An Hon. MEMBER:
Suppose that you applied it to the experience of Western Australia, how would it fit in?

The Hon. E. BARTON:
It would raise some difficulty; but my hon. friend must recollect that there is no course that you can propose in regard to this question that will not raise difficulty, and I am sure that he will agree with me at once in saying that the nearer you approximate to facts, and the further you leave speculation behind, the nearer you are to a reasonable solution. We all know that we had such times here in 1851 and onwards for a few years as my right hon. friend opposite has enjoyed. Those were the days when a pair of boots cost £3 or £4, and when a man had £4 or £5 with which to pay for them. These conditions—I am sure it will not be annoying to my right hon. friend for me to say this—these conditions are proved by the experience of other colonies to be evanescent. At the same time, they are conditions which are factors in the building up of a solid system under which prosperity is possible. That has been so in the case of other colonies. We have lost our booms; but the conditions of booms have been replaced by conditions of settlement, of progress, of production, of the utilisation of the soil, which I am sure will follow in my right hon. friend's colony. That is, I think, a fair answer to the question; and the question of my hon. friend, Mr. Henry, leaves the position still intact, that the further you go away from fact, and the more you endeavour to speculate, the more you assume a function in which events will stultify you.

An Hon. MEMBER:
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The Hon. E. BARTON:
I do not think that book-keeping is impracticable at all, and for this reason: We take the collection of duties at the present time, and that gives us, in the first instance, a guide to the amount we may require to raise by the uniform tariff.

An Hon. MEMBER:
That is between colony and colony!

The Hon. E. BARTON:
Yes. My hon. friend means as between the southern and northern portion of South Australia?

The Hon. F.W. HOLDER:

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The Hon. E. BARTON:

I admit that there is a very serious difficulty, but, notwithstanding my hon. friend's suggestion, we cannot get away from this, that the conditions which will arise under federation are conditions of which we have had no experience, and they cannot be dealt with except by an authority that has experience of them. We still have difficulty, I admit. I do not for a moment say that my suggestion is free from difficulty—indeed it is not my suggestion, but the suggestion of many minds before—but I say that it is less beset with difficulty than any other course before us.

An Hon. MEMBER:

What would you do in case of the admission of new states?

The Hon. E. BARTON:

Is my hon. friend in possession of any scheme by which a difficulty of that kind could be met? I do not think so, and, therefore, inasmuch as power is given to the federal parliament to settle the terms for the admission of new states, it is in the power of the commonwealth to legislate on such an occasion so that the colony in question shall receive a certain guaranteed amount on its admission until its experience under altered conditions, under the tariff, designated the amount properly returnable to it; and that would be the subject of adjustment I see no difficulty in that case, except the necessity of resorting to bookkeeping, and, as much as I am opposed to book-keeping, I have come to the conclusion that if it leads to the abandonment of continual aggression on the states by the federal authority for the purpose of getting better terms, a limited time of bookkeeping will be a necessity.

An Hon. MEMBER:

It will not cost very much!

The Hon. E. BARTON:

No, it will not cost very much. There would simply be a system of inspection which would supplant the collection of customs duties on the borders. It is true that that would be, to some extent, irritating; but he who feels the aggravation of border duties will not object to a system of inspection when he knows that, at any rate, he is relieved from the great trouble, the great outlay, the great harassment, of the collection of duties. So that it will be admitted that a resort to such a system as this will at once
be a lightening of burdens. There will be an abolition of the intercolonial customs; and those who feel the benefit of that abolition cannot very well object, if for reasons which may redound to the lasting benefit of the commonwealth they have for a few years to suffer a system under which the amount and value of importations across the border may be ascertained. I should prefer if we could say, "Trust this question to the commonwealth absolutely and at once." My sympathies are all with those who say, "Let us settle this financial question by empowering, as the Legislative Assembly of New South Wales sought to empower, the commonwealth"-and I admit the federal spirit of that amendment-by at once saying to the federal authority, "We trust you to deal justly with us. We leave the matter in your hands." But this, upon the lines which I endeavoured to indicate at the beginning of these remarks, would create a difficulty, because it would not guarantee the primary solvency of the states, and without that guarantee there would be a tendency-an unnecessary tendency-on the part of the federal authority, not to usurp, but insensibly to encroach, so that the revenue and the financial position of the various colonies would be so impaired and hampered that they would become municipalities instead of self-governing communities. That is alien to the spirit of federation. The result of that would be to destroy federation. It might substitute a legislative union; but we are charged under the Enabling Act with the framing of a federal, and of no other form of, constitution. The difficulty in the way of inviting the federal commonwealth to take charge of the distribution of the federal surplus seems to me to be beset, first, by the consideration which I have mentioned, and also by other considerations which, to my mind, if the principle I have laid down is correct, would be fatal to success. I have already pointed out one danger that would arise if we charged the federal authority with the duty of distributing the surplus among the states without imposing any condition or restriction whatever; and that is the danger of insensible encouragement to the diminution of the revenue of the states, and the impairment of their individuality. Another danger is that immediately upon the establishment of the federal tariff you would have every one of the states so strongly pressing the federal authority to lay down a principle of distribution, and to pass an act for that purpose, that it would be forced to pass such an act. That would be substituting one difficulty for another, because if there is to be a distribution without experience, and not upon the basis of fact, it matters little whether the basis of that distribution is laid down here or by a federal parliament; it will be equally faulty in either case.

Mr. HIGGINS:
There would be an all-round grab!

The Hon. E. Barton:

As my hon. friend says, there would be an all-round grab. There would be a rush by the various states to secure the best terms they could get, and necessarily so, because of their financial exigencies. No basis of distribution would be ascertained as a matter of fact and of experience, and the result would be that the distribution would be according to pressure, and not according to experience. That would be fatal. It would be as bad as if we fixed the basis of distribution now.

An Hon. Member:

It would be worse!

The Hon. E. Barton:

Perhaps it would be worse, because here there is not the pressure which a federal government would be under. Does not that suggest that there must be this experience, this basis of fact. I suggest, therefore, that we consider the institution of the system of book-keeping for three or five years after the commencement of a federal tariff, so that the authority we are about to constitute may act according to the lines which experience may dictate. We might lay down in our constitution—I make this suggestion to the Finance Committee—a direction to the federal parliament to distribute the surplus upon the lines of the experience gained by them; or—and I am not now talking as a draftsman—we might invite them to make a distribution as nearly as possible according to the contributions obtained and expected from each colony joining the federation. We might take one or the other of those courses. Either of them would be a much greater approximation to justice than any other we could possibly make, and would be a much fairer and juster scheme than the variant and discordant schemes which have poured in upon us from the press, from the parliaments, and from our own members. We make no distinction, I hope. We must admit that we are full of suggestions—and I do not use the term in its slang interpretation. The Convention is as guilty of, or as much to be credited with, the making of suggestions, as is any other body which has criticised it; and I am sure that there is a spirit here which welcomes criticism and suggestions from abroad. But I think that we shall not arrive at any true solution of the problem unless we draw a real line of demarcation between the speculative and the actual. I think that the only way we can do so is to await the result of experience. We should says, either that this distribution must take place upon the basis of the experience gained by the federal government, or that there shall be a
direction to the federal government to distribute the surplus according to the actual and expected contributions of the states, less the per capita expense of government. As I said a little while ago, I am sure that this question cannot be considered without considering the question whether the railways are to be taken over. As to that, we have had suggestions which are, no doubt, valuable. In my opinion they will be more valuable to a federal parliament than they are to us. I am one of those who think-as I thought when we met in Adelaide-that upon entering into federation there should be no bargain made for the sale of our railways. The railways are largely instruments of production; they have been instituted for the purpose of opening up markets to our producers. They are there for the development of our land, and as our land must remain inalienably our property, so we ought to have the right of retaining our railways as interwoven with the success of our land development. There may come a time when, a principle of this kind, which I believe to be true, may have to be foregone in view of some great impending danger, or expected advantage. This is another of the cases in which our commonwealth should be invested with certain powers, and I am, therefore, in favour of the sub-clauses inserted in Adelaide, empowering the commonwealth to take over, not at its own option, but only with the consent of the states interested, the whole or any portion of the railways. I am in favour of that simply because I believe that as time advances the wisdom of the body which we are constituting will be far more effective, practical, and valuable than any off-hand opinions which we can express at this date and at the present stage of development. Therefore, I am strongly in favour of allowing such provisions to remain in the constitution as will allow of the railways being taken over, provided that a satisfactory bargain can be arrived at between the states interested and the federal authority. In the meantime I remain of the opinion which I held in Adelaide-that there should be no investiture of the railways in the federal government. It is agreed that the taking over of the railways would recoup the loss of £1,000,000 a year occasioned by the giving up of intercolonial duties. We must first consider what is the meaning of the term "loss." There will be a loss of £1,000,000 if intercolonial freetrade is a loss; but not otherwise.

An Hon. MEMBER:
There will be revenue loss!
The Hon. E. BARTON:
So much revenue will be lost to the states; but that will be an actual gain to the people in their taxable capacity. They will be relieved of £1,000,000 of taxation. If, then, it is said that an ensuing tariff on the part; of the
federation which would bring back that £1,000,000 to the treasury would be a system of heavy, unheard-of taxation, the argument must be dismissed at once as an absurdity, for the reason that, although an adjustment may be effected, the total revenue drawn from the pockets of the people will be exactly the same. If, with one stroke of the pen, by abolishing intercolonial customs duties, you do away with £1,000,000 of revenue, and get back that revenue by imposing a federal tariff which may be nominally a higher tariff, if the total revenue is the same in one case as in the other, who can say that the burden upon the taxpayer is greater? No one can say so. So that the whole of this thing is an absolute bogy. It is another of those spook illusions which some of our friends, who are opposed to federation, are so fond of creating. There is nothing in it. I think we may take heart of grace upon a question of this kind, and say this: that providing the federal tariff realises approximately the same amount of revenue as was realised by the aggregate of the previous tariffs—and that it is sufficient for the states—we may take this course with perfect satisfaction, without increasing the burdens of the people.

The Right Hon. Sir G. TURNER:
Are you not tying the federal parliament down to raising that amount?

The Hon. E. BARTON:
I am not saying that the federation should be tied down to raising that amount. I am answering the objection that a federal tariff of an average of so much is a higher tariff, imposes a higher burden on the people than would an intercolonial tariff of a less amount. I take it that that tariff which results in an income equal to that which is swept away cannot truly be said to increase the burdens of the people. I take it that if that contention is correct, the first line of the argument that we cannot federate without taking over the railways is destroyed, because that line of argument depends on the assumption that you lose £1,000,000 by abolishing the intercolonial duties, and that, in order to bring that back by means of a federal tariff, you are over-taxing the people, and, therefore, you must take over the railways and save the million in their management. That is the fallacy in the first line of the argument in favour of taking over the railways. Then, again, it is said that we must take over the railways if we want to take over the debts; but that is a non sequitur, and for this reason: The actual security for a public debt, in the first instance—and I am distinguishing between the actual and the legal security—is the energy and thrift of the people. It is to that that the moneylender looks when he advances his money. Separate the people from the railways, and the
railways without them would not be worth a farthing; but the people without the railways still have the capacity to make progress; and it is to the people, therefore, and to the results of their energy that lenders look for their security. Of course, the railways are included in the security, because the people include everything, the people being the larger security. I say, therefore, that the actual security for a national debt lies in the energy and thrift of the people, always provided that they are allowed to operate freely under a stable constitution. If this were not so, there would be no security, practically, for the national debt of England. The advances made by capitalists all over the world, those of England included, are made on the faith of the honesty and ability of the people, upon the faith of their readiness to meet their obligations, and their capacity to do so. England being a country in which public works, as we understand them, are practically unknown, and where, notwithstanding, the security offered is the greatest in the ch sense that if you handed over the public debts you must also hand over the railways? I will turn first to the legislation of Victoria. These provisions, of course, are well-known but they require recalling because we hear so much said which, I venture with the greatest respect to say, does not fall very far short of nonsense, including the statement to the effect that the railways are the chief asset for the public debt. In

Victoria the Stock Act, 59 Victoria No. 1,217, in section 4, provides:

All stock issued pursuant to this act and all dividends thereon shall be and be deemed to be a primary charge upon the consolidated revenue of Victoria, &c.

I take that as a type of the legislation on the subject. There is a similar act in New South Wales, 59 Victoria, No. 5, an act to authorise a loan for the repayment of loans, in which it is provided that:

It shall be lawful for the Governor to raise by the sale of debentures or the issue of inscribed stock secured upon the consolidated revenue fund of the colony, &c.

Then in the act No. 6 of the same session, there is a provision to the same effect:

It shall be lawful for the Governor to raise by the sale of debentures or the issue of stock secured upon the consolidated revenue fund of the colony, &c.

I said that I distinguished between the actual and legal securities; the actual security being the energy and thrift of the people, whereas the legal security is the consolidated revenue of the country. What do you propose to do but to hand over to the federation, in order that they may collect it, a
very large proportion—throughout the colonies it may be taken as nine-tenths—of the consolidated revenue. This will be subject to redistribution under the federation. You have the same security in the energy and thrift of the people, but under the federation you have also that which is the legal asset—the consolidated revenue fund nearly in its entirety.

The Right Hon. Sir G. TURNER:

It would not amount to nine-tenths!

The Hon. E. BARTON:

I leave it to the right hon. gentleman to work out the proportion, but it does not matter very much. I was forgetting for the moment that New South Wales under a policy which, notwithstanding my great patriotism and admiration for the country in which I was born, I cannot indorse, has for many years had a large land revenue—a policy under which she sells her capital in the shape land, and expends it as revenue. We are in an advantageous financial position in this respect as compared with the rest of the colonies, because we may be said to be cutting down the ancestral trees. This great security, the energy and thrift of the people, is subject to such duties as are imposed for customs revenue. It is a constant saying that nothing is more elastic than is that source of revenue. Now the customs revenue being the most elastic source of revenue, reflects the energy and thrift of the people. Therefore we have not only the index but the product of the energy and thrift of the people handed over to the federation, handed over as the bulk of that which is by law the recognised security for our debt. I may be, perhaps, pardoned for my positive form of expression when I urge that it is entirely a mistake to suppose that the railway are the asset for our debt. Whether you look to the actual security or to the legal security, it is not to be found in our railways. It is true that they are contributor to the consolidated revenue fund, but the contributions of the railways to the consolidated revenue have a large set-off against them in the form of interest on the debt. Now, what is to prevent this handing over of the public debts from being a factor in the settlement of this financial problem? I admit that the problem can be settled without it; but I do venture to say, in the first place, that the system need not be complicated by the handing over of the railways at this stage. It will be of great benefit to the credit and to the capacity of every state to have its public debt handed over, and it would form a very strong means of preventing that bogy known as the federal surplus. The Finance Committee may decide entirely against the views I venture to express, which, however strongly I may put them forward, are only meant in the spirit of suggestion; but we must not overlook the fact that taking over the
national debts of the colonies, if not altogether, yet to as large an extent as possible, will be a great preventative of a system in future years which may result in further agitation between the states and the commonwealth.

The Right Hon. Sir G. TURNER:

And it will take away a great incentive to extravagance!

The Hon. E. BARTON:

I quite agree with that. There is a case which illustrates what I am saying—
it is this: the statutes supply us with an interpretation as to what is the security for the debts, that is to say, that class of revenue which is the product of the energy of the people is made, among others, the security for the debts. Let us consider what would happen if the railways did not return one penny of profit—

The Hon. J.H. GORDON:

Or were run at an actual loss!

The Hon. E. BARTON:

The interest must be paid, and it would have to be paid out of the consolidated revenue. The customs revenue you hand over to the federal government. What can be more right than the dealing with and adjustment of the question of debts should be handed over to the very authority which takes the revenue which is the main source for the payment of interest on our debts? I venture to submit that both the actual and the legal security would be practically in the commonwealth. If they are both in the commonwealth, the latter ought to take over the debts irrespective of the railways. Now, it may be thought that in saying this there is some implied distrust of the federation. I do not seek to impose impossible obligations on the federation. I wish to leave them as free a hand as is possible. I wish to give the federation all that is federal in essence. But the railways are not federal in essence. You can hand over the debts without handing over the railways. The railways are provincial in their essence. The debts maybe made federal without injury to one provincial interest. The railway question is one that experience can settle; it is a question to be decided by the territorial authority, which has the land to develop, and which should also be possessed of the instruments for the development of that territory. Among these I regard the railways as the highest. As I have said, I am quite ready to go further, and say that we will give the federation power to take over the railways if it and the states concur, and then only when occasion arises, which will depend upon the nation's safety and advantage, and that can be judged of by them, while it cannot now be judged of by us. In the meantime, I think that the railways must not be worked so as to neutralise intercolonial free-trade. Without the railway clauses in the bill, it may be argued that the commonwealth can legislate and prevent such a thing. It is
perfectly true that under the clause for regulating trade and commerce, and under a particular clause, such as the 95th, not only is there some automatic operation in the constitution, but there is also power to legislate so as to deal with that question. But I ask whether it is not better to prevent interference with intercolonial free-trade by the same instrument which creates intercolonial free-trade? Why is it a good thing to dissociate these two things? If you enact intercolonial free-trade in your constitution, why hesitate to make it effectual by the same document? Why should you leave the complete enforcement of that free-trade to be a mere matter of legislative interference, when, if the gift is a good and a great one, there is nothing to stop its being complete in the one act. I take it, therefore, that it is better to prevent this interference with intercolonial free-trade as far as possible in the same constitution which grants that very boon. Otherwise, I think we should have to confess that we thought it was not necessary to safeguard the first condition of federation. This does not mean the abolition of differential rates in their restricted sense. It does not mean the institution of a uniform mileage rate, as so many timid minds fear. I concur with all those who think that it means the institution of a uniform mileage rate, in saying that such a rate would be fatal to the producers of the colonies. We must all agree that any system which meant a uniform mileage rate would be as injurious to the producers of one colony as it would be to the producers of another. So that anything that necessarily brought that about must be rejected at once as erroneous. I hope that those outside, who are writing letters to us, and who are putting letters in the papers suggesting that the abolition of the present system means the replacement of it by a uniform mileage rate will take encouragement, because no such thing is involved in the mere enforcement of the free-trade clauses of the constitution. An interstate commission would not necessarily have power, so far as we sought to constitute it, to make any rate at all. They would have an interdicting power, the power of maintaining and executing the intercolonial free-trade clauses in the constitution bill. It would, therefore, be their business, like the Inter-state Commission in America, to interdict those rates which would interfere with free exchange between state and state.

Mr. GLYNN: They have larger powers than that in America!

The Hon. E. BARTON: I know they have, but we are not bound to go so far. I am speaking of the degree of power to the inter-state commission which we think should be embodied in the constitution. What we wish is that they should not
interfere with the railways of the different colonies further than is necessary to maintain free-trade between the various colonies. The commission would not have power to make any rate at all. It might be given that power afterwards by legislation, but it is not necessary for us now to give it. But they would have an interdicting and judicial power. I think if we confer that power we should make it subject to appeal to the highest court of the federation; and for this reason: that while the question whether a rate is preferential as well as differential is a mere matter of evidence, still, since the application of the constitutional provision entrusted to such a commission is a matter of law, the sense in which they interpret those provisions is a matter that ought to be allowed to go for final interpretation to the highest judicial body in the state.

Mr. GLYNN:

In that case what would be left for them to do in the way of regulating the railways?

The Hon. E. BARTON:

The Hon. member will see that there is a power of regulation in the power of prohibition. If a rate is found in its working to interfere with the constitutional provisions laid down in this bill, there will be plenty of work, in its first years at any rate, for this inter-state commission to do. It will have to decide on such questions as were put to me by the Right Hon. Sir George Turner, in Adelaide. Take the case of a rate in New South Wales on goods running both ways between Sydney and Hay, and another rate on goods running both ways between Sydney and Dubbo, Dubbo being to a certain extent outside the influence of intercolonial competition. Questions in regard to such rates would necessarily have to be determined by the interstate commission. They would have to determine whether the southern rate was so different from the other, that one was justified as a mere developmental rate, while the other had assumed the form of a rate which gave a preference to one port over another.

Mr. HIGGINS:

Would the hon. and learned gentleman allow that power to be given to the inter-state commission?

The Hon. E. BARTON:

I would allow that power to be given to them subject to an appeal to the federal high court—that is to say, subject to an appeal to the very guardian of the constitution.

Mr. HIGGINS:

We should be perfectly satisfied with that!
The Hon. E. Barton:

These questions were put to me in Adelaide, and I did my best to answer them satisfactorily. I take it that the discrimen is this: Is your rate a rate which embodies the principle, not of less money, but of less money pro rata for a long haul than for a short one? If it embodies that principle, and no more, it is a perfectly just and right rate in itself. If it goes beyond that, and you find that it is either made or being used for the purpose of diverting traffic from one port in the Commonwealth to another port, then you have fallen right into the trouble of preferential rates, the avoidance of which must be a condition of intercolonial freetrade. But,

Mr. Higgins:

Even as to goods produced in New South Wales?

The Hon. E. Barton:

I do not care where the goods are produced, or what the goods are, because railways are commercial concerns, even in the hands of the state. They have certain political factors behind them, but they are to a large extent a commercial concern, and I take it that the carriage of goods, wheresoever they are produced, must still be regulated by this: that, if we lay it down that preference shall not be given to the ports of one state over the ports of another state, say Victoria and New South Wales—to mention no other states—we must, irrespective of the spot of production, be content to submit to a regulation which deprives those states of the opportunity of injuring each other in that way. Let us look at this problem in another sense. Does the whole of this question depend upon Sydney and Melbourne? Does federation depend upon Sydney and Melbourne? Does the commonwealth that is to be depend upon them? The man who thinks that comes to an opinion because he is one of something like half a million of people in a great city who meet each other every day, and, being a large aggregation as they stand together in a small space, think they are the whole colony. But that is not so. When we recollect that neither of these capitals would exist in anything like its power and wealth if it were not for the production of the country—and the primary factor for us to look at is the factor of production—we must acknowledge that it is the producers of the country whose interests are to be consulted in regard to the railways; and I altogether object to the custom which has sprung up of discussing this railway question as affecting purely the interests of Sydney and Melbourne. We have to do with an Australian commonwealth. We have not to do with Sydney particularly, or with Melbourne particularly; and those who will follow me in not aggrandising the interests of Melbourne above the interests of the rest of Victoria, will find me following them in not aggrandising the interests of Sydney above the interests of the rest of
New South Wales. That is really the position in which we stand in regard to this question. If that is so, must we not consider that after all the welfare and prosperity of our people and the whole of our people is our first consideration? I am not saying for a moment, as Sir George Turner says, that because Victoria first opened up a particular trade she is entitled to keep it. That is an argument which would not be true, and which would not prevail as between two railway companies. It does not apply as between two railway ownerships, and if it does not, and cannot, prevail between two companies, how much less can it prevail as against a state-owned railway system which represents the producing interests of a territory which is not given over to the federation, but exists still in its entity? That cannot be. We cannot say for a moment that the first man who opens up a trade is entitled to keep it. I hope that the whole temper, the whole spirit of our federation, irrespective of the railways altogether, will be against anything like monopoly. We do not want to give a patent right to Victoria or to New South Wales, because either first opened up a territory. We do not ask for it for New South Wales, if anybody can take it from us by better management. But we say we are entitled to have the results of our railway management, that we are entitled reasonably to cater for the wants of our people. That is all we ask.

Mr. HIGGINS:
But you want to tie our hands!

The Hon. E. BARTON:
We do not ask to tie the hands of Victoria or of anybody else. All we urge is this-and I am not saying this in any combative way at all, much as my tone may seem to indicate it-I am not saying that it is a necessary thing to tie Victoria's hands. I wish to give this principle in the constitution its full operation, and so anxious am I to give it that operation that, unlike some of my lion. friends from New South Wales, I am desirous of seeing this principle of an interstate commission, to do justice between the colonies, implanted in the constitution, and I am sure that if it is so implanted, the constitution will have much greater hope of acceptance by the people of New South Wales outside of Sydney. As I have said, I do not regard Sydney as having the right to control the whole of New South Wales. Although I have almost invariably represented a Sydney constituency, I have never told my constituents such nonsense as that. Inasmuch as we must give to those who live outside our capitals that influence and that justice which is inseparable from their position, and which is something, at any rate, in counteraction of that centralising tendency which is doing, so much harm-inasmuch as we must do this, I
take it that our policy, with regard to railway rates, the policy of our constitution, must be to regard, first, the interests of the person who is settled on the soil, if you like—the interests of the person, whether he lives at Sydney, or lives at Hay, or lives at Bourke, who is a citizen of the country. That is our first concern, and if you in Melbourne, or if we, in Sydney, exalt the interests of the citizen in either one of, these capitals above the interests of the other citizens, then I think we are untrue to our trust. Does not that bring us round to this point—that the truth about the railway position is to be found in the interests of the persons who use the railways? Let the citizen live at Dubbo, let him live at Hay, let him live at Tenterfield, or in the country around any one of those three places, we have to regard this question whether he is equally treated with the rest of the country; and the policy which aggrandises the interests of the citizen of Sydney, whether he be a merchant or anybody else, above the interests of the person who lives inland, and which form that person to trade in a certain way whether he will or no—that is a policy which is not consistent with the justice we owe to that great constituency which sent us here, and which is as large as the state represented. Therefore, I take it that in the whole of our dealings with this railway problem—and I want what I say to be more suggestive than combative—in all our dealings with this railway proposal we should consider that we are not dealing with a war of rates between Sydney and Melbourne, that Sydney and Melbourne have no right between themselves to have a war of rates; but that the interest to be consulted is the general interest of the public in each colony. That can only he consulted by preventing rates giving a preference to the ports of one colony over the ports of another, and, with that limitation, the policy of a lower rate for a longer haulage, so far as it is a developmental rate, must be left over, both in New South Wales and Victoria, as well as elsewhere.

The Right Hon. Sir G. TURNER:

I understand that the interstate commission is to have power to say whether a rate is for the purpose of diverting trade from its natural channel!

The Hon. E. BARTON:

I am afraid that this question of natural channels is being rather relied on as a shibboleth. I do not exactly know whether a conundrum is being put to me. The inter-state commission will have power to say whether a rate is antagonistic to free-trade between one state and another, and also whether it is a rate which gives a preference to one port over another. If it has that power and exercises it, surely the gain will be large, to both New South Wales and Victoria.
The Hon. J.H. GORDON:
They will sit as a jury!

The Hon. E. BARTON:
They will sit as judge and jury.

The Right Hon. Sir G. TURNER:
Has the hon. and learned member varied the opinion he gave in Adelaide? I cannot exactly follow him!

The Hon. E. BARTON:
I think I have said pretty much the same as I said in Adelaide. I was not understood in Adelaide; perhaps I have been more clear to-day.

The Right Hon. Sir G. TURNER:
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The Hon. E. BARTON:
I am afraid that there was sometimes in Adelaide a little atmosphere of suspicion which has rather disappeared like the morning mist. That position would give the inter-state commission power to prevent differential rates only when they were preferential, and not when they were absolutely developmental. My hon. and learned friend, Mr. Higgins, in his very well thought out speech, put the question in this way: that we should either let the competitive principle operate fully or not at all. I think that remark was very fascinating as it looked; but it must be accepted with some reservation. As to the competitive principle, let it not operate at all to any extent in which it conflicts with intercolonial free-trade. That is the object of: the power which is given in the constitution to regulate trade and commerce, and of the injunction in the constitution that trade between different parts of the commonwealth shall, after the imposition of a uniform tariff, be absolutely free. We are not dealing here, I hope, with anything which is purely speculative. In America-and I am speaking more of decisions which, preceded the Inter-state Commission than those which have been given since, for the reason that I am speaking about the interpretation of such powers as I have just indicated- I think the indications have been fairly clear. I am not speaking now of decisions under the Interstate Commerce Act, because we shall not have such an act for some time, and even the inter-state commission will not be equivalent to such a drastic act as there is in America; but I venture to think that the American decisions point to this:

Mr. HIGGINS:
Freedom of trade is not affected by preferential or by, differential rates!

The Hon. E. BARTON:
Free-trade clearly has not in itself anything to do with differential railway rates, became you can put the competing railway lines in the position of two public companies which compete by cheapening rates against each other. If free-trade is the cheapening of production, and the cheapening of production is the indirect effect of cheaper rates, one may say that differential rates are consonant with free-trade; but they will not be consonant, as they are used now, with intercolonial freetrade. There is nothing against free-trade in differential rates in a colony; but, with preferential rates between two colonies, there may be something which may interfere with a system of free-trade between the two. That is a difference which we can well appreciate, and that is the difference which is fairly brought out by the decisions in the United States, the effect of which is to leave to each state the management of its own internal affairs, even in matters of carriage, except in so far as the exercise of that power would derogate from the free interchange of trade between state and state.

The Hon. I.A. ISAACS:

Very much so, and there is great force in what is put forward by my hon. and learned friend, Mr. Glynn, that there might not be somebody to raise the question of differential rates. But we find that these questions have arisen, although perhaps not so much as was expected, in America, and I should very much distrust the legal ability of many of my friends here if they could not suggest a way in which, if occasion arose, to raise the question.

An Hon. MEMBER:

I think there have been no differences there, and there ought to be no differences under the constitution so far as it is drawn here. I have to make the qualification which I thought necessary from his remark, and subject to that qualification I quite agree with what the hon. and learned member, Mr. Higgins, said. I believe it would be a righteous thing; I believe it would be a matter also which would conciliate to this measure a great deal of support in every colony if, on the face of the instrument, there were implanted the institution of some tribunal which would substitute a non-political and impartial body for the dealing with the railways and all that kind of trade at the dictation of a minister, which after federation would so destroy all right of free intercourse. If we put a right of that kind in the constitution, we shall go far to satisfy many—I am talking, not of our statesmen or
politicians, but of our farmers and producers—who say, "Take over the railways," if in substitution for the unfair management of the railways we give that system of administration and prohibition of injustice which would ensure that their interests would be reasonably dealt with, not in contradistinction from the interests of citizens of large towns, but on an equality of citizenship of town and country.

The Hon. J.H. GORDON:
Is not the real test that no traffic shall be carried at a loss?

The Hon. E. BARTON:
To a very large extent it is. I fancy in the evidence which he gave in Adelaide Mr. Eddy pointed out that all the rates he was charging to the Riverina district were resulting practically in a profit; but I am not disposed to throw a bombshell amongst hon. members by referring to matters of that sort. It may be that there will be such competition between colony and colony in the way of railways that while rates have been resulting in profits they have been so cut down that the margin of profit is sensibly diminished, and has reached that point at which, in the very interests of the railway themselves, as well as of the producers of the colony, there ought to be a reform.

The Right Hon. Sir G. TURNER:
Give us an independent tribunal with full powers, and the whole thing will be settled!

The Hon. E. BARTON:
An impartial, non-political tribunal.

Mr. MCMILLAN:
Would the hon. member allow that tribunal to take the distance to a port as the basis of the charge, no matter whether it went through another colony or not? Suppose it went partly through New South Wales and partly through Victoria, and the total distance was so many miles, would he allow the tribunal to make the rate, as if that distance were all in one territory, on a differential basis?

The Hon. E. BARTON:
I think the tribunal ought to be allowed to consider this question: Is the rate which is charged ostensibly on the principle of a low rate for a long haul, merely a cloak to a design to divert traffic from another port? The substantial question of fact is this: Does this thing look merely a differential rate, as it would always be made to look, or is it in effect a preference? If the commission can discover as a matter of evidence, that it is used as a cloak for the diversion of traffic from another port against the provisions of the constitution, it does not matter on what principle it is
charged. I think, at any rate on this question, I have sufficiently indicated what seemed to me suggestive matters for the consideration of the Finance Committee, and I do not wish to go beyond that. I come to this conclusion, that the constitution need not, and that it should not, provide compulsorily for the purchase of the railways by the commonwealth; that it is advisable and right to take over the debts without the railways; that the credit of the commonwealth will be clearly strong enough to sustain the operation, because the population of the commonwealth will be its strength; and that intercolonial free-trade can be secured against invasion on the part of railway managers, although the management remains in the hands of those who built them. Before I conclude I should like again to say that the federal spirit of which I spoke in opening my remarks has been still further evidenced in the reception of what I have had to say, and that I find, its we go along, a less degree of suspicion. There are those amongst us in this colony whose consciences are not satisfied unless they term their intercolonial neighbours a band of robbers. They remind one very much of that old sketch by John Leech of the two countrymen, one of whom says to the other, "Who's him, Bill?" "Dunno; a stranger." "Then heave a brick at him." I hope our visitors so far have not had many bricks thrown at them, I hope they will find during the whole of their stay here that the federal spirit exists strongly in New South Wales, notwithstanding the rather bigoted and intolerant views that a few, even of our most respected and esteemed fellow-citizens hold. I would not detract from the ability and character of those gentlemen by one word that I can say, because they are gentlemen for whom I entertain, in some cases, personal affection. But we, in this Convention, can discriminate, at any rate, between argument and invective, and we are not going to answer invective with invective. I hope we are here simply to offer arguments and to meet them. That spirit has been thoroughly shown, and there has been an absence of the former suspicion which seemed to prevail in a certain line of argument about railway matters. The absence of that feeling, I think, betokens that cooperation which will resulting the framing of

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a workable constitution. Let it not be supposed in anything I have said, that I have come here, as I have been accused of doing, for the purpose of surrendering the interests of the colony in which I was born. I hope that all of us are here for the purpose of securing justice to all. When I said, in a recent speech, that the members of this Convention were all for each, and each for all, I meant that whilst each member was charged with seeing that the interests of his colony were not unduly sacrificed, he did not come here merely as a partisan, but in the prime hope that in whatever action he
should take, he would secure as much justice for everybody that surrounded him as he sought for himself. Perhaps, as this clause is part of the whole scheme of finance, it will be a desirable thing to formally move its postponement, and then go on to other clauses of the bill. I should like to take the opinion of hon. members whether it would or would not be a desirable thing to postpone clauses of minor importance, and proceed at once to consider such matters as equal representation in the senate and the relative money powers of the two houses. If that course meets the wishes of hon. members generally, I think it might be desirable. It might be a desirable thing before we part so deal with the most important questions as to show—even if we could not finish our work—that the matters left for solution are minor ones. I should like, in the first instance, to obtain the views of Sir George Turner as to whether it would be an advisable thing not to go through the bill clause by clause; but, inasmuch as we are agreed upon the major portion of the bill, to pick out those questions upon which most serious differences arise and argue them.

The Right Hon. Sir G. TURNER (Victoria)[5.26]:

I mentioned when addressing the Chamber this morning that, as a member of the Finance Committee, I should be very glad if some direction could be given to the committee of the desire of the Convention in regard to the manner in which they should frame their proposals, because that would, to a very, great extent, lessen the work we have to do. As it is, we have heard the views of several members, and they are very divergent. We shall have to go through the whole of the proposals and discuss them very fully, and then bring up a scheme which will probably be met by an amendment to refer the whole matter to the federal parliament. Is it fair to the Finance Committee that they are to spend night after night—they will have to sit at night when the Convention is not sitting endeavouring to formulate a scheme, having at the same time in their mind the knowledge that, perhaps a majority of the Convention intend to refer the whole matter to the federal parliament? As far as I am concerned, it will practically take the heart out of me. I will not feel inclined to work the matter out with the same spirit as I would if I felt that whatever scheme was going to be proposed would be discussed upon its merits. I should be very glad if the matter were allowed to remain in abeyance until to-morrow morning, and if hon. members were in the meantime to think it over, and if some hon. gentleman who feels strongly that the whole subject should be left to the judgment of the federal parliament would test the feeling of the Convention in a full meeting. If a majority of the Convention is prepared to declare that at once, well and good—we shall have to abide by that decision. But I feel that it is throwing upon the Finance Committee an immense amount of
work, in regard to which, at the time they are doing it, at the time they are endeavouring to reconcile the various proposals and formulate a scheme, they will feel they are perhaps doing an immense amount of labour which in the end will be useless. I suggest that the matter should be allowed to remain in abeyance until to-morrow morning, and that hon. members should think it over in the meantime.

An Hon. MEMBER:
Why not now?
The Right Hon. Sir G. TURNER:
I have no objection to doing it now; but perhaps it would be better to give the evening to its consideration.
The Hon. E. BARTON:
Why not deal with the minor clauses now as far as equal state representation, and leave that until tomorrow?
The Right Hon. Sir G. TURNER:
That means sitting later.
The Hon. E. BARTON:
I am not, going to ask hon. members to come here in the night this week; but I shall ask them to sit three nights next week!
The Hon. J.H. GORDON (South Australia)[4.29]:
The question put by the Premier of Victoria seems to me to be this: that the Finance Committee would like to know whether or not the whole financial scheme is to be referred to the federal parliament. Does not that depend upon how the federal parliament is constituted? It is impossible for hon. members to give a, reply to that question until they know the constitution of the body to which the financial matter is to be intrusted. If the financial problem is to be left to a federal parliament, constituted as it is constituted by the bill before the Convention, I shall vote for that proposal; but if not-if there is an alteration in the Constitution Bill, and that appears to be a matter for further discussion, I shall be against it. If the position is that the Finance Committee wish to know whether or not the whole financial question is to be left to the federal parliament-if they wish that to be decided-we must first of all decide how the federal parliament is to be constituted. That appears to we to be absolutely essential.
The Right Hon. Sir G. TURNER:
We should have considered that question first, if that be so!
The Hon. J.H. GORDON:
Clearly, if we are in the position now of having to say whether we will or
will not remit the whole financial problem to the federal parliament, we
must first of all know how that parliament is going to be constituted. That
is absolutely essential. On that depends the whole scheme. I apprehend,
from the remarks made by the right hon. member, Mr. Reid, on this
question—remarks which met with the approbation of almost every member
of the Convention that when he suggested leaving the whole question to
the federal parliament, he had in his mind's eye such a parliament as is
constituted by the bill. If he meant anything else, I, at any rate, was
deluded into approbation of his remarks. Everybody I think understood him
to any that he was willing to leave the whole question to the federal
parliament as we now conceive it would be constituted. That assumption
underlay the whole of the right hon. gentlemans remarks, and if he
intended anything else I am sure that he would have been frank and honest
enough to have said so. That is the assumption upon which his remarks—
which were delivered with very great impressiveness and great eloquence—
meter with the approbation of hon. members. That being so, I for one would
be willing to vote to leave the whole financial problem to the federal
parliament. But had we not better state a simple "aye" to that question,
right off—as I believe it would be voted? Then we shall know where we are.
Until we know where we are on that essential point, it is impossible for us
to say how we will deal with this matter or if we will leave it to the federal
parliament.

The CHAIRMAN:
As a matter of order, I would point out that the question before the
Committee is clause 88, which must be dealt with—either agreed to,
negatived, or postponed.
The Hon. E. BARTON:
I will move that it be postponed!

The CHAIRMAN:
If that clause be postponed we shall go back to clause 1.
The Hon. E. BARTON:
That is the course I wish to take!
The Right Hon. Sir G. TURNER:
(Victoria)[4.32]: I desire to point out to the hon. member, Mr. Gordon,
that, whilst his proposition is very good to some hon. members, the
converse of it is very good to other hon. members. Some hon. members
may think it is perfectly fair to say that, if they know what the constitution

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of the senate is to be, they are prepared to leave this question to them. Others may say, "If we know that this question is or is not to be left to the senate, then we can decide how the senate is to be constituted." The same difficulty will arise under any circumstances; but I myself have no objection to fall in with my hon. friend's desire. I am perfectly prepared to have the other matter discussed first, and decided one way or the other, if it will obviate the great difficulty I feel the Finance Committee will be in unless they know the mind of the Convention with regard to referring the whole subject to the federal parliament. If it will get rid of the difficulty, I am perfectly prepared to give way to my hon. friend, and, as far as I am concerned, consent to the discussion in regard to the rights of the senate coming on.

Mr. WISE (New South Wales)[4.33]:

There is another consideration which occurs to me, and that is that the determination by this Committee as to whether this matter shall or shall not be referred to the federal parliament must be governed very largely by the conclusions arrived at by the committee of financial experts. Many schemes have been suggested, and if, on examination by the experts who have been appointed, any one of these schemes is declared to practicable and likely to command universal favour, I suppose that every one of us would be prepared to adopt it rather than to leave the matter in a state of uncertainty. Therefore, although it may seem rather ungracious towards those who have taken a great deal of labour upon themselves - and no one deserves greater recognition for it than the right hon. member, Sir George Turner - and although I also see that the labour may be serious, still I hope that this Committee will ask the right hon. gentleman and those associated with them on the Finance Committee, to take upon themselves the duty of investigating the proposals that have been made, and of reporting to us whether in their opinion any one of those proposals is or is not practicable. If they report that any one of those schemes, or all of them, although practicable in a certain sense, are objectionable for the reason that they might give rise to popular misconception, or for any other reason, we shall know exactly the position we occupy. If, on the other hand, they report that any one scheme is free from objection, let that one be submitted to criticism, and, if the Convention as a whole fall in with that view, there will be no need to put the motion that the matter be referred to the federal parliament.

The Right Hon. Sir G. TURNER:

Two premiers have announced their readiness to refer the question to the federal parliament!

Mr. WISE:
That is their personal opinion.

The Right Hon. Sir G. TURNER:
The suggestion appeared to meet with general approbation!

Mr. WISE:
I did not understand the right hon. the Prime Minister of New South Wales to mean that he would go into the Finance Committee with any fixed determination to refuse to consider any scheme, but that he merely gave his own personal expression of opinion when he said that he thought that no scheme had yet been suggested which was good enough to recommend solidly to the people of Australia for adoption. His opinion may alter. I do not apprehend that the discussion of the matter will take any great length of time or that the Finance Committee need meet very often. It is not requisite for them to go into many details. The broad outline of the scheme is well known.

An Hon. MEMBER:
What is the scheme?

Mr. WISE:
I only know of four schemes that have been proposed. They can be considered in broad outline, and the determination of the Committee given upon each of them. I hope that the suggestion of the Right Hon. Sir George Turner will not be carried out without serious consideration.

The Hon. Sir J.W. DOWNER (South Australia)[4.37]:
When the Finance Committee were appointed, it was arranged that we should have a general discussion, and I understood the right hon. member, Sir George Turner, to entirely agree with that. There was not the slightest suggestion that we should come to a final conclusion that must bind us, and which would make the appointment of the Finance Committee unnecessary.

The Hon. E. BARTON:
A discussion was asked for, for the guidance of the Finance Committee!

The Hon. Sir J.W. DOWNER:
The Finance Committee themselves desired a general discussion, in order that we should let them know our views generally.

The Right Hon. Sir G. TURNER:
And that discussion took a turn which showed that the appointment of the Finance Committee was unnecessary!

The Hon. Sir J.W. DOWNER:
Until the Prime Minister of Victoria spoke there was, perhaps, a good
deal to be said in favour of his present point of view—that the discussion
took a turn which might fairly enough have resolved itself into a clause
which we might have discussed in a very short time and passed—and I am
not at all sure that, in spite of the speech of the Prime Minister of Victoria,
his views might not be properly put in identically the same words as would
represent the views of the majority of other hon. members who have
spoken. Undoubtedly we arranged to have a general discussion, not for the
purpose of directing, but for the purpose of assisting the Finance
Committee, with a view of allowing them to know the trend of our minds.
Now, the right hon. gentleman, Sir George Turner, asks for a direction—a
direction which would make the appointment of the Finance Committee
absolutely unnecessary, and which he says very truly would save him a
very great deal of trouble, because it would leave him nothing to do.

Mr. WISE:
If we can give a direction we do not want a committee!

The Hon. Sir J.W. DOWNER:
That is what I was endeavouring to avoid expressing in too clear
language, but I wished to imply that.

The Right Hon. Sir G. TURNER (Victoria)[4.39]:
I said so myself. My feeling is this: If the majority of the representatives
here have made up their minds that the proper solution of this difficulty is
to refer the whole subject to the federal parliament, as we refer the subject
of the tariff, what on earth is the use of the Finance Committee being
appointed at all? Let some one take the responsibility of moving such a
motion, if the Convention is of that opinion, when we next meet. If it is not
of that mind, the Finance Committee can go to work heart and soul and
endeavour to bring the best scheme they can devise before the Convention.
This the Convention can tear to pieces or deal with as they think fit. If a
majority of hon. members, as the cheering would apparently show to be the
case, have made up their minds that the proper course is to leave the whole
matter to the federal parliament, I, as one of the Finance Committee, object
to its being referred to the committee.

The Hon. Sir J.W. DOWNER (South Australia)[4.40]:
I would suggest to the Right Hon. Sir George Turner that it may be the
opinion of the members of the Convention that, although the matter should
be left to the federal parliament, there should be a provision in the
constitution guaranteeing a minimum return for a certain number of years,
or as one of the right hon. gentleman's colleagues has suggested, for ever.
Suppose that happens to be the view of a considerable portion of the
Convention—and certainly I am sure the right hon. gentleman is astute enough to see that it is the view of five-sixths of the members here that a guarantee should be given, for some time at all events—does he think that there is no work for the Finance Committee to do?

The Right Hon. Sir G. TURNER:
No, I think there will be a great deal for them to do!

The Hon. Sir J.W. DOWNER:
I am delighted with the right hon. gentleman's admission.

The Right Hon. Sir G. TURNER:
It is only during the first five years that there will be trouble. Afterwards there will be no trouble!

The Hon. Sir J.W. DOWNER:
In that case the right hon. gentleman will have something to exercise his pertinacity and perspicacity upon, and in doing so he will have the advantage of our more or less ill-considered opinions. He will be able, by means of his financial knowledge, to reduce our ideas into a form which will be effective to carry out the views which we hold. I think it is not necessary to have any clearer understanding on this subject, and in my opinion we ought now to go on with the bill.

The Hon. E. BARTON (New South Wales)[4.43]:
I understood the Right Hon. Sir George Turner to wish for a discussion upon the financial clauses of the bill in order that the Finance Committee might ascertain the general views of hon. members of the Convention.

The Right Hon. Sir G. TURNER:
Their general views upon the scheme before us!

The Hon. E. BARTON:
I did not understand the right hon. gentleman to mean that the Finance Committee desired anything more than a discussion which would enable them to give their different relative weights to the arguments advanced. I think that what the Convention would like to see the Finance Committee do is to consider the arguments which have been advanced in the debates, without giving undue weight to cheers which may have followed this or that remark; to compare the facts and the reasons, and then to bring up some scheme for the adoption of the Convention. I do not think the right hon. gentleman need trouble himself particularly with the fact that one speaker may have received more applause for his speech than another speaker received. Sometimes we find that very able men have the faculty of putting things in so effective a way that they receive applause for their speeches which reflection does not confirm.

The Right Hon. Sir G. TURNER:
That is why the hon. gentleman is always cheered!
The Hon. E. Barton:

That may be so, and what I have said may help to clear up any doubt on the subject that may be in the right hon. gentleman's mind. I think it is intended that the Finance Committee should have a free hand in weighing arguments, and certainly there will be no endeavour to force them to estimate the weight of the opinions given in this House by the number of members who give them support. They will estimate the opinions by the reasoning power behind them. After all, the reasons behind the suggestions will be the root of their consideration by the Committee. As my right hon. friend has indicated, I would suggest that we consider between this and tomorrow whether we should go on with the question of equal representation in the Senate, or should first pass the preceding clauses of the bill.

The Right Hon. Sir G. Turner: I think that we should determine the point now, so that hon. members may be prepared for the discussion tomorrow.

The Hon. E. Barton:

Unless I receive a very strongly supported suggestion to the contrary, it will be my duty to simply submit the clauses in their ordinary sequence. Hon. members may take it for granted, that unless between this and tomorrow I receive such an expression of opinion, I shall ask the Chairman to put the clauses as they follow one another in the bill. I think we might now dispose of this matter by postponing the clause under consideration and reverting to clause 1, when I will move to report progress and go on with the bill in the ordinary way tomorrow.

Clause 88 postponed.
Clause 1 (Short Title).
Progress reported.
Convention adjourned at 4.47 p.m.
Thursday 9 September, 1897


The PRESIDENT took the chair at 10.30 a.m.

NIGHT SITTINGS.

The Hon. Sir R.C. BAKER (South Australia):

I desire to ask the leader of the Convention a question without notice. He has stated that he proposes to ask the Convention to sit at night on three occasions next week. It would be convenient to some hon. members if an intimation were given by the hon. gentleman as to what, those nights will be.

The Hon. E. BARTON (New South Wales):

The nights on which I suggest that the Convention should sit are Monday, Wednesday, and Friday.

The Hon. A. DEAKIN (Victoria):

Might I suggest to the leader of the Convention that he should consider whether it would not be possible to lengthen our day sittings, and not to have resort to night sittings? For instance, we might meet an hour earlier in the morning, and sit an hour later in the afternoon, and if that were not sufficient, we might sit on Saturdays. I must my that, personally, when we had night sittings in Adelaide, I felt it quite impossible to devote that attention which should be given to questions which had arisen, which were in process of settlement, or which were likely to arise. If we have the evenings to ourselves, we shall be better able to prepare for and keep pace with our work. I would suggest to the hon. gentleman that we might sit some extra hours each day, and, if necessary, add Saturday to the days of meeting. Of course, it will be for a majority of members of the Convention to decide the matter; but the course which I have suggested in that which I myself should prefer.

The Hon. E. BARTON (New South Wales):

I would point out to the hon. member that there is some difficulty in, our sitting earlier in the morning on account of the printing required to be done for the Convention. There is quite trouble enough as it is in getting the printing through in time for the use of hon. members. I would remind the hon. member that we: shall have reached the seventh day of our sittings before having a night sitting, and if we begin night sittings next week, we might then, by taking two or three nights, save ourselves arduous labour afterwards. I would suggest to hon. members that it would be better to take...
time by the forelock in that way. If the time is not otherwise likely to be saved, that is one means of overtaking it. If, on the other hand, it is likely to be saved, then our labours will be eased finally.

AMENDMENTS.

The Hon. Sir JAMES LEE-STEERE (Western Australia):

I observe that no amendments appear upon the notice-paper. It will be extremely inconvenient if they are not before us when we have to consider them.

The Hon. E. BARTON:

They are all printed upon a separate paper!

The Hon. Sir JAMES LEE-STEERE:

I am referring to amendments of which notice has been given by hon. members since the Convention commenced its sittings.

The Hon. E. BARTON:

Any amendments of which hon. members desire to give notice will be printed without their formally giving notice of them!

The Hon. Sir JAMES LEE-STEERE:

Amendments have been handed in but have not been printed!

The Hon. E. BARTON:

If the hon. member refers to the amendments of which notice has been given by the Right Hon. Sir John Forrest they have already been printed and will be distributed at once.

MAYOR OF SYDNEY'S LUNCHEON.

The Right Hon. Sir G. TURNER (Victoria):

I desire to ask the leader of the Convention what is proposed to be done to-day with regard to the Mayor of Sydney's luncheon? I understand that it takes place at half-past 1 o'clock.

The Hon. E. BARTON:

It appears upon the programme in the hands of hon. members as fixed for that hour, but I have been informed by telephone that the hour is 1 o'clock.

The Right Hon. Sir G. TURNER:

What I was about to suggest is that there is no necessity for the whole of the Convention to adjourn for a considerable time for the purpose of attending this, luncheon. We might easily select from each delegation one or two hon. members to represent us. I propose, as far as Victoria is concerned, to ask our President and Speaker to be present. If we all attend the luncheon we know it will be very late in the afternoon before we are able to get away, and when we return here, judging, from our past experience of functions of the kind, we shall not feel inclined to settle
down to work in the way in which we generally do.

The Hon. E. BARTON:
I intend to be here again at 2.30. It amounts to half an hour's extension of the usual adjournment.

The Right Hon. Sir G. TURNER:
I feel certain that we shall not be able to get away by that hour.

The Hon. E. BARTON:
I shall take care to do so. Perhaps the President will intimate that he will take the chair at, 2.30 o'clock, and that intimation I take it will be the magnet which will draw us. I myself will undertake to be here ready, to go on with business at the hour I have named.

The PRESIDENT:
The intimation will require to be given by the Chairman of Committees. I have no doubt that hon. gentlemen will give effect to the wishes of the Convention in the matter.

The Hon. J.H. GORDON (South Australia):
I would suggest to the Right Hon. the Premier of Victoria that it would be hardly courteous, to the Mayor of Sydney if, after the whole of the Convention have accepted his invitation, am I presume they have, and preparation has been made to entertain the whole of the Convention, we send only a delegation from each colony. If by attending the luncheon for a short time we can be courteous, and at the same time not delay business, I would suggest to the right hon. gentleman that that would be the more appropriate course to take.

COMMONWEALTH OF AUSTRALIA BILL.
In Committee (consideration resumed from 8th September, vide page 222):
Clause 1. This act may be cited as the Constitution of the Commonwealth of Australia.
Amendment suggested by the Legislative Council of New South Wales:
Omit "commonwealth," line 2, insert "dominion," and substitute "dominion" for "commonwealth" whenever occurring in subsequent parts of the bill.

The CHAIRMAN:
I take it that this will be a test vote as to whether the word "commonwealth" or the word "dominion" shall be used, so as to decide it one way or the other, and it will not be necessary to put the same amendment again to the Committee.
Mr. SYMON (South Australia)[10.41]:

I do not rise for the purpose of supporting the substitution of the word "dominion" for the word "commonwealth," but I rise for the purpose of reiterating what I was enabled to say at the Adelaide session that it appears to me that the word "commonwealth" might very well be omitted altogether. I do not wish to argue the view which I then submitted, and which would more properly be given effect to in clause 3. I would not have directed attention to it now except for the intimation which you were good enough to make that this would be taken as a test vote as to whether the word "commonwealth" should be retained. In clause 1 it is simply the title of the act. There will have to be an Imperial act passed, and so far as I am concerned I have no objection to keep the title which is there given to it. But in clause 3 it says, "The colonies shall be united in a federal constitution under the name of the Commonwealth of Australia." I still adhere to the view which I expressed in Adelaide, that it ought to be under the name of "Australia." Australia would be a dominion and a commonwealth whatever the name. "Commonwealth" expresses the well-being of the entire community, or the body politic. But the name of our country ought, I venture to submit, be simply "Australia."

Mr. HIGGINS:

You want some common noun?

Mr. SYMON:

The proper noun is Australia, just as United States of America is the name of that great country. We do not want to import into it the name "commonwealth." Commonwealth designates the political condition, that is all. I do not propose to argue it, but when we come to clause 3, I shall move the omission of the words "the commonwealth of" with the view of leaving the name of the country to which we ought to be proud to belong, as simply "Australia." I think we should be proud to give it that name without any other prefix, or other noun or word of any description, but simply the plain name "Australia." I do not propose to support the amendment which has been submitted.

Mr. WALKER (New South Wales)[10.44]:

When the proper time comes, I propose to move that the word "Australia" be omitted with a view of inserting the word "Australasia," because in future we hope to have New Zealand, Fiji, and British New Guinea under the same dominion.

The Hon. E. BARTON (New South Wales)[10.45]:

This amendment, which was made by the Legislative Council of New South Wales, was moved with a view of testing whether the title of the new confederation should be "dominion" or "commonwealth." I opposed this
amendment, but I moved a prior amendment on which this was an 
amendment, that the short title of the act be the "Australian 
Commonwealth Constitution Act." I think it ought to be called the 
"Australian Commonwealth Constitution Act," and not the "Constitution of 
the Commonwealth of Australia," because there is more than the 
constitution here. There is an Imperial act which we suggest should be 
passed.

Mr. SYMON:
And there is a commercial bargain!

The Hon. E. BARTON:
The act is more than a constitution, taking it as a whole. Clause 8 says 
"the constitution shall be as follows," It clearly defines that what is prior to 
clause 8 is not in the constitution.

The Hon. I.A. ISAACS:
There would be a double interpretation!

The Hon. E. BARTON:
Yes. If the amendment is negatived we might call it "The Australian 
Commonwealth Constitution Act."

The Hon. Sir JOSEPH ABBOTT (New South Wales)[10.46]:
I am not opposed to the introduction of the word "dominion" into this 
clause; but I am perfectly satisfied that if we are to discuss every trifling 
amendment we shall never get through with the bill. I do not think it is 
necessary to discuss this amendment. The Adelaide Convention, by a 
majority, having come to a determination, is it likely that they will go back 
upon that at the suggestion of our Legislative Council, which has done 
everything it possibly could to destroy the bill?

Amendment negatived.

Amendment (Hon. E. BARTON) agreed to:
That the words "the Constitution, of the Commonwealth of Australia" be 
omitted, with a view of inserting the following words:-"the Commonwealth 
of Australia Constitution Act."

Clause, as amended, agreed to.

Clause 2. This act shall bind the Crown, and its provisions referring to 
er her Majesty the Queen shall extend to her heirs and successors in the 
sovereignty of the United Kingdom of Great Britain and Ireland.

The Right Hon. Sir G. TURNER (Victoria)[10.48]:
I should like to call attention to these words, "This act shall bind the 
Crown." We know we have to send this bill to the Imperial Parliament to 
be passed. I cannot see why these words should be inserted. Of course the
act will not bind the Crown unless the Crown is mentioned. But throughout the whole of the bill the Crown will be mentioned, and therefore the Crown will be bound. Sir Samuel Griffith has drawn attention to this matter. He says:

This section begins with the words "This act shall bind the Crown"-an expression which is at least unusual in statutes, and which is surely unnecessary. How can it be suggested that an act in which the Crown is continually mentioned, and which establishes a new dominion under the Crown, does not bind the Crown?

I fully concur with these remarks. I certainly would urge upon the hon. gentleman that he should omit these words.

The Hon. R.E. O’CONNOR (New South Wales)[10.49]:

The hon. member will admit that it should be put beyond question that every portion of this act binds the Crown. It is true there are a number of sections which expressly bind the Crown, but this provision is inserted in order that it should be put beyond all doubt that every portion of the constitution binds the Crown. Although the form of expression is unusual, it has this to recommend it, it is very concise and carries out exactly our meaning. I see no reason for omitting the words.

Mr. GLYNN (South Australia)[10.50]:

I would ask the hon. and learned member, Mr. Barton, whether he thinks that these words are sufficiently specific to negative the prerogative of the Crown? The intention undoubtedly is to prevent the possibility of our taking away the right of appeal to the Privy Council. In Canada the words used were, "Such judgment shall not be susceptible to appeal," but they were held to be insufficient. Lord Cairns, in a case in 1876 on which this question turned up, stated that the words must be definite and precise, that they must amount to a direct negation of the prerogative before they can take away the prerogative. The principal object of these words is to take away the royal prerogative so that subsequent portions of the bill may be effective. The

Canadian act which was passed in consequence of that decision begins with the words, "Notwithstanding any royal prerogative." What I would suggest with deference to the judgment of others is that we ought in this section to distinctly negative the prerogative, because it will then operate right through the act. I think we should begin the clause with the words, "Notwithstanding any royal prerogative this act shall bind the Crown."

An Hon. MEMBER:

Will not those words be too strong?
Mr. GLYNN:
The fact that Sir Samuel Griffith did not understand the meaning of the words proves that they cannot be strong. He, as a distinguished lawyer, must be admitted to know that the prerogative must be taken away by express words, or it will still remain.

The Hon. R.E. O'CONNOR:
He thought that they were not necessary. That was his objection!

Mr. GLYNN:
He did not see the object for which they were inserted.

The Hon. R.E. O'CONNOR:
He did not see the necessity!

Mr. GLYNN:
If the object had been accomplished he would have seen that at once. As the hon. and learned member, Mr. O'Connor, has pointed-out, the act does bind the Crown. In clause 1 of the constitution the Crown is distinctly stated to be part of the commonwealth, and a section in an act of Parliament must bind the Crown, because the Crown in one of the consenting parties to the legislation. I would call attention to the fact that the prerogative ought to be distinctly negatived in the act.

The Hon. A. DEAKIN(Victoria)[10.52]:
Here we are at the very outset engaged in a discussion on a question of drafting-on the choice of an expression-

The Right Hon. Sir G. TURNER:
-

The Hon. A. DEAKIN:
I take it that the point mind is distinctly a question of the selection of one phrase or another to accomplish the same thing.

The Right Hon. Sir G. TURNER:
-

The Hon. A. DEAKIN:
I take it that the hon. and learned member, Mr. Glynn, is in accord with the hon. members who have drafted the bill as to its being made effective. I would ask the hon. and learned member in charge of the bill whether it would not be advisable at the outset to make an arrangement as regards the meaning of expressions in the bill that questions, of that kind shall be allowed to stand over until the close of our proceedings, when the assistance of all legal members, or any of those who have questions of interpretation to bring forward, may be invited to go through the measure, if necessary, once more on the question of drafting, and drafting alone? It is most undesirable that these questions should be launched here without notice at every stage when we are discussing the question of the
ascertainment of the purposes we wish to effect. If the legal members of the Convention and other members can agree to reserve all such questions till the close of our proceedings, till we have settled what it is we desire to do, and then discuss means of doing it, or the form of the clauses in which those purposes should be embodied, it appears to me that we might save much time.

The Hon. E. BARTON (New South Wales)[10.54]:

My hon. and learned friend, Mr. Deakin, has anticipated me, because I was intending to make that very suggestion to the Committee. I am very glad he has made the suggestion, and I thank him for doing so. What I would like to do, if there is time for it, is to leave aside questions of mere drafting until we have gone through all the clauses, and that the Drafting Committee should have a day, possibly two days, in which to go through the bill with a view to make any desirable alterations in drafting in the light of amendments which may have been made by hon. members, and that then the bill should be formally recommitted for the purpose of enabling hon. members to judge of that work.

The Right Hon. Sir G. TURNER:

I would suggest that the Drafting Committee should have the advantage of the suggestions, and that any hon. member who has any suggestions to make should forward them to the Drafting Committee-I think the drafting of this clause is wrong, and ought to be altered-and let the Drafting Committee, exercise its own discretion in regard to alterations.

The Hon. E. BARTON:

I quite agree with my right hon. friend. I shall be very glad if my legal friends who notice any fault in the drafting, or think that an improvement can be made, will make a suggestion to the Drafting Committee, if possible in writing, and certainly there will not be any disposition to take high ground, in matters of that sort. Now, with reference to this particular matter, we have considered it well, and we think that a wider form of words, could not be selected, and that their very width gives them strength in an act.

Mr. SYMON (South Australia)[10.56]:

I certainly do not quite approve of the suggestion thrown out by the right hon. member, Sir George Turner, as to sending in memoranda with regard to matters of drafting. That would be an exceedingly invidious thing to do, and really I do not think we are here for the purpose of verbal criticism. It would take up a great deal of our time. You would never know what was going to happen, and if a member dissented from the Drafting Committee
we might have a debate hereafter upon it. A much better way will be for us to suggest amendments. That is all I understood my right hon. friend intended to do. I did not understand that he was going be move any amendment. He merely called attention to this language. My hon. and learned friend, Mr. Glynn, also called attention to the fact that the prerogative was not properly negatived. The particular instance he referred to, namely, the abolition of the right of appeal to the Privy Council, is expressly provided for by a clear and definite negation, which he says is necessary in order to negative the prerogative of the Crown. He must have overlooked the language used in clause 75 which Sir Samuel Griffith, in his criticism, thought was too direct in fact direct to the point of discourtesy, if I may say so. I am sure there was no intention of that kind on the part of any one. I believe that if my hon. and learned friend had remembered that clause we should not have had this discussion.

Clause 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, the people of [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.

The CHAIRMAN:

There is an amendment suggested by the Legislative Council of New South Wales to omit the word "federal" in line 10.

The Hon. R.E. O'CONNOR (New South Wales)[10.58]:

I have a prior amendment to move, sir. I wish to call the attention of the Committee to the limitation of six months in the clause. It provides for a proclamation to be made, and fixes a date for not less than six months after the passing of the act, at which the commonwealth is to be established. That is a very important date, because on that date the control of the departments and the obligations of different states in federal matters pass to the commonwealth. The

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land and buildings vest in the commonwealth at that date, and provision has to be made for the, election of senators, and probably some provision will have to be made in the different states for the election of representatives. It appears to me that we ought to be very careful that sufficient time is allowed for all that to be done before the date fixed in the
proclamation is arranged. I would suggest that six months is rather a short
time for all that to be done in. A number of these matters have to be
arranged between the federal authority and the different states, and the
necessary legislation cannot always be brought on simultaneously in all the
states. I would suggest that the word "eight" should be substituted for the
word "six." It is only a maximum limit, and the date fixed might be much
earlier. It would be a very serious thing to limit the time in such a way as to
make it impossible for the work necessary to be done to be carried out.

The Right Hon. C.C. KINGSTON:
Take a year!

The Hon. R.E. O'CONNOR:
Perhaps it will be safer to take a year. I move:
That the words "six months," line 5, be omitted with the view to the
insertion in their place of the words "one year."
Amendment agreed to.

Amendment suggested by the Legislative Council of New South Wales
to omit "Federal," line 10, negatived.

Amendment (by Mr. SYMON) negatived.

That the words "the commonwealth of," line 11, be omitted.
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.

The CHAIRMAN:
There are several amendments s
Omit "Unless it is otherwise expressed or implied," lines 1 and 2, insert
"the provisions of," and insert after "act," line 2, "relating to the
constitution of the commonwealth."

The Hon. Sir P.O. FYSH:
These amendments are of a drafting character, and are not important!

The CHAIRMAN:
I understood it was agreed that all the amendments suggested by all the
parliaments should be put before the Committee whether important or
unimportant. I am under an obligation to put them before the Committee.
The suggestion of the legislature of Tasmania is to omit certain words, as
stated, and to insert others. It has been suggested by the Legislative
Council and Legislative Assembly of New South Wales to omit, in
addition, the words "in this act." I shall divide the amendment into two, and submit that of the Tasmanian legislature first. If that is carried, I shall put the question, "That the words this act stand part of the clause." That will enable every member of the Committee to give a vote for either of the amendments.

Mr. HIGGINS (Victoria)[11.5]:

Before that amendment is put I desire to call attention to a matter of machinery—it is by no means a matter of drafting—affecting the mode in which the commonwealth is to be brought into existence. With regard to the question of drafting I desire to say, as I said in Adelaide, that I have always found a word in the ear of the Drafting Committee is ample to insure that they will listen to any suggestions which may be made. I think that if any member desires any alteration in drafting, the best thing to do is to speak to a member of the Drafting Committee about it. There is a difficulty in connection with the machinery of the clause about which I do not see my way clear. The act is to come into force on the day appointed by the proclamation. The first step, when the act is in force, is to appoint a governor-general who is to issue writs for the election of members of the lower house. There can be no parliament until the writ is issued, and there can be no ministry until there is a parliament. The position is this: That you cannot have your ministry to advise the governor-general until there is a parliament, and you cannot have a parliament until there is a governor-general. That means that the governor-general is to act on his own responsibility, and is to have no recognised official advisers in bringing into play the provisions of the act. What I want to understand is what provision has been made for the purpose of giving the governor-general advice in regard to the question of appointing the times for holding the first and every session of parliament, and of giving him advice as to what returning officers are to be appointed. Of course, the returning officer will make his returns to the governor-general; but who is to be entrusted with the duty of announcing the returns of the election There will, of course, be no funds in the commonwealth at that stage; but I apprehend that the governor-general will act in the hope of being recouped any expenses afterwards to which he may be put. My difficulty is this: is the governor-general in the issue of the writs to returning officers under clause 41, to act on his own responsibility, and is he, in appointing a time for the holding of the first session of parliament, to act also upon his own initiative and responsibility? I think hon. members will see that this is not a question of drafting; but one of practical machinery.
The Hon. E. BARTON (New South Wales):[11.8]

I think the objection of my hon. friend is met in this way. Of course, it is true that there may be a possibility of the governor-general being, for a time, without advisers, but Chapter II, relating to the executive, deals with this matter. The last paragraph of clause 63 states:

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.

It is clearly to be gathered from this that there will have to be, before the first general election, ministers of state who will be responsible ministers. It is quite obvious that the governor-general will not set to work upon any important executive act without sending for some person to form a ministry. That gentleman will have to be the adviser of the governor-general, and the Ministry will take the steps for the holding of the first general election, and for taking over the control of the departments which, under the constitution, are to be taken over at once. Upon the control of these departments being assumed, revenue will become available for the federal treasury. Therefore, all the acts, apart from legislation, which are necessary before the election of the first parliament, will be done with the necessary provisions and sinews of war.

Mr. HIGGINS:
The governor-general is to appoint his own officers!

The Hon. E. BARTON:

He must send for his first ministry. There is no one to advise him whom he must send for; therefore he must use his own discretion. For this time he will have unassisted discretion. If his succeeding advisers tender him any advice as to the appointment of their successors when they go out, he can act upon it. As it is, he has sometimes to act without advice, and he will have to take that by no means uncommon step in the first instance by sending for some gentleman to form a ministry. With reference to the amendment put from the Chair, I should advise the Committee to accept it - I refer to the amendment by

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the Legislative Council and the Legislative Assembly of New South Wales. The same amendment has been made by the Legislative Council and Legislative Assembly of Tasmania, and it has been put from the Chair in the form adopted by the Tasmanian legislature. The intention of it is this: As things stand now, the act would not have force, possibly, until the day appointed by the proclamation. That is really the day on which the constitution should have force. The act has force as an Imperial act immediately it receives the royal assent.
Suggested amendment (omitting "unless it is otherwise expressed or implied") agreed to.

Amendment (suggested by the Legislative Council and Legislative Assembly (if New South Wales, omit "this act," line 2) proposed.

The Hon. I.A. ISAACS (Victoria)[11.12]:

I should like to hear what the leader of the Convention has to say about this. The words suggested for insertion-"relating to the constitution of the commonwealth"-seen rather wide. If the provisions of this act "relating to the constitution of the commonwealth" are to come into operation on the day appointed in the proclamation, can it be said that the preceding provisions of the act are not "relating to the constitution of the commonwealth," and do not suggest the same difficulty as we are in at present? Because clause 3-the clause which gives power to her Majesty to issue the proclamation-is certainly, in one sense at all events, a clause "relating to the constitution of the commonwealth." "Relating" is a large expression. The Canadian act is very distinct. If my memory serves me rightly, it says, "unless otherwise expressed or implied by the subsequent provisions of this act." But if you insert the words suggested by the Tasmanian and New South Wales Parliaments-"relating to the constitution of the commonwealth"-it seems to me that we shall be almost, if not altogether, in the same difficulty as we are at present.

The Hon. R.E. O'CONNOR:

You may get over the difficulty by heading the first chapter "introductory"!

The Hon. E. BARTON:

Or alter the other suggested amendment so as to make it read "the constitution of the commonwealth shall commence and have effect from so and so!"

Amendment agreed to.

Amendment (suggested by the Legislative Council and Assembly of Tasmania)-Insert after the word "implied," line 2, "The provision of this act relating to the constitution of the commonwealth) proposed.

Amendment(Hon. E. BARTON) agreed to:

That the suggested amendment be amended by omitting the words "The provisions of this act relating to."

Amendment, as amended, agreed to.

Amendment suggested by the Legislative Council and Assembly of Tasmania:

To add to the clause: "But the parliaments of the several colonies may at any time after the passing of this act make any such laws, to come into operation on the day so appointed, as they might have made if the
constitution had been established at the passing of this act."
The Hon. E. BARTON:
I should like to have some explanation of this amendment, and, perhaps, some hon. member representing Tasmania will explain it!
The Hon. Sir P.O. FYSH (Tasmania)[11.15]:
I supposed that the leader of the Convention had made himself acquainted with the purpose of this amendment. I can only give it as I read it in Hansard. The amendment was proposed by the Attorney-General of Tasmania, and was evidently made on the suggestion of Sir Samuel Griffith for the purpose of giving the Convention an opportunity of considering the suggestion which Sir Samuel Griffith had made. The Attorney-General said:
In that very clause Sir Samuel Griffith seemed to imply that this bill was going to give the parliaments of the states power to pass laws with regard to the constitution of the commonwealth. Section 29 said "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 such division each state shall be one electorate." At the present time he was not prepared to accept that view; but possibly after further consideration he might agree with Sir Samuel. There was power now under clause 29 for dividing into as many electorates as they liked; but if they did not so divide, each state was the electorate. . . . . Queensland was not represented in the Convention, and was not likely to be, and that being so, it would be a graceful act on the, part of the Tasmanian House of Assembly, or any other house of parliament, to enable Sir Samuel Griffith's suggestions to be laid before the Convention, even though Sir Samuel was not a delegate.
That seemed to be the reason why the Attorney-General of Tasmania suggested this amendment-in order that Sir Samuel Griffith's views might have some consideration at the Convention.
The Hon. N.E. LEWIS (Tasmania)[11.17]:
I desire to add, to what has fallen from my hon. colleague in the representation of Tasmania, that in clause 9 the two houses of parliament of Tasmania have suggested that the senate should be composed of six senators for each state, to be chosen by the people of the state "in such manner as the parliament of each state shall determine." If that suggestion is to be carried out, it will be necessary for the various, parliaments to pass enactments and make their own provisions for electing the first senate. It is
with that view that this amendment has been suggested. Of course a parliament would have no power to legislate in this direction unless there was some provision of this sort under which it could work before the day named in the proclamation as that upon which the constitution is to take effect.

The Hon. E. Barton (New South Wales)[11.18]:

I take it that the meaning of the amendment is that as the constitution is to come into force at a later date, and inasmuch as the power of the states to legislate on these particular subjects is one which is only embodied in the constitutional part of the act, so those powers of the state only come into force at that time. The result would be, therefore, it is suggested, that unless a provision of this kind is made in the interim that would pass before the proclamation took effect, a state would, not be able to pass such legislation as was necessary to provide for the representation of the state. I think there in something in that suggestion. I do not see what harm the suggested amendment could do, and I think it may do good. The argument is that the power, although given in the constitution, will not be an effective power until the constitution itself takes effect, and you want to fill up the gap.

Amendment agreed to; clause, as amended, 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 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."

Amendment suggested by Legislative Council of New

Add at end of chase "Original states shall be taken to mean such states as form part of the commonwealth at the date of its establishment. New states shall be taken to mean such states as may thereafter be admitted into or constituted by the commonwealth."

The Hon. E. Barton (New South Wales)[11.21]:

This amendment has been suggested for the purpose of distinguishing

in the interpretation of subsequent clauses between the original states of the commonwealth and those which join it afterwards. Any question of the different treatment of original and new states will arise upon clause 114, so that it need not trouble us now. The amendment in one which I myself suggested in the Legislative Council.
An Hon. MEMBER:
What is the object of it?

The Hon. E. BARTON:
To enable a distinction to be made, in the subsequent parts of the bill between the original states of the union and states which join afterwards. If the Convention decides to adhere to the work done in Adelaide, that the ordinary provisions of the constitution shall apply to the states originally federating, and that new states are to be admitted upon such terms as may be agreed upon between them and the commonwealth, the amendment will enable a distinction to be drawn between the two classes of states.

An Hon. MEMBER:
What about the word "dominion"?

The CHAIRMAN:
I take it that it is the desire of the Convention that the word "commonwealth," and not the word "dominion," shall be used to describe the union, and therefore I intend to alter any amendment in which the word "dominion" occurs.

Mr. SYMON (South Australia)[11.23]:
I am sorry to say that I am quite unable to follow the explanation of the hon. member, Mr. Barton, as to the necessity for introducing this discriminating definition into clause 5. I have just looked at the provisions of clause 114, which define the powers of the federal parliament to admit new states into the union from time to time. After the admission of a fresh territory, or a non-concurring state into the union, there would be no reason why it should continue to be described as a new state in contradistinction to an original state. They will be all states of the union, both those that come in originally, and those which join afterwards. I am therefore unable to see why it should be necessary to discriminate in this way between new states and original states.

The Hon. E. BARTON (New South Wales)[11.24]:
I am sorry that I did not make my explanation as full as I should have made it. I omitted to refer to the bearing of the amendment upon clause 9. It has been pointed out that there is an apparent conflict between clause 114 and clause 9 in this way: that whereas under clause 114 power is given to the commonwealth parliament to make terms with a state wishing to join the union, clause 9 appears to be constructed in favour of equal representation in all cases. I have in my hand an amendment which I propose to move in clause 9, in order that this inconsistency may be removed, and then clauses 9 and 114 will make the necessity for the
amendment now before the Committee plain.

The Hon. Dr. COCKBURN (South Australia)[11.25]:

I think we all agree that the federation would be incomplete unless it embraced the whole of Australia; that without Queensland the federation would be maimed. Do we not, therefore, desire to give every inducement to Queensland to join us? But if Queensland is for all time to be designated a new state, that is, an inferior state, in name at least, will not that be a bar rather than an inducement to her joining?

An Hon. MEMBER:

If she comes in now she will get better terms!

The Hon. Dr. COCKBURN:

Suppose she cannot come in just at once; but wants to come in as soon afterwards as possible? If the amendment is carried, and she comes in a month after the federation is formed, she will, for all time, be placed in the category of new states, and will, therefore, be on an inferior footing in regard to the original states.

The Hon. E. BARTON:

The term "new state" will never have to be used after the admission of a state!

The Hon. Dr. COCKBURN:

But it will stand in the constitution for all time. For all time Queensland can be referred to as a new state.

The Hon. E. BARTON:

So she is now. We are all new states!

The Hon. Dr. COCKBURN:

I think the amendment is a mistake.

The Hon. R.E. O'CONNOR:

Suppose Queensland divided into three before she enters the federation?

The Hon. Dr. COCKBURN:

Well, I fear that if we make the distinction in name, we shall be removing one of the inducements to Queensland to join the federation. Queensland should be admitted upon an equal footing in substance and in name with the other states.

The Hon. I.A. ISAACS (Victoria)[11.27]:

I think that the hon. member, Dr. Cockburn, is labouring under a misapprehension. The only object of the proposed amendment is to define the terms used in the bill. The position very properly taken in Adelaide was that the colonies that joined the union at the beginning, and shared all the
dangers and difficulties of federation from the outset, should be entitled as a right to equality of consideration, and that other states which did not come in then should run the risk of being admitted on such terms as the commonwealth might thereafter think right and fit. The expression "new states," in clause 114, requires some definition, and it is thought right to give it that necessary definition, and in contradistinction to define the term "original states." If the hon. member, Dr. Cockburn, will read clause 5, he will see that:

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.

Each part of the commonwealth, once it is admitted into the commonwealth, becomes a state. It will not have the prefix "original" or the prefix "new." The term "original state" and the term "new state" is each a term requiring interpretation. The words "original" or "new" can form no part of the designation of a state once it becomes part of the commonwealth.

The Right Hon. Sir JOHN FORREST (Western Australia)[11.28]:

I have not been convinced by the explanation of the hon. member, Mr. Barton. I agree with the hon. member, Dr. Cockburn, that the proposed addition is altogether unnecessary. The plan adopted in the bill is that the colonies of Australia, as they exist at the present time, may come into the federation now or at any time hereafter. To say to a colony which by force of circumstances is unable to come in at the present time, "If you do not come in now, the terms upon which you shall enter shall be the subject of future consideration," seems to me to be more likely to keep that colony from federating than to attract it into the federation. I do not suppose anyone desires to visit any penalty upon Queensland for not joining us. The public men of Queensland, and, perhaps, the people of Queensland, are probably just as anxious to be federated as we are; but, through the force of circumstances which cannot always be controlled, they have not been able, up to the present time, to come into the Convention. To inflict penalties upon states now existing, should they subsequently desire to join the federation, seems to me to be ungenerous.

The Hon. I.A. ISAACS:

Read clause 114?

The Right Hon. Sir JOHN FORREST:

I know all about clause 114. The new states referred to in this bill are those that are to be formed out of existing states. The states mentioned in the bill are the existing colonies of Australia and Tasmania,
and the new states are those which hereafter may be formed by a subdivision of any colony. Those are the new states referred to in the Commonwealth Bill of 1891. I can see no object in the amendment of Mr. Barton, unless it be to erect some barrier against a state, which by force of circumstances may not be able to join immediately, from hereafter becoming part of the commonwealth. That is not the spirit in which we should deal with this matter. We should, on the other hand, act generously, if we are desirous of forming a red federation. A real federation of Australia cannot be complete unless all the colonies of Australia form part of it. If that is our desire, we cannot act too generously with those colonies who by force of circumstances may be unable to join at the beginning.

The Right Hon. C.C. KINGSTON (South Australia)[11.32]:

I would suggest to the leader of the Convention that the proposed addition is not required, and may well be omitted, and for this reason: I understand that where an interpretation of a term is useful you are going to use that term. It avoids setting it out at length afterwards. That what is proposed is this: to give an interpretation to the term "original state." Now where in the whole bill do we find the term "original state"?

Mr. SYMON:

Or "new state" either!

The Hon. E. BARTON:

The amendment I intend to move in clause 9 will make the use of the term "original state" necessary!

The Right Hon. C.C. KINGSTON:

I am inclined to think it will be emphasising a distinction which is altogether unnecessary. We have already, within the four corners of the bill, declared what are to be new states, and there is no necessity for the introduction of the amendment now proposed for the purpose of further emphasising the distinction. Without this amendment the bill will be perfectly clear, and I am sure there will be a general desire to avoid the introduction of any unnecessary distinction of the kind. I should like also to point out to the leader of the Convention that if he intends to press the amendment, it would be better to use the word, "established" by the commonwealth, instead of "constituted," because that word is used in the earlier part of the clause.

The Hon. E. BARTON (New South Wales)[11.34]:

It will be more satisfactory to hon. members if I indicate the amendment I intend to move in clause 9. Then it will be apparent that, if that amendment is one that commands itself to hon. members, it will be necessary to make the slight amendment I propose in clause 5. I propose to
alter clause 9, so that it will have the same effect, except that it will not conflict with the power given in clause 114 to regulate the admission of new states. It will read in this way, down to the last paragraph:

The senate shall be composed of senators for each state, directly chosen by the people of the state as one electorate, and each senator shall have one vote. Until the parliament otherwise provides, there shall be six senators for each original state. The parliament may, from time to time, increase or diminish the number of senators for each original state, but so that equal representation of the several original states shall be maintained (and that no original state shall have less than six senators). 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 object of that amendment is to make it quite clear that the principle of equal representation shall be conserved to the states which originally join, and that the parliament may have the power, by way of arrangement or statute, of dealing with the terms on which any new state is to be admitted. As a matter of drafting, therefore, the amendment I have now proposed in clause 5 became necessary in order that the term "original states," used so often in clause 9, might be understood at once, and that clause 9, when amended, taken together with clause 114, might be free of any conflict with that clause. As things stand now, there is a conflict between clause 9 and clause 114, and it was the expressed and determined intention, as I understand, of the Convention in Adelaide to keep its hands upon the power of regulating the representation of new states. Let me divest the minds of my hon. friends of any suspicion that I would for a moment attempt to place any slur upon Queensland or to invest Queensland with a designation which might in any way diminish its dignity. That is not the purpose of this amend...
amendment in clause 9, then, unless I have this amendment defining original states, I shall have to use a long form of words in various places throughout clause 9 that would make the drafting cumbrous. The object is not to draw an invidious distinction between states, but to allow the bill to be more readily understood.

The Right Hon. G.H. Reid (New South Wales) [11.41]:

I think the hon. member, Mr. Barton, is going slightly away from the subject of clause 5, which is simply a definition clause. Even if new territories are admitted as states into the commonwealth, with a less representation in the senate than have the other states, it is still necessary that they should come under the general definition of "states" throughout the whole of the bill. The definition of "state" would be necessary even for a state which, in the senate, does not return as many members as do the other states.

An Hon. Member:

The Right Hon. G.H. Reid:

That being the case, why should we attempt to legislate for that particular matter under the general definition clause at the beginning of the bill? It often happens that where an interpretation is only necessary for a limited purpose, it is put into the forefront of the act, and is limited to the part of the act where the definition is necessary. I confess I lay great stress upon the observations of the right hon. member, Sir John Forrest. We surely do not mean to ask Queensland to come into this federation as a new state. It is certainly a mere matter of words; but those words sometimes carry great weight, and, inasmuch as the definition clause does not refer to three states of Queensland, but to only one, it is impossible that the question about the division of Queensland into three states can affect the matter. This clause simply provides that

the term "the states" shall be taken to mean such of the colonies of New South Wales, New Zealand, Queensland-

It does not refer to the division of Queensland into three states-

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.

That definition will be necessary for the new as well as for the old states. It is a general definition.
An Hon. MEMBER:

The Right Hon. G.H. REID:

The stipulation that in the case of certain new states there shall be certain variations is a thing for express legislation and not for a definition clause of this kind, and I would strongly counsel my friend, Mr. Barton, not to raise the difficulty in this clause. We must have regard to the fact that whatever may have been the conduct of the Government of Queensland the people of Queensland are absolutely blameless. They are at present impotent to do anything they may wish to do. For aught we know the people of Queensland may be absolutely desirous of joining a federation, but they are paralysed by the action of the Government and Parliament of Queensland. Let us suppose for a moment that the people of Queensland, having a better means of expressing their opinion than they at present have, wish immediately to join this union. Is it necessary to brand Queensland for all time to come as being a new state?

The Hon. I.A. ISAACS:

That would not be the case. Directly she was admitted she would be a state!

The Right Hon. G.H. REID:

Clearly a state which is admitted after the passing of this act becomes a new state, or what do these words mean:

"Original states " shall be taken to mean such states as form part of the dominion at the date of its establishment. "New states" shall be taken to mean such states as may thereafter be admitted into or constituted by the dominion.

The case I am putting is the case of Queensland seeking to be admitted after the union has been formed. We should certainly then be putting upon Queensland for all time the brand of a new state, because that definition means that any state which comes in after the union is formed shall be taken to be a "new state." Now, why should we press in a definition clause a little point of this kind which may irritate an adjoining colony? What is the difficulty about leaving the clause as it is? It is this: that it is quite possible that this bill, as finally settled, will limit the number of senators in some particular cases-certainly not the case of Queensland if she comes in as she is. The term of a limited number of senators as distinguished from the existing colonies cannot mean Queensland, it must mean some other territory or part of an existing state coming from where I do not know.

An Hon. MEMBER:
Perhaps Fiji!

The Right Hon. G.H. REID:

Fiji or New Guinea, or, perhaps, some subdivision of an existing colony. It cannot affect a colony which remains as it is without subdivision. I strongly advise that this clause should not be cumbered by a provision which might be brought more immediately to the point of application in another part of the bill.

The Right Hon. C.C. KINGSTON (South Australia)[11.47]:

I am obliged to my hon. friend, Mr. Barton, for his explanation, which is sufficient to induce the withdrawal of my opposition to the amendment he proposes. I think we ought all to do what we can to support the leader of the Convention.

The Right Hon. G.H. REID:

This is not the drafting of the leader of the Convention. It is a suggestion from a branch of the legislature!

The Hon. E. BARTON:

The amendment was made on my motion!

[387] starts here

The Right Hon. C.C. KINGSTON:

So far as I have been able to gather it appears to meet with the concurrence of the members of the Drafting Committee, and under these circumstances I shall vote for it. The objection I took was that we did not require a definition of original states, because the term was not employed in the constitution; but, as the hon. member, Mr. Barton, has pointed out that he intends to introduce the term to emphasise the distinction, which, no doubt, we intend to make as regards the states which join at the outset and those which afterwards come in in the terms of this bill, I withdraw my opposition.

The Hon. R.E. O'CONNOR:

We have already affirmed that principle in clause 114!

The Right Hon. C.C. KINGSTON:

After the explanation of the leader of the Convention, I shall be happy to vote for the amendment. It is suggested that we shall be branding new states for all time as new states; but we do not do anything of the sort. We merely make that distinction at the time of the bargain. When the states have been admitted they are states, and will come within the meaning of the first part of the clause, which declares that 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.

The Right Hon. Sir JOHN FORREST:
It cannot be one of those!

The Right Hon. C.C. KINGSTON:
It will, undoubtedly, when it is admitted. It will be included in the general definition of states; but at the period of bargaining it is not one of the original parts of the federation, but is regarded as a new state, and must be so regarded. When it is once admitted the distinction disappears, the whole of the states being treated alike.

Mr. TRENWITH (Victoria)[11.50]:
I think we are very much in the position of drawing up a deed of partnership for states which it is contemplated will come in at the inception of the commonwealth. Unless we have an amendment such as is suggested we shall bind the original partners to take in new partners at any time without having fixed the terms of the partnership.

The Right Hon. G.H. REID:
It does not propose to do anything; it is only a definition!

Mr. TRENWITH:
It is a definition having reference to another clause. Seeing that certain colonies are expected to enter into partnership on conditions that they understand, we have a right to leave them as free as possible when they choose to extend that partnership by taking in new partners.

The Right Hon. Sir JOHN FORREST:
IS that the federal spirit?

Mr. TRENWITH:
It is the federal spirit most assuredly. Anyone would object strongly to take in new partners on terms which he had no hand in framing. Whoever chooses to come in twenty or one hundred years hence under the Commonwealth Bill as it leaves our hands should surely be bound to come in under terms agreed upon by the original partners.

An Hon. MEMBER:
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Mr. TRENWITH:
I would be just as reluctant to compel colonies to come in under conditions of which they disapprove as I would be to compel a number of other colonies to admit new partners without giving them any choice as to terms.

Mr. HIGGINS (Victoria)[11.52]:
I rise to order. I think we are discussing the merits of clause 114, whereas
the only question before us is the interpretation clause. We shall have an opportunity of discussing the important question raised by the Right Hon. Sir John Forrest in clause 114. This is not the time to discuss whether the federal parliament is to have power to arrange the terms for the admission of new states.

The CHAIRMAN:
I think the point raised by the hon. member, Mr. Higgins, must be sustained. I did not stop the discussion, because it was impossible to separate the necessity for the interpretation clause-

Mr. SYMON (South Australia)[11.54]:
Will you, sir, allow me to make a few remarks before you give a final decision on the point? The whole question of clause 114 is involved in this one. It is not simply an interpretation-

The CHAIRMAN:
Clause 114 is absolutely necessary to give any effect to the interpretation. It is the operative clause.

Mr. SYMON:
Would you allow me to point out that the amendment suggested by the Legislative Council of New South Wales which we are now discussing, is unnecessary if, in clause 114, we allow the principle of equal representation in the senate to apply to the new, as well as to the old, states?

The CHAIRMAN:

Mr. SYMON:
I am perfectly aware that we cannot decide now as to clause 114; but the better way would be to postpone this amendment until clause 114 is dealt with. As to the interpretation, I am at one with the Premier of New South Wales.

The CHAIRMAN:
The hon. member cannot discuss the main question in discussing the point of order.

Mr. SYMON:
I desire to facilitate the proceedings, and I think that would be done if the hon. member would postpone this amendment until we deal with clause 114!
The CHAIRMAN:
On the point of order, I declare that the definition clause has no effect at all until the subsequent clause affected by it is dealt with. It is not now in order to discuss the main question.

Mr. TRENWITH [11.57]:
Having regard to the ruling of the Chairman, I shall not pursue my argument further than to say that it is well to remember that this definition will cover the possibilities of the future. I can see no objection to the term which is proposed. I think it will have some historic value, and will enable people to discover at a glance the states that took part in the federation at its inception and the states that subsequently joined the federation. There will be no stigma attached to the states which did not take part in the commonwealth at the first.

The Right Hon. G.H. REID:
It is rather strange that the United States have managed to do without such a definition although they have admitted so many new states!

Mr. TRENWITH:
That may be the case; but if it appears to us that it would be better to rise such a definition it is no reason that we should not do so simply because the United States have not done so. Western Australia came into this Convention somewhat later than the others, but they do not occupy any less dignified a position in this Convention on that account.

The Hon. E. BARTON (New South Wales)[11.59]:
I intend to ask leave to withdraw my amendment in order to enable an hon. member to move a prior amendment. I would first say that if clause 5 is the right place to define the term "The states" it is evidently the right place to define "original states." I for one will not be a party to scattering interpretations all over the act. On the other hand, inasmuch as the term "new states" might be considered by some hypercriticism out of doors as a slur on Queensland, it would, perhaps, be better not to use that term, although I do not think such an inference could be drawn by any reasonable interpretation. I withdraw the amendment now to allow of a prior amendment, and I intend to move my amendment later on only as a definition of the original states. Instead of saying that "original states" shall mean so and so-which might be taken exception to-I will bring it into conformity with the rest of the amendment by saying that "the term original states" shall be taken to mean so and so, and leave out the last part of the amendment so that the susceptibility of no one in Queensland, or other places, may be offended by
the use of the term. The definition of "original states" will then suit my purpose. I ask leave to withdraw the amendment so as to admit of the insertion of a prior amendment.

The Right Hon. Sir JOHN FORREST (Western Australia)[12.1]

was understood to ask the hon. and learned member, Mr. Barton, whether it would be better to leave this matter until a decision was arrived at in regard to the amendment he proposed to move in clause 9, and then, if that alteration were made, on recommittal we might make the necessary alteration in clause 5.

The Hon. E. BARTON:

Perhaps it will be better to postpone the whole of this clause!

Mr. SOLOMON (South Australia)[12.2]

A misunderstanding may arise in the future as to the position of the Northern Territory, and its relation to South Australia, it being under its charter provisionally annexed to South Australia by the Queen-in-Council. I wish to indicate that in the consideration of this clause I will move to insert after the words "South Australia" the words "including the Northern Territory of South Australia," so that there can be no misunderstanding as to that territory forming part of the province of South Australia.

The Right Hon. G.H. REID (New South Wales)[12.3]:

I am glad that my hon. and learned friend, Mr. Barton, is taking the course he is taking, because we will avoid the difficulty which I refer to; for clearly under clause 114 as it stands there is a distinction between admitting existing colonies and establishing new states. If that amendment had been carried we would have had to establish Queensland as a new state instead of admitting it as an existing colony.

Amendment postponed; clause postponed.

Clause 6 (Repeal of 48 and 49 Victoria, Chapter 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 tenour, be binding on the courts, judges, and people, of every state, and of every part of the commonwealth, any. thing 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.

Amendment suggested by the Legislative Council of New South Wales:
Omit "and all treaties made by the commonwealth," lines 4 and 5.

The Hon. E. BARTON (New South Wales)[12.4]:

I think it is expected by the Legislative Council of New South Wales that I should explain what the meaning of this amendment is. In the first place,
the desire of that body is that, inasmuch as the treaty-making power will be in the Imperial Government, we should omit any reference to the making of treaties by the commonwealth; in other words, while they concede that we should make certain trade arrangements, which would have force enough if ratified by the Imperial Government, the sole treaty-making power is in the Crown of the United Kingdom.

Mr. HIGGINS:
Clause 52 refers to treaties!

The Hon. E. BARTON:
And, in conformity with the amendment they suggest in this clause, they desire that the words "and treaties" should disappear from clause 52. There is a good deal of force in the contention, I think. I do not think the constitution will be in any way minimised or weakened by the omission of the words. As regards the remainder of their amendments, they propose to confine the clause to laws, and not to treaties, and to make its latter part read in this way:

And the laws of the commonwealth shall be in force on board of all British ships, excepting her Majesty's ships and vessels of war, whose first port of clearance and whose port of destination are in the commonwealth.

The gentleman who moved that amendment was not a member of the Convention. He contended that there might be an embarrassment to ships' captains with regard to conflict of laws in their application outside the territorial limits, and that it was better to confine the application of commonwealth laws not merely to coasting vessels, but to ships bound on intercolonial journeys—that is, to ships starting a voyage from a port in the commonwealth. In other words, he seemed to fear the application of the Imperial shipping laws, and also the commonwealth shipping laws, or, until the commonwealth legislated on the subject, the laws within the territorial limits of the various provinces, to ships such as the mail steamers passing on their journey from port to port here. He desired to remove the conflict which he thought might thus arise by this amendment. I think in his desire to substitute the word "and" for the word "or" he was carrying out what seems to be the view of a great many of us, and what some of the other legislatures have carried out. To that extent I take it this series of amendments will be acceptable to the Convention, and I think perhaps the omission of the reference to treaties might be well assented to by us; but as to the rest of course it is a matter of judgment as to the application of these laws, and I admit the difficulty of the question.

Mr. HIGGINS:
What is the first port of clearance in the case of ocean tramps?
The Hon. E. BARTON:
I suppose that will be one of the class of vessels which will be excluded?

The Right Hon. G.H. REID (New South Wales)[12.5]:
If my hon. and learned friend, Mr. Barton, does not move formally this amendment, I will move it.

The Hon. E. BARTON:
The amendment has been proposed.

The Right Hon. G.H. REID:
I strongly support the amendment for the reasons which my hon. and learned friend has hinted at. This is an expression which would be more in place in the United States Constitution, where treaties are dealt with by the President and the senate, than in the constitution of a colony within the empire. The treaties made by her Majesty are not binding as laws on the people of the United Kingdom, and there is no penalty for disobeying them. Legislation is sometimes passed to give effect to treaties, but the treaties themselves are not laws, and indeed nations sometimes find them inconvenient, as they neglect them very seriously without involving any important legal consequences. The expression, I think, ought to be omitted. I will deal with the other suggested amendments when the time comes.

Amendment agreed to.

Amendment suggested by the Legislative Council of South Australia:
Omit "and" where it first occurs in line 10 insert "in addition to the laws of Great Britain."

The Right Hon. G.H. REID (New South Wales)[12.8]:
Before that suggestion is considered, I should like to give effect to the suggestion which the hon. and learned member, Mr. Barton, referred to. I move:
That the clause be amended by the omission of all the words after the word "notwithstanding."

The Hon. E. BARTON:
That will be going too far, perhaps!

The Right Hon. G.H. REID:
I am going to give the reasons which I think make it wise we should take this course. There was a great deal of difficulty at the Convention in Adelaide, certainly in the Constitutional Committee, to understand the reason why such wide words were inserted in the draft constitution. Under the words "whose last port of clearance is the commonwealth," our laws would follow a vessel from here to England, because her last port of clearance would be Sydney to England. Or under the words "whose port of
destination is in the commonwealth," a vessel sailing from Hamburg to Sydney would be covered by our commonwealth laws, which would be a preposterous pretension.

The Hon. A. DEAKIN:
As to British ships!

The Right Hon. G.H. REID:
As to British ships, we are in a still more serious difficulty, and I suggest the omission of these words, because otherwise we will get into infinitely more difficulty with the Imperial Parliament.

An Hon. MEMBER:
They are the same words as those in the Federal Council Act!

The Right Hon. G.H. REID:
I think not; but whether they are or are not, that will not affect the facts to which I am referring. There is a well-known Imperial statute known as the Merchant Shipping Law. The provisions of that act cover all British ships wherever they are, and we cannot, in the commonwealth, override Imperial statutes.

An Hon. MEMBER:
This will be an Imperial statute!

The Right Hon. G.H. REID:
My hon. friend is a little previous in saying that. It never will be an Imperial statute with those words in it. They would certainly have to be expunged before it became an Imperial statute.

The Hon. H. DOBSON:
What about the Federal Council Act?

The Right Hon. G.H. REID:
I am sorry I should excite so much impetuosity, I do not care a pin about the Federal Council Act, because no one ever heard of it, and no one ever will hear of it. I am referring to an act which has a much livelier signification—the Merchant Shipping Law of Great Britain—which contains matters dealing with all British ships, wherever they are, subject to the right of her Majesty's self-governing colonies, to pass a law with reference to shipping which comes exclusively within their jurisdiction. Under that provision of the Imperial law we have in our several colonies passed local navigation acts. We have one in this colony, which refers to shipping over which we have jurisdiction. There will be no difficulty in the commonwealth exercising similar powers without the special power of the constitution, because it is provided in clause 52 that this is a subject on which the commonwealth shall legislate; so that, without the words to
which I have referred, the commonwealth can legislate on the regulation of navigation up to its jurisdiction.

The Right Hon. C.C. KINGSTON:
Within its territorial limits!

The Right Hon. G.H. REID:
Exactly; and we have no power of legislating beyond.

An Hon. MEMBER:
A similar bill to this has been made an Imperial act—the Federal Council Act!

The Right Hon. G.H. REID:
May I tell hon. members that I do not speak idly in the remarks I am making. I hope hon. members will give me credit for making these observations, knowing what I mean. I tell the Committee that these words will be a source of embarrassment in the consideration of the bill, that they conflict with the laws of the British Empire, and seek to establish a jurisdiction which we shall not get, a jurisdiction beyond our limits.

The Hon. Sir P.O. FYSH:
We have got it already in regard to beche-de-mer fishing, for instance!

The Right Hon. G.H. REID:
I do not know whether beche-de-mer fishing comes within the limit of the general navigation law. It may be so. I have nothing more to say, except that I speak advisedly.

Mr. CLARKE:
Has the right hon. gentleman been talking with "Joe"?

The Right Hon. G.H. REID:
My hon. friend is entirely wrong; but I have taken advantage of my visit to the mother country to get all the information I can with reference to matters of this kind, and I shall tell the Committee advisedly that difficulty may arise if these words are left in the clause.

An Hon. MEMBER:
Why not insert a proviso to the effect that the latter portion of the clause shall prevail where it does not conflict with the English law?

The Right Hon. G.H. REID:
The hon. gentleman must see that in matters of shipping there is great jealousy as to jurisdiction, and if laws are uncertain, the position of trade and commerce is put into a most undesirable state. One of the secrets of the success of the British mercantile marine is the fact that it is governed by
one code of laws all over the oceans of the world, and that the different colonies cannot pass laws affecting British ships, excepting within the limits of their jurisdiction. I warn the Convention against anything of that kind.

The Hon. Sir J.W. DOWNER (South Australia)[12.17]:

I do not quite agree with the right hon. gentleman in his refusal to ignore an Imperial statute which exists at the present time. The right hon. gentleman not only ignores the Federal Council Act, but he ignores the Imperial Parliament which constituted it. Seeing that the Imperial Parliament, acting under the advice of the Board of Trade, inserted a clause which is identical both in words and substance with the clause now proposed, I do not think any conflict can possibly arise, but some conflict may be prevented by following the lines which the Imperial Parliament not only suggested but persisted in. The drafters of the Federal Council Act, now in force, never drew any clause like this—never hoped for any extension of their authority like this. It was forced upon them by the liberality of the Board of Trade and the Imperial Parliament, and we accepted it, as we naturally would accept all good things. Now, it is proposed to say, that because we have a certain power, and seek to preserve it—a power which the Imperial Parliament insisted upon giving us—we should put an obstacle in the way of the Imperial Parliament passing the bill which we are considering. I should imagine, if there is any consistency in the Imperial Parliament, they would rather treat with respect our observance of their legislation than complain that we were endeavouring to arrogate to ourselves authority for which we never asked, and which they insisted in bestowing upon us.

The Hon. J.H. GORDON:

There is nothing in it!

Mr. SYMON:

Does anybody defend the retention of these words?

The Hon. S. FRASER:

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The Hon. Sir J.W. DOWNER:

If this were a new matter, and I had to consider what I would ask the Imperial Parliament to do, I do not think I should ask them to do this; but if the Imperial Parliament insisted on giving me this, I should accept it with all due thanks, and not complain. If there is any difficulty in the matter, the Imperial Parliament can alter it.

The Hon. J.H. GORDON:

That would mean delay!

The Hon. Sir J.W. DOWNER:
I do not think it would. It is not a cardinal alteration of the bill, and we can scarcely imagine that, when we send the bill to the Imperial Parliament, they will necessarily accept it without altering anything. I think we might very well leave the words as they stand, seeing that they are not our idea, but something insisted upon by the body to which we are now appealing.

The Hon. H. Dobson (Tasmania): When at Adelaide I pointed out the same objection, but not with equal force, as the Premier of New South Wales has pointed out. The leader of the Convention, however, replied that identical clause was granted by the Imperial Parliament in connection with the Federal Council Act. Sir John Downer has rightly reminded the Convention that not only does this identical clause find a place in the Federal Council Act, but it was suggested by the Chamber of Commerce of Great Britain, and was agreed to by the Imperial Parliament and our right hon. friend, Mr. Reid, now points out that he has been gaining information at home.

Mr. Symon: That the Board of Trade originally suggested the insertion of these words!

The Hon. H. Dobson: I have heard that statement made two or three times, and, therefore, I accept it as a fact. I do not know of my own knowledge that it is a fact, but I have heard it stated by so many eminent men, that I accept it as such.

Mr. Symon: Where is it shown that the Board of Trade suggests it?

The Hon. H. Dobson: The Imperial Parliament has passed the provision, and the right hon. the Prime Minister of this colony will find that this clause is identical with it except that it does not contain the words "excepting her Majesty's ships and vessels of war," which, I think, ought to contain, and I find that a subsequent amendment suggests that her Majesty's ships of war should be excepted.

The Hon. E. Barton: All acts of the council, on being assented to in manner hereinafter provided, shall have the force of law in all her Majesty's possessions in

The Hon. I. A. Isaacs: What is the statement?

Mr. Symon: That the Board of Trade originally suggested the insertion of these words!
Australasia in respect to which this act is in operation, or in the several colonies to which they shall extend, as the case may be, and on board all British ships, other than her Majesty's ships of war, whose last port of clearance or port of destination is in any such possession or colony.

Those are the identical words in the Federal Council Act to which the Imperial Parliament has agreed; and it appears to me that the clause in our own bill can be made absolutely correct and consistent if you insert in the bill a section similar to that which is in the Federal Council Act next but one after the section which I have just read, namely, the section which provides:

If in any case the provisions of any act of the council should be repugnant to or inconsistent with the law of any colony affected thereby, the former shall prevail, and the latter shall, so far as such repugnancy or inconsistency extends, have no operation.

Then, it appears to me that the legal objection to this clause will at once pass away if you simply add a line saying that any laws which the federal parliament may pass, and which are to be in force upon British ships, other than her Majesty's ships of war, shall not prevail against the Imperial law wherever they are inconsistent with or repugnant to it. If you put that provision in, the whole thing will be plain. What reason is there why we should hold on to this power to legislate for British ships? I went to a concert last night, and I understood from one of the songs, which was admirably sung, that Australia is to become "the queen of the southern world," or something to that effect. If Australia is to become "the queen of the southern world," or a great power in the southern seas, we shall be establishing pearl and other fisheries, we shall have guano islands, and enormous interests springing up in the South Pacific. If the Imperial Parliament have generously given us authority to legislate for British ships which may affect our trade—if the Imperial Parliament have given that large power to a small and, what some hon. members might call, an impotent body like the Federal Council—by all means let us allow a body like the commonwealth to retain the same power.

The Hon. R.E. O'CONNOR (New South Wales)[12.23]:

I do not see any reason for retaining these words, although they have been allowed to pass in the Federal Council Act. Perhaps they were suggested without a full appreciation of their meaning, or the mood of the Imperial Crown law officers may have changed.

The Hon. E. BARTON:

The Federal Council Act took an enlarged form on the advice of the
Imperial officers. They may have changed their mind since!

The Hon. R.E. O'CONNOR:

Undoubtedly that is so; but we ought to be careful to frame the bill in such away that there shall be no alteration of it of any kind. This constitution, after being passed by the Convention elected by the whole of the colonies, has to pass under the review of the whole of the Australian parliaments, and then be agreed to by the Imperial Parliament. It is intended to be final, and that it shall come back to us, if possible, from the Imperial Parliament exactly as it leaves these colonies. Therefore it seems to me that a proposal of this kind Should be dealt with on its merits, and if there is any reason to warrant us in rejecting the proposal we ought to reject it. I do not think the Premier of New South Wales has sufficiently considered the reason of this matter, if I may judge from the observations he has made, Hon. members know that the laws of a colony apply only within the 3-mile limit, and that any intercolonial vessel leaving, say, Sydney, and going to Melbourne, so long as she is within the 3-mile limit is under the laws of the colony to which she belongs, or of the particular colony in whose waters she happens to be; but directly she goes outside that limit she gets into British territory, and not only the shipping laws but also the criminal laws of England, as distinct from any criminal law in any part of Australia, are in force on board that ship. I take it that the provision already inserted will need some amendment which will make it clear that it is not intended to apply to a ship which leaves, say, Albany, as its last port of clearance, and is going to London or some port in the east, but is intended to apply to ships only so long as they are voyaging in the waters of the commonwealth.

The Hon. I.A. ISAACS:

Not merely in the waters of the commonwealth, but also between different ports of the commonwealth.

The Hon. R.E. O'CONNOR:

Yes. That could be done by the suggested amendment, which I assume is meant to carry out that view. There is very great reason for urging that under such circumstances the laws of the commonwealth should apply to ships voyaging from one port of the commonwealth to another.

Mr. SYMON:

Would it not be so without these words?

The Hon. R.E. O'CONNOR:

No, it would not.

Mr. SYMON:

For what reason?

The Hon. R.E. O'CONNOR:
Because supposing that the commonwealth exercises its powers to make uniform laws in regard to the shipping of the commonwealth, those laws can be applied only within the 3-mile limit, and directly a ship gets outside the 3-mile limit it is outside the territory in respect to which those laws apply. The laws of the commonwealth with regard to shipping can only have operation within the 3-mile limit around the coasts of the commonwealth, and when ships pass beyond that limit they are under British law. It is very desirable that the laws of the commonwealth, so long as they do not conflict with the Merchant Shipping Act, or other British laws, should apply to vessels that are passing from one port of the commonwealth to another. I may give as an illustration the criminal law. That is the most obvious one that can occur to anybody. Surely, considering the immense trade that exists now between the different ports of these colonies, and the variety and extent of that trade, and the way it is likely to increase, it is desirable that there should be a uniform law, and that the law which is to be administered within the commonwealth itself should apply on board these ships. This provision means that all these ships, when outside the 3-mile limit, instead of being as now in British territory, would be in commonwealth territory.

The Hon. I.A. ISAACS:

The Hon. R.E. O'CONNOR:

The hon. gentleman could not have understood what I was pointing out. I propose that this provision should apply to ships only while voyaging from one port of the commonwealth to another. Its only object would be that in so far as ships under those circumstances were concerned, the territory outside the 3-mile limit would be turned from British territory into commonwealth territory. There are, of course, other laws besides the criminal laws. I understand that some colonies have already passed laws in regard to pearl fishing, and they may make laws in regard to beche-de-mer fishing, or if we develop our fisheries, as I hope they will be developed, we may have a fleet of many hundreds of vessels belonging to the commonwealth outside the 3-mile limit. It seems to me very desirable that the laws of the commonwealth should prevail in regard to all these matters. I agree with the right hon. member, Mr. Reid, that there should be one law for the whole of the shipping of the empire, and I should be willing to agree to any amendment which would make it perfectly clear that the clause would not in any way conflict with the Merchant Shipping Law of Great Britain, which is in force on all British ships. But I do not think that any such provision would be necessary, because if hon. members will look
at the wording of the clause they will see that it says "the laws of the commonwealth shall be in force." The laws of the commonwealth, under clause 52 of the draft constitution, can relate only to matters under the jurisdiction of the commonwealth. The commonwealth will have no authority to make laws in the domain affected by the British Merchant Shipping Acts which have been referred to.

The Hon. I.A. ISAACS:

The navigation acts!

The Hon. R.E. O'CONNOR:

The navigation acts of course apply only to territorial limits. It may be a mere matter of drafting; but I am perfectly willing to consent to any amendment which will make it clear that this provision which turns a ship passing from one colony to another into commonwealth territory should not be contrary to the Imperial Merchant Shipping Acts.

The Hon. I.A. ISAACS (Victoria)[12.32]:

I think we should do well to retain these words, though in a somewhat altered form. Substantially the provision is almost, though not quite, the same as the provision in the Federal Council Act. There is, however, an important exception in that act which we ought in faithfulness to insert here.

The Right Hon. G.H. REID:

The hon. member should not forget the limited range of subjects dealt with by that act. Shipping is not mentioned there!

The Hon. I.A. ISAACS:

That is a matter of degree; it is not a matter of principle.

The Right Hon. G.H. REID:

It is a most important matter in this connection!

The Hon. I.A. ISAACS:

If we are to have power to make laws as a commonwealth, it is highly important that those laws shall be properly carried out within the commonwealth and upon all ships, which, although they go beyond the 3-mile limit, are to all intents and purposes part and parcel of the commonwealth. The exception to which I wish to refer is an exception in regard to her Majesty's ships of war. I think it is quite clear that we could not fairly ask the Imperial Parliament to say that our laws should apply to her Majesty's ships of war, which are really Imperial territory. Therefore I suggest that words should be inserted in the clause, as in the Federal Council Act, by way of exception. When we consider the immense coastline which we have-some 8,000 miles-and the possibility of having within
the jurisdiction of the commonwealth at some future date—not a very distant one. I hope such places as the New Hebrides, it is highly important for the carrying out of the laws of the commonwealth that we should not permit ships which are really part of our regular shipping trade to sail beyond the 3 miles limit, and then be free from the commonwealth laws. Such ships are to all intents and purposes part and parcel of the commonwealth, and these words are necessary, though in a slightly altered form, to effectuate our desire. When we were discussing this matter in Adelaide, I was very much puzzled, as to a certain extent I am now, as to the real meaning of these words:

Whose last port of clearance, or whose destination in the commonwealth.

Clearly those words are too wide.

An Hon. MEMBER:

Should not the word "and" be substituted for "or"?

The Hon. I.A. ISAACS:

I made that suggestion in Adelaide, and it has been followed in several of the legislatures. It takes away much of the absurdity of the clause as it stands, and I think would fairly meet the difficulty. I believe that if we substitute the word "and" for the word "or," strike out the word "treaties," and insert with the exception of her Majesty's ships of war," we shall have done all that is fair and right, and I believe that the Imperial Government will then agree to the clause.

Mr. GLYNN (South Australia)[12.35]:

I have not the Federal Council Bill before me; but I believe that that bill contained the words "sailing between the ports of the colonies." The bill was sent home with those words in it; but her Majesty's advisers at home deliberately changed the wording of the measure so as to give the Council wider jurisdiction. There was a limitation in the bill which does not appear in the act, and the Imperial authorities must have made this alteration for some specific purpose. They could not have accidentally inserted the words "port of clearance, or." There is no danger of conflict between the laws of the commonwealth and the Imperial law. The moment a new act is passed in England which conflicts with any legislation passed by the commonwealth, that act will to the extent of the difference abrogate the legislation under the constitution of Australia. At the present time there is never any conflict. Our Marine Board and navigation acts are not in conflict with the English merchant shipping acts; but they give us jurisdiction, not to the 3 miles limit, but within Australian waters, as specifically defined in these acts, that is, between port and port. Without these acts we should not have this jurisdiction. As I understand the law, it
was decided in the case of the Franconia that, the 3-mile limit only applied in connection with intercolonial disputes, that limit being arrived at in the first instance because it was then the range of a cannon shot; and that civil and criminal jurisdiction stopped at low-water mark. Originally there was no jurisdiction beyond the limits of mean low-water mark; but that jurisdiction has been extended by legislation, and the Imperial authorities deliberately changed words in the Federal Council Bill which would place a limitation upon the existing jurisdiction as defined by our local acts, so as to amplify it, and make it apply to any vessel leaving our ports for foreign parts, or coming from foreign parts to the colonies. They did this deliberately, and in view of the fact that there was no possibility of conflicting decisions being arrived at under the proposed constitution, we have no criminal jurisdiction at all, so that if a crime is committed on board a ship coming to Australia, the criminal will be tried according to the laws of Great Britain.

The Hon. E. Barton:

We cannot give a sanction to a law without imposing some penalty or punishment!

Mr. Glynn:

The hon. and learned gentleman is quite right; but we have only power to impose such penalties as will operate as sanctions for the civil legislation under clause 52.

The Hon. E. Barton:

We cannot establish a new criminal offence!

Mr. Glynn:

No, unless it is part of a sanction to enforce the obligation of a civil law. So that if an offence is committed on board a ship coming to the commonwealth it will have to be dealt with according to the law of England, not according to the law of the commonwealth. Seeing that the English authorities deliberately changed the wording of the Federal Council Bill, although there is no possibility of the legislation of the colonies clashing with Imperial legislation, because English legislation must abrogate colonial legislation to the extent of the difference between them, I think we should accept the words used by the Imperial advisers of her Majesty.

Mr. Symon (South Australia)[12.39]:

I shall be found supporting the amendment moved by the Right Hon. G.H. Reid. I am not greatly influenced by the argument as to Australia being at some future time the queen of the southern seas, or by the fact that in the Federal Council Act these words, or some of them, were introduced.
To begin with, we evidently do not intend to regard that as a particularly binding precedent; for my hon. and learned friend, Mr. Isaacs, proposes to do some violence to the wording used by the Imperial authorities by substituting the word "and" for the word "or." So that, after all, we are not to accept the Federal Council provision as literally correct, and I think it is a very strong indication that the Imperial authorities either did not know very well what they were doing, or that, on further reflection, we here think there is a better way. At any rate, that shows very conclusively that the provision introduced into the Federal Council Act could not have been put there with any careful premeditation or thought, and I thoroughly agree with my hon. friend that the language, as it, exists in the clause we are now considering, and as it exists in the Federal Council Act, is, to use the phraseology of Mr. Reid at the Adelaide Convention, sheer nonsense. In addition to that, we are all agreed that the words "and treaties" have to be eliminated. We have just amended the clause by striking out, the reference to all. treaties made by the Commonwealth. Therefore, it is clear that the language, as it appears here, and as we are now considering it, does not give effect to what we believe to be the jurisdiction of the commonwealth and the scope of the commonwealth legislation. I think there is a good deal of misapprehension as to the merchant od, is applicable to all British ships, including colonial ships. Every Australian vessel is a British ship within the meaning of the Merchant Shipping Act, and I do not believe that any person, whether a simple citizen or one interested in shipping, would be prepared to abrogate the Imperial merchant shipping laws one iota, at any rate, without very careful consideration. These colonies have the power, subject to the Merchant Shipping Act, of passing what are called navigation acts—we call them in our colony marine board and navigation acts—but that is entirely subsidiary to the Merchant Shipping Act, and everything that takes place, every offence that is committed on board a British ship, the engagement of every seaman, the punishment of every offence, comes under the Imperial Merchant Shipping Act, subject only to details of administration, and to the summary jurisdiction of particular courts as provided for by the Merchant Shipping Act for particular purposes in view.

The Hon. I.A. ISAACS:

There are some sections of the Merchant Shipping Act sections 54 and 94—which do not apply to the colonies, unless the colonies adopt them!

Mr. SYMON:

Just so; as there are also certain provisions in other Imperial statutes which are not applicable, for instance, to Ireland; and there are provisions
which may be excepted as regards Scotland. It is exactly the same here. Therefore, the point taken by Mr. O'Connor loses its force. The Merchant Shipping Act is the Imperial legislation dealing with shipping, and nothing we can do by general words of this character can have the effect of repealing the Merchant Shipping Act in relation to all British ships.  

Mr. GLYNN:  
When we legislate under this constitution it will! 

Mr. SYMON:  
I do not think so. The limitation of our legislation under the commonwealth is contained in clause 52, and a few minutes ago the President of the Convention indicated what I think is really in the minds of many hon. members, namely, that what is required is something to define territorial waters. It is a very important matter, undoubtedly, as Mr. O'Connor, pointed out, that we should have full control over our fisheries, that we should be able to establish and regulate pearl fisheries, and various other pursuits of that kind beyond our 3-mile territorial limit. But we have that power expressly given to us under clause 52, sub-section 12, in reference, for instance, to fisheries-and I am not dealing now with anything else, but simply taking that by way of illustration. The words in that sub-section are "Fisheries in Australian waters beyond territorial limits." There you have it. If the Imperial Parliament passed the Commonwealth Bill containing that provision we should have express power to deal with fisheries beyond territorial limits. That deals with the whole subject. With regard to criminal law, as my hon. friend, Mr. Glynn, pointed out, the criminal law of England is applicable on board every British ship, and you cannot take that away, nor is it intended that it should be taken away or lessened in any manner whatever by this constitution. Therefore, there is nothing to be gained by leaving these words, or any part of them, in the bill. The precedent of the Federal Council Act fails in the particulars to which I have referred, It cannot possibly extend the operation of our laws generally one atom further than the constitutional law will permit.  

The Hon. N.J. BROWN:  
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Mr. SYMON:  
Not under this. My hon. friend will find that under the Federal Council Act there is express provision for the passing of laws dealing with fisheries. But that is legislation specially directed to a particular purpose, and so far as this act specially confers power to deal with a particular subject, the laws passed under that power will be enforceable. But a general
expression of this kind amounts to nothing. It is nonsense as it stands. We have to alter it; and, therefore, to suggest that we should have some special regard to the insertion of it by somebody in England who perhaps did not thoroughly appreciate what the position was is to ask us to assent to something of which our better judgment does not approve.

The Hon. E. BARTON (New South Wales)[12.47]:

The difficulty to be obviated is one which must arise very frequently. Imagine the commonwealth to have legislated on the subject of navigation and shipping. Without some provision of this sort-I do not say exactly like this—the captain of a vessel sailing between two ports in the commonwealth will be under the law of the commonwealth when he is within the 3-mile limit, and will be under the Imperial shipping law when he is outside that limit. The difficulty will be great enough in the case of a captain of a steam vessel. His vessel may be within a certain distance of the shore in calm weather, and if it comes on to blow, and he has to take an offing, he will be under a different law. But in the case of a sailing vessel proceeding under a head wind, she will be alternately inside and outside the 3-mile limit, and the unfortunate captain will be embarrassed by being under one law when inside the 3-mile limit, and under another law when outside the 3-mile limit, and he will not know when he has passed that mark.

Mr. SYMON:

But that exists now!

The Hon. E. BARTON:

There is no reason why there should not be some improvement. I am not particular about the retention of these words. I do not think any very serious injury would be done by the omission of the whole of these words. On the other hand, I think it would be preferable that we should limit them in the direction of the amendment I indicated some little time ago, which I think would so restrict the matter that there could be no objection on the part of the Colonial Office, while, on the other hand, any shipping which is ours, or ought to be under our jurisdiction, would be fully protected. That, I think, is the point we ought to aim at, and I would suggest, therefore, that we should alter the word "or" to "and," as my hon. and learned friend, Mr. Isaacs, suggests, and strike out the words "and treaties." I would also suggest that it would cause no harm to accept the suggestion of one of the houses of legislature to adopt the words "whose first port of clearance and whose port of destination are in the commonwealth." That has been designed to provide for any difficulty that might arise with regard to vessels which commence their journey in the way the mail steamers do coming out here, and which might have the additional obligation of laws imposed upon them, causing some conflict and embarrassment if the clause
were left in its original wide terms.

An Hon. MEMBER:

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The Hon. E. BARTON:

It might go a little further than that. But still I think that, having got that, we shall have that which should suffice for all ordinary cases; and I think we might rest content with it, because I am quite with those who say that the less opportunity we give for amendment in these covering provisions the better. We do not expect that the Imperial legislature will amend the provisions which are in the constitution itself, although they are an endeavour to extend our autonomy; but these covering clauses are suggestions to the Imperial legislature, and it would be absurd to expect that, as regards these clauses, the Imperial legislature will not make such amendments as they please. In that respect, we are not only powerless, but we freely admit that we must not attempt to dictate—that this portion is merely in the form of suggestions to the Imperial legislature, to be dealt with as it pleases. A matter of this kind is practically so unimportant that I do not care very much what the result of this debate is, except that I think the preferable course is that in which I think I have the concurrence of a majority of the Convention.

The Hon. I.A. ISAACS:

It will be necessary to introduce words excepting her Majesty's ships!

The Hon. E. BARTON:

I am quite prepared to insert words excepting her Majesty's ships.

[The Chairman left the chair at 12.55 p.m. The Committee resumed at 2.35 p.m.]

The Hon. Dr. COCKBURN (South Australia)[2.35]:

I do not think we should act upon the assumption of the Imperial Parliament having made a mistake in this matter. I think the best course for us to take would be to put this clause into similar words to those in the Federal Council Act, as passed by the Imperial Parliament. I would point out to the leader of the Convention that I do not think the amendment proposed would altogether meet some of the cases. Suppose you strike out the word "or" and insert the word "and" in the thirteenth line, and suppose that a ship leaves any part of the commonwealth for Queensland—which does not happen to be a part of the commonwealth—or that she starts for Fiji, or New Zealand, or any other place in the vicinity of Australia, possibly for another part of the continent; immediately the ship is 3 miles away from her port of departure she would cease to be under the
commonwealth laws. I think that a ship sailing from Sydney to Brisbane, although Brisbane would not be in the federation, should properly be under Australian laws. In fact I do not see that a great deal of harm would be done if ships sailing from England to Australia were brought under Australian laws. It is not for us to say that they ought not to be, because ships sailing from England for Australia carry on board of them Australians and they are laden with the property of Australians.

The Right Hon. Sir JOHN FORREST:

Not solely!

The Hon. Dr. COCKBURN:

But chiefly. I do not think any harm could be done if those ships were entirely under Australian laws, although we know that that would not be the case. But I do think that ships trading in the Southern Ocean in the immediate vicinity of Australia to ports not in the commonwealth, although close to it, and under precisely similar conditions to those obtaining in other parts of Australia-being possibly a part of Australia itself-should be brought under the commonwealth laws. In any case, I think the Imperial authorities had some such thought as that in their minds when they framed the Federal Council Act, and I think we had better word this clause similarly. Let us adapt it to our requirements, and put it on all-fours with the clause to which I refer, excepting, of course, British ships of war, the inclusion of which cannot have been contemplated by the Imperial act constituting the Federal Council, and which certainly ought not to be included here. It is not for us to assume that the Imperial Government or Parliament do not know what they are about, and it certainly is not for us to limit the operation of the commonwealth laws in the immediate vicinity of the commonwealth.

The Right Hon. C.C. KINGSTON (South Australia)[2.38]:

I am sure that our desire is to secure two objects-first, to obtain as large powers in managing our own affairs as may be conveniently conferred; and, secondly, to avoid the introduction into this bill of any provision which would necessitate its amendment before it received the assent of the Imperial Parliament. Under these circum-

An Hon. MEMBER:
What are they?

The Right Hon. C.C. KINGSTON:

Does the hon. member know? I do not know at the present moment, but we must have a definition, because on page 13 we use the expression "Fisheries in Australian waters beyond territorial limits." I do not think you can, at the present moment, adopt once and for all a permanent definition of what these Australian waters are. The plan which might be best adopted would be to give power to the Queen-in-Council to declare these waters. That I think was the provision adopted in the Federal Council Bill. Not only was the power given to regulate fisheries in Australian waters, beyond territorial limits, but under this power, by acts of the Federal Council, the bech-de-mer fisheries of Queensland and the pearl fisheries of Western Australia were dealt with, although admittedly they were far beyond the territorial limits of any colony or of all Australia combined. I would suggest that, as a definition of Australian waters must be provided for, perhaps the solution of the difficulty may be found by giving a power of general legislation with respect to British ships in Australian waters, and then frame a clause which will enable those Australian waters to be defined when the occasion arises. I think, but I am not quite sure, that with respect to the locality of the beche-de-mer and pearl fisheries of Australia, an Order-in-Council was issued defining these boundaries before the legislation was adopted by the Federal Council.

The Hon. R.E. O’CONNOR:

That might be objected to by Queensland, Fiji, or New Zealand!

The Right Hon. C.C. KINGSTON:

Of course; and that would be a reason for not fixing it now once and for all, but from time to time as the other colonies came in.

The CHAIRMAN:

The first amendment I shall put is suggested by the Legislative Council of South Australia, namely, to omit the word "and," line 10, and to insert the words "in addition to the laws of Great Britain." Perhaps I may explain to the Committee that I do not think I ought now to put the amendment proposed by the Right Hon. G.H. Reid, because if that were put and negatived, it would be incompetent for the Committee to consider the suggestions made by all the other legislatures. I intend to put all the amendments in such a form as to enable the Committee to give a vote on every amendment suggested by every legislature.

The Right Hon. G.H. REID (New South Wales)[2.45]:

I wish to say that an amendment was proposed by the Legislative Council of this colony which provided that the laws of the commonwealth should
apply to all British ships whose first port of clearance, and whose port of
destination is in the commonwealth. I am not at all opposed to that form of
words, because there is no doubt there are a number of difficulties such as
the hon. member, Mr. O'Connor, pointed out, where vessels are going out
on fishing expeditions beyond the 3-mile limit, but which return to the
same port. There could be no difficulty about those vessels, such as
whalers. But as the words stand they would create a difficulty. What would
we say if the Canadian legislature put in these words in one of their acts,
and claimed authority over vessels coming to Sydney from Canada? It
would throw the whole of our shipping laws into confusion. But it is quite
consistent with all our shipping laws that the amendment which our
Legislative Council has suggested, should be passed, and I cannot see any
serious objec-

The CHAIRMAN:

Perhaps I may explain that I propose, if the amendment of South
Australia is negatived, to put as a test the next amendment, which is that of
the Legislative Council of Victoria, namely, to strike out the latter part of
the clause beginning with the words "and the laws." I will put the question
that the words "and the laws" only be omitted. If that question is carried it
will necessitate striking out all the rest of the words of the clause, but
putting it in that form will enable the Committee to vote, if the amendment
is negatived, on the amendments of the other legislatures.

Mr. SYMON (South Australia)[2.48]:

I would point out that it would be exceedingly undesirable to insert these
words "in addition to the laws of Great Britain." Such an amendment
would be most confusing and embarrassing. Either one set of laws or the
other should prevail. Whichever prevails constitutionally we shall have to
submit to, that is, whatever set of laws is paramount. As the hon. member,
Mr. Barton, reminds me, the word "laws" in this clause means statute laws,

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it has nothing to do with the common law of England. So that by inserting
these words in addition to the laws of Great Britain we shall be making
confusion worse confounded. Even the words "Great Britain" are a little
uncertain. The amendment is bad in substance, and also in form. Although
I yield my opinion in deference to what appears to be the opinion of the
Committee on the other point, I think the confusion will be doubly
increased if we insert these words. I therefore suggest that the Committee
should give careful consideration before they insert an expression of that
kind.

The Hon. R.E. O'CONNOR (New South Wales)[2.50]:
I think the amendment suggested by the Legislative Council of New
South Wales will carry out what appears to be the sense of the Committee,
that is, to amend the clause so as to read in this way:
Whose first port of clearance and whose port of destination are in the
commonwealth.
That will make it quite clear that it applies only to ships whose whole
voyage is within the commonwealth, and however desirable it may be to
extend it to other cases such as has been mentioned by my right hon.
friend, Mr. Reid, I do not see that it can be done. I think all we can do is to
ensure that the laws of the commonwealth shall be in force on all ships
whose voyage is wholly within the commonwealth. I quite agree with what
my hon. and learned friend, Mr. Symon, has said, that it will make
confusion worse confounded to insert the words "in addition to British
laws." It might make it more clear, perhaps, to insert these words: "the laws
of the commonwealth in so far as the same are not repugnant to any
Imperial act relating to shipping or navigation."

The Hon. I.A. ISAACS:
Is there not an Imperial act relating to repugnancy?

The Hon. R.E. O'CONNOR:
The Colonial Laws Validating Act applies only to the acts of the different
states; it would not apply to this act at all, so that I think it will be
necessary to have some words of that kind inserted.

The Hon. I.A. ISAACS:
That will be unnecessary, because the Imperial law is paramount!

The Hon. R.E. O'CONNOR:
I really think it would be better only to accept
the amendment of the Legislative Council of New South Wales, which I
think carries out the views of the Committee.

Question-That the words "in addition to the laws of Great Britain" be
inserted-resolved in the negative.

The CHAIRMAN:
The next amendment suggested is that by the Legislative Council of
Victoria to strike out the words:
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.

I would ask the Committee to take a test vote whether that suggestion should be agreed to on the question to strike out the words "and the laws." If we strike out these words we must strike out the rest of the clause. If we do not strike them out we can make the amendments suggested by the legislatures or consider any other suggestion.

Amendment (suggested by the Legislative Council of Victoria) negatived.

Amendment (suggested by the Legislative Council of New South Wales) agreed to:
That the words "and treaties," line 10, be omitted.

Amendments (suggested by the Legislative Council of New South Wales) agreed to:
That the words "excepting her Majesty's ships and vessels of war" be inserted after the words "British ships," line 12.
That the word "last," line 12, be omitted with the view to the insertion in its place of the word "first."
That the word "or," line 13, be omitted with the view to the insertion in its place of the word "and."
That the word "is," line 13, be omitted with the view to the insertion in its place of the word "are."

Clause, as amended, agreed to.

Clause 8 (Division of Constitution).

The Hon. E. BARTON (New South Wales)[2.55]:
The first portion of this clause involves the names to be given to the branches of the legislature and to the executive. Some houses, I believe, have made a suggestion for an alteration of the names. One house, I know, has suggested that the name should be "House of Assembly" instead of "House of Representatives." I feel bound to mention that fact, because the suggestion comes from a house of legislature in this colony.

The Right Hon. Sir G. TURNER:
We will stand by the bill; that's the best way!

The Hon. I.A. ISAACS:
We will stand by the bill!

The CHAIRMAN:
There is no amendment suggested in this clause.

Mr. SYMON:
Yes, to omit the word "federal"!
The Hon. E. BARTON:
That was consequential on what they did.

The CHAIRMAN:
I am not going to put such amendments. I understood that once, it was decided that the word "commonwealth" should be retained I should not put any amendments absolutely contradictory to the resolution which had been arrived at.
Clause agreed to.

CHAPTER I.-THE PARLIAMENT.
Part I.-General.
Clause 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."
Amendments suggested by the Legislative Council of New South Wales: Omit the word "federal," line 2; omit "representatives," line 4, and insert "assembly."
Amendments negatived; clause agreed to.

Clause 2 (Governor-General).
The Right Hon. G.H. REID:
I would suggest to the hon. and learned member, Mr. Barton, that this clause should be postponed.
The Hon. E. BARTON (New South Wales):
With the consent of the Committee, I will postpone the clause. Some question may arise about the clause, which I do not like to indicate at present; but the Committee may take my word for it that it will be wise to postpone it now.
Clause postponed.
Clause 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.

The CHAIRMAN:
Two amendments have been suggested in this clause. The House of Assembly of South Australia suggests that the salary of the governor-general shall be £7,000, and the Legislative Council of South Australia suggests that it shall be £8,000. I will put the question "That the word "ten"
proposed to be struck out stand part of the clause."

Question-That the word "ten" stand part of the clause-put. The Committee divided:

Ayes, 38; noes, 7; majority, 31.

AYES.
Abbott, Sir Joseph Holder, F.W.
Braddon, Sir E.N.C. Isaacs, I.A.
Briggs, H. James, W.H.
Brown, N.J. Lee-Steere, Sir J.G.
Brunker, J.N. Lewis, N.E.
Clarke, M.J. O'Connor, R.E.
Crowder, F.T. Peacock, A.J
Deakin, A. Quick, Dr. J
Douglas, A. Reid, G.H.
Downer, Sir J.W. Solomon, V.L.
Forrest, Sir J. Symon, J.H.
Fraser, S. Trenwith, W.A.
Fysh, Sir P.O. Turner, Sir G.
Glynn, P.M. Venn, H.W.
Grant, C.H. Walker, J.T.
Hackett, J.W. Wise, B.R.
Hassell, A.Y. Zeal, Sir W. A.
Henning, A.H.
Henry, J. Teller,
Higgins, H.B. Barton, E.

NOES.
Berry, Sir G. Kingston, Sir C.C.
Dobson, H. Moore, W.
Gordon, J.H. Teller,
Howe, J.R. Cockburn, Dr. J.A.

Question so resolved in the affirmative.

Mr. GLYNN (South Australia)[3.5]:

I move:
That the words, "The salary of a governor-general shall not be altered during his continuance of office," be omitted.

My reason for moving this amendment is that it is a matter of legislation. The paragraph was inserted at the last moment by the Convention at Adelaide. The principle on which we ought to act is not to put anything in the bill which is a matter of legislation.

The Right Hon. Sir G. TURNER:
It was in the bill of 1891!
Amendment negatived; clause agreed to.
Clauses 4 and 5 agreed to.
Clause 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.
The parliament shall be called together not later than six months after the establishment of the commonwealth.
Amendment suggested by the Legislative Assembly of South Australia:
After "dissolve," line 7, insert "the senate or."
The Right Hon. Sir G. TURNER (Victoria)[3.9]:
Before we proceed with this clause I desire to make a suggestion. The clause will, I think, open up a big question in regard to the settling of deadlocks. The whole question of deadlocks will have to be discussed at a later stage, and I think it would be wise to postpone the clause in the meantime. I do not know that I would, in any case, give power to the government of the day to dissolve the senate. It is one thing to give it with an object in view, with certain restrictions and limitations, and it is another thing to give an unrestricted power to the government of the day to dissolve the senate whenever it chooses. That is a power I would not be prepared to give if I could possibly avoid it. In order that we may have a fair and open discussion on the matter, I suggest that the wiser course would be to allow this clause to stand over until we have dealt with the other question.
The Hon. E. BARTON (New South Wales)[3.10]:
I quite approve of the suggestion which my right hon. friend has made. On clause 9, which we shall reach presently, there will be a thoroughly wide and comprehensive debate on the relative powers of the two houses. Of course, in considering the question of equal representation, we cannot exclude from consideration what money powers the houses will respectively have, and the opinions of many of us may be influenced-I know the opinions of some hon. members will be influenced-by the question as to whether there is to be any provision to meet deadlocks. I do not wish to debate that question at this moment. I can, however, see that there is some feeling in favour of providing something which may be called a safety-valve. I do not myself attach as much importance to such a provision as some hon. members do; but the demand for it has been so general that it will force an me a full consideration of the question, and I agree with my right hon. friend that the best plan at present is to postpone
this clause. I therefore move:
That the clause be postponed.
Mr. HIGGINS (Victoria)[3.12]:

I understand that, according to the standing orders, one member cannot object to the postponement of any clause supposing the House is in favour of its postponement. Personally I think that this clause ought not to be postponed. I think that this question of the dissolution of the senate ought to be discussed on its own merits. Not that I think that this provision is sufficient in itself to obviate deadlocks, but that it is one of the means which would make the constitution workable. I think that the question ought to be discussed on its own merits, inasmuch as we are to have two independent houses, and the only reason that now prevents the dissolution of a second house is that it is not representative. Both of these houses will be representative, and, therefore, I think that they should be subject to dissolution. It will be remembered that in the Convention in Adelaide I moved that there should be absolute power in the governor-general to dissolve either house. I know that it is not a cure for everything. I know that it is not sufficient in itself. I know that on an appeal to the states and to the people it may be that the states will say one thing and the people another. But I do not apprehend that there will be much difference between the two houses as to state interests. However, the question now is, are we or are we not to postpone this clause? The view of the hon. and learned leader of the Convention, I understand, is that it is one of the means of solving deadlocks. I do not recognise that at all. I say it is an essential means for the purpose of preventing deadlocks occurring in a number of cases. Otherwise you give one of the two houses an enormous advantage. One has a six years' tenure, and the other a tenure of only three years, and may be dissolved at pleasure. I admit that this provision is not a complete solution of the deadlock question; but I regard it as an essential provision of the constitution, and think that there must be other provisions as well to avoid deadlocks.
The Right Hon. Sir G. TURNER:

We can discuss all those!
Mr. HIGGINS:

Yes; but by postponing this clause we shall practically assume that the dissolution of the senate is to be one of the alternative means for avoiding deadlocks.
The Hon. E. BARTON:

We shall not assume anything of that kind!

[P.256] starts here
The Right Hon. G.H. REID:
Without prejudice!

Mr. HIGGINS:
So far as I am concerned, I think it is better not to have the question postponed.

The CHAIRMAN:
I understand it to be the general wish of the Committee that when we come to clause 9 the whole question relating to the senate shall be discussed.

The Right Hon. Sir E. BRADDON (Tasmania)[3.15]:
I intended to move the postponement of the clause if the leader of the Convention did not do so, for I think that before we approach this question, or any question dealing with the settlement of deadlocks or interference with the status or the existence of the senate, it is most desirable that we should know thoroughly what the powers of the senate are to be. I, at any rate, am one who would not be in a position to give a vote on this question of dissolution, or on any question affecting deadlocks, until I knew that. I should vote against this provision now, desiring to see, at any rate, that the senate shall have that due continuity which it is argued so strongly is one of its rights and privileges. But if the question of the powers of the senate is settled in a spirit of equity and justice I shall be found among those who will vote for this mode of settling deadlocks.

The Hon. Sir J.W. DOWNER (South Australia)[3.16]:
It seems to me that this clause will have to be passed in any case—that is to say, the people's house will have to be subject to dissolution by the governor-general, without reference to the other house. That may or may not be liable to dissolution. We will consider that question when we come to it. As far as this clause is concerned, I think we should agree to it without any discussion, for the house of representatives must of course be liable to dissolution, and when we come to the senate we will consider whether it should or should not be liable to dissolution under any circumstances.

Clause postponed.
Clause 7 agreed to.
Clause 8 (Privileges, &c., of houses).

The Right Hon. G.H. REID (New South Wales)[3.17]:
I do not intend to propose an amendment, but I must point out that under this clause it would be in the power of the houses of the commonwealth, when they did draw up laws regulating their privileges and immunities, to frame them even in excess of those enjoyed by the members of the House
of Commons. I do not wish to create unnecessary debate, but I confess that I should prefer this clause very much if there were a provision in the constitution itself that any such powers and immunities as the two houses may frame for themselves, shall not exceed those of the House of Commons, which, I am sure, are comprehensive enough; at the same time I see the inconvenience of definition, because there might be a perpetual dispute as to whether a given provision was or was not in excess, and in view of the fact that we do not want to have these powers, whatever they may be, open to continual question, I think that, upon the whole, we can safely trust the Parliament in this matter not to go to any extreme.

Clause 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 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 any elector votes more than once he shall be guilty of a misdemeanour.

The CHAIRMAN:

I shall put this clause by paragraphs.

The Hon. E. BARTON (New South Wales)[3.19]:

I wish to get a certain amendment put, if possible, first, for this reason. The amendment which I wish to move, though not a very great alteration in principle, involves the recasting of the clause-the making of it clearer, and, I think, in better consecutive form. The reason why I wish to move the amendment now-and I will move it by way of insertion, so as not to interfere with any words now in the clause-is this: Amendments have been proposed by several houses of legislature, and if they were taken first the result might be that the Committee might decide that certain words should stand part of the bill, which would prevent the putting of my amendment.
As my amendment seems to involve the whole of the clause except the last paragraph, I will state it now, and ask you, Mr. Chairman, what would be the best way to obtain its consideration. I propose to recast the first four paragraphs of the clause, so as to make the clause read in this way:

The senate shall be composed of senators for each state, directly chose

That is practically a recasting of the clause, and in order to make it clear that the principle of equal representation is granted to the original states, in accordance with clause 114, the admission of new states will be subject to the terms imposed by the commonwealth.

Mr. HIGGINS:

It is suggested that there should be a quota!

The Hon. E. BARTON:

That is not involved in the amendment. I have left the number of senators to be dealt with by the parliament. In the latter part of the amendment I have given the parliament the right to increase the number of senators as they think fit, so long as the minimum number from each original state is six.

The Right Hon. Sir G. TURNER:

Will that enable the total to be absolutely increased?

The Hon. E. BARTON:

Which total?

The Right Hon. Sir G. TURNER:

The total number which the hon. and learned gentleman has left blank.

The Hon. E. BARTON:

The blank which appears in the amendment which I moved in the New South Wales Legislative Council is a misprint. I wish my amendment to read:

The senate shall be composed of senators for each state. . . . . .

The amendment makes that part of the constitution which refers to the establishment or admission of states more intelligible and clear, and as a matter of draftmanship it would appear to be a little better than the original clause.

The Hon. I.A. ISAACS:

No power is given to the parliament to increase or diminish the number of senators for the now states!

The Hon. E. BARTON:

I am leaving out the word "criminal" in the part my hon. and learned friend is referring to.

The Right Hon. Sir G. TURNER:

I would suggest that the hon. and learned member ask leave to substitute his amendment for that portion of the clause which he proposes to recast!
The Hon. E. BARTON:

I do not wish to do that, because the question then put from the Chair would be "That the words proposed to be omitted stand part of the question"; and, if the amendment were rejected, the rest of the clause could not be altered. I propose to move the insertion of the words I have read after the word "the" at the beginning of the clause. The amendment will then be open to amendment, and if it is rejected the clause will still be open to amendment.

The Right Hon. G.H. REID:

If what the hon. member proposes is a mere recasting of the clause in order to get it into a better form, it might very well stand over until the bill goes before the Drafting Committee!

The Hon. E. BARTON:

I suggested the insertion of the words I have read after the word "the" because that will still allow a general debate upon the whole clause. If the amendment is accepted, the drafting of the clause will, I think, be improved; while, if it is rejected, the clause will still be open to amendment.

The Right Hon. G.H. REID:

The mere improved draftsmanship, of the clause would, I think, be better dealt with after we have dealt with the salient principles involved. There is no doubt that a great deal of revision can be done in regard to the drafting of the bill. If the amendment does not raise any new controversial point-

The Hon. E. BARTON:

It does not.

The Right Hon. G.H. REID:

Then I think it would be more convenient to have a debate upon the clause as it stands!

The Hon. E. BARTON:

I shall be quite content with the understanding that if the Committee adheres to the original intention of the clause the Drafting Committee will make some amendment of the kind I have suggested.

The CHAIRMAN:

I think it would, perhaps, be better if the amendments were put in the form which I now suggest. I propose to split up the amendments of the Legislative Council and Legislative Assembly of New South Wales, and to put first the amendments suggested by the Legislative Council and the Legislative Assembly of New South Wales. If it is decided that the words
proposed to be omitted shall stand, the hon. and learned member, Mr. Barton, can move the insertion of the word "original" after the word state."

The Hon. E. BARTON:
Perhaps we had better leave that to the Drafting Committee!

The CHAIRMAN:
In that case I will put the amendment of the Legislative Council and Legislative Assembly of New South Wales to strike out the words "six senators for each state." Upon that amendment the question of equal representation can be discussed. I will then put as another amendment the suggested amendment omitting the words "and each senator shall have one vote.

Amendment suggested by the Council and Assembly, New South Wales:
Paragraph 1. Omit "six senators for each state, and each senator shall have one vote." Insert "members representing the states in proportion to their population. But no state shall have less than three senators. The senate shall consist of not less than forty members."

Mr. WISE:
Will it be competent for the Committee to discuss the question of finding some way out of the deadlock? The Committee's determination upon that question may influence the votes of many hon. members in regard to the question of equal representation.

The CHAIRMAN:
Strictly speaking, it would not; but I understand that it is the wish of the Committee that the general question of the constitution of the senate should be discussed now upon this clause.

Mr. HIGGINS (Victoria)[3.28]: At the Convention in Adelaide I moved the omission of the word "six" practically with the same object as the Legislative Council and Legislative Assembly of New South Wales had in view.

Mr. WISE:
Not with the same object as the Council had in view. Their object was to kill federation!

Mr. HIGGINS:
The only object of which we can officially take notice is that expressed by their words, and the object expressed by their words is that there shall not be equal representation. I am not going to assume, as the hon. and learned member, Mr. Wise, appears to desire me to assume, that their
intentions were anything else. I have read the debates which took place in the Legislative Council and Legislative Assembly of this colony, and I take it that there are as strong federationists in that Council and Assembly as any here. We have no right to call these gentlemen provincialists. I rather take it that those are provincialists who, in conceding powers to the federation, still insist that the states shall keep a control over those powers by means of equal representation. I need hardly say that, having moved the amendment in Adelaide, under circumstances which were most discouraging, and made mine a very uphill fight, because I felt that, no matter what I said, I should be beaten and have only a small minority with me, I am not going to change my views now in view of the circumstances which have occurred since.

The Hon. J.H. Howe:

The hon. member will change his tactics, I suppose!

Mr. Higgins:

There is no question that has touched the imagination of the people of Australia in connection with the federation scheme so completely as this question of equal state representation. And I knew it would be so. I do not arrogate to myself any special knowledge of the feeling of Australia but the thing is so obvious. When you find that the proposal is that, upon all subjects of legislation—whether, for instance, on bankruptcy or divorce—a man in New South Wales is to be treated as equal only to one-eighth of a man in Tasmania, the absurdity of the thing is so apparent that the good sense of the people of Australia is coming round, not merely in New South Wales and Victoria, but in all the colonies, to see the impossibility of the arrangement. In moving my amendment, I had in my mind not alone the question of equal representation. I had in my mind a fallacious principle which was at the basis of equal representation, and of a number of other chimerical proposals—a principle which is at the root of a number of difficulties in our general scheme. I mean the principle that we were to insist upon the consent of the states as well as the consent of the people. I deny that to be a principle of federation at all, and I defy any of those who advocate federation on the scheme in this bill to point to any authority of weight to show that that is an essential principle of federation. It has been drilled into the ears of the people throughout the colonies, and I want to find out where it comes in. This question of federation is a mere question of a mode of government. All governments, as Burke says, are mere contrivances for the benefit of the people. There is no cut-and-dried system of federation which we are to adopt, and say that that and nothing else is federation. This principle of the consent of the states, and the consent of the people, has led many of the reasoners on federation into a most difficult
position. You are in the chair, sir, but I may say this much, that I have read
with great interest a pamphlet by Sir Richard Baker, which has been issued
since the Convention sat in Adelaide, in which he deals with this matter,
and in that pamphlet he starts with the principle of the consent of the states
as well

as of the people being necessary, and as a result be logically comes to the
conclusion that you cannot have responsible government in a federation. I
am convinced by the logic of the writer of the pamphlet, but at the same
time I deny the premise. I say that the consent of a state is not necessary to
a federation. No consent, in the ultimate result, ought to be necessary to the
administration of the affairs of the people, or to the making of the laws of
the people, but the consent of the people, and any other consent which you
put in, in addition to the consent of the people, is a consent which means to
a large extent a baffling and a thwarting of the people.

Mr. WISE:

The consent of the states is necessary!

Mr. HIGGINS:

The consent of the states is necessary when you are going into a league,
but as soon as you are in a league the consent of the people is sufficient. I
am not going to be thwarted by anything of that kind, because I feel
confident that the sense of the people of Australia, even in the less
populous colonies, has come round to recognise the justice of the view I
put forward. A number of phrases have become current, and have been
accepted as gospel, from federal teachers or assumed federal teachers, who
say, for instance, that because you have one man one vote you ought to
have one state one vote. That is one of the most transparent fallacies that
could be enunciated. A state has no right to a vote in a federal matter any
more than a federation has a right to a vote in a state matter. The proper
corollary of one man one vote is many men many votes. It is a matter of
arithmetic. If you give one man one vote, then if you have many men you
must give those many men many votes. Having watched the course of the
debates on this subject in the different colonies, I have come to the
conclusion that the doctrine that the consent of the states on a federal
subject is necessary in addition to the consent of the people is rapidly
disappearing. That bubble has been pricked; that tyre has been punctured,
and although all the wind in not out of it yet, there is no doubt the wind
will soon be out of it. Like Humpty-dumpty, who sat upon a wall, it has
had a great fall, and three score men and three score more cannot make
Humpty-dumpty as he was before. I have said that the feeling of the people
is coming round on this question of state representation. At the Adelaide
Convention, my right hon. friend, Mr. Reid, was good enough to refer to the principle of proportional representation as impracticable, and as the subject of a mere academical dispute. What I am curious to know now is whether that proposition ceases to be impracticable, and whether the dispute ceases to be academical when the hon. member finds that the two houses of legislature over which he rules have affirmed by two majorities that equal representation should not be adopted. Does the dispute cease to be academical when we find that the New South Wales Assembly, by a majority of 59 to 4, voted against equal representation? Does the dispute cease to be academical and the question cease to be impracticable as soon as the Premier of New South Wales finds that the vast mass of the people in his colony as well as in the other colonies are coming round to the view that equal representation is an injustice and a snare? As I am speaking to the same audience whom I addressed on the last occasion, I do not think I shall be justified in going into this question at very great length. In reading the debates of the New South Wales Parliament I was gratified to think that that legislature at least had the courage to express their true mind upon the matter, unlike our Victorian Parliament, where, unfortunately, we were beaten on this issue by a majority of 45 to 36. If we had had five members from the other side we should have won upon the issue. But for the fact that the leader of the Government for the time-being in Victoria did not see his way to depart from the vote he gave in Adelaide—although with his usual clearness and comprehensive grasp, he saw the fallacy of the principle of equal representation—but for the fact that he threw the weight of his influence and advice against the movement, we should have won. We wanted five members to get a majority. There was not found in the Victorian Parliament a single member who justified the principle of equal representation. The only attempt at justification was the statement that was drummed into our ears that there could be no federation with the minor states without this principle.

Hon. MEMBERS:
Hear, hear!

Mr. HIGGINS:
At least I have achieved one success. I have achieved the distinction of eliciting the loudest cheers which have greeted any member of the Convention, and I am glad to find the right hon. Premier of Tasmania leading the cheers, notwithstanding his recent illness.

Mr. WISE:
The first demand for equal representation came from Victoria!
Mr. HIGGINS:
That shows the superior intelligence of the Victorians. What I say is this: that you have in the more populous colonies opinion strongly swinging mod as soon as they grasp the position; and, not only is it so there, but I have found from the debates in the South Australian Parliament-although I was told in Adelaide that every one in South Australia was in favour of equal representation-that even South Australia is coming Mud to the same view.

Mr. SOLOMON:
Only the enemies of federation!

An Hon. MEMBER:
One swallow does not make a summer!

Mr. HIGGINS:
It is true that one swallow does not make a summer. At the same time, the views of a few members of Parliament in South Australia may have a considerable influence on certain hon. gentlemen I see around me. I was exceedingly amused at the debates in South Australia on this subject. We found member after member saying that he saw no need for a second house at all. Member after member said, "What is the use of a senate, it is not wanted?" The Hon. Sir John Downer, who is watching this Federation Bill keenly and quietly, as soon as he saw hon. members going upon that dangerous track, interrupted with such a question as this: "Would you fight against the smaller states-your own state?" If the hon. member refers to the debates in the South Australian Parliament, he will find that when Mr. Price was speaking, and that when that hon. member was going off with the chariot of the sun in a dangerous way, saying that he could not see the use of a second house; that he did not see why, in regard to federation more than anything else, we should have the consent of the people given in two ways; that he could not see why the interest of the masses of the people in Australia was not solid; that he could not see why the interests of the people in South Australia were not the same as were the interests of the people in New South Wales-when the hon. member heard this, then, like a good master of the hounds, he gave a smart crack with his whip and brought the stragglers to heel at once, using such words as these: "But would you vote against the interests of the less populous states?" "Oh, no;" said the member, "I am quite willing to accede to this in the interests of South Australia." Of course the member felt that he had to face his South Australian constituents, and that any other course would be unpopular. I remark also that my hon. friend, Mr. Glynn, who spoke in South Australia, sees also very clearly, although he may vote in
favour of equal representation—that all this outcry about state interests being
the one matter in this federation is a mere sham, that it is merely one of the
numerous devices which have been evolved for the purpose of persuading
people here that they have different interest's from people there, in order
that the people may not be able by combination to show their power.

Mr. GLYNN:

I denounced making logic the test of granting it! Mr. HIGGINS: I can see
that the hon. member has grasped the position—that there is no danger to the
states—that the questions that will arise under this federal scheme are not so
much questions between the states. On the question of bankruptcy, for
instance, how can there be a difference of interest between the states?

Mr. WISE:

Then there is no fear of a combination of the smaller states against the
big ones?

Mr. HIGGINS:

That is not the question. I say that there is no fear of a combination. It is
not a question of the fear of a combination. You must put power with the
numbers.

Mr. WISE:

That is what this bill does!

Mr. HIGGINS:

I do not see how the hon. and learned member can say that this bill puts
the power with the numbers, when you have the representatives of 650,000
persons in the three minor colonies, with the power to outvote the
representatives of 2,500,000 in the bigger colonies. The position is this: we
are invited to follow the precedent of the United States as against the
precedent which was afforded us in Canada, in Switzerland, and in
Germany. We are invited to adopt that which was a compromise between a
confederacy and a federation in place of adopting a federation. I say
distinctly that the system in the United States was a compromise between a
confederacy and a federation. A confederacy, a loose bond between the
independent states, was the object of one party at the time of the American
Convention. The federation or binding together of the different states for
certain specific objects under which the majority would rule was the object
of the other party. But they could not agree. They felt, however, that the
English guns were at the gates, and that they could not afford to have one
single state standing out. With great misgiving, therefore, they adopted the
compromise of having two houses the house of a confederacy, and the
other house, the house of a federation, where the majority would rule.

The Hon. Sir J.W. DOWNER:
Does the hon. member know of any federation which has not been a compromise?

Mr. HIGGINS:
Every federation is a compromise. That which is proposed by New South Wales is a compromise, and, as I think, a very reasonable compromise.

An Hon. MEMBER:
It is unification!

Mr. HIGGINS:
It is not unification, it is federation.

An Hon. MEMBER:
It is gormandising!

Mr. HIGGINS:
It is a federation. There ought to be a unification on the subjects which are federal, and a severance on the subjects which are not federal.

An Hon. MEMBER:
But we do not want unification!

Mr. HIGGINS:
The hon. member, Sir John Downer, asked me to give him an instance of a federation which is not a compromise. I do not think I can do so. I am asking for a compromise in this instance which will give the smaller states certain advantages in representation, which will not be based exactly upon proportional representation, but which will be a compromise of that kind. May I indicate this to the hon. member?-that, starting with the United States, every new federation created since has departed more and more from equal representation. The next federation created was that in Switzerland in 1848. In that case, although you had
cantons historically distinct, different in religion, different in race, different in language, they gave themselves equal representation, with few exceptions. Still there were the exceptions. You had half cantons, which returned only one member as against other cantons returning two. The action of Switzerland was largely influenced by the historical difference between the cantons, and also by the analogy of the United States. The next of the federations was that of Canada. In Canada they started with twenty-four for Ontario, twenty-four for Quebec, and twenty-four for the maritime provinces, which consisted of three provinces at first. As it now stands, Manitoba has one, British Columbia one or two, and various other colonies which came in have a mere fraction. It is much more of is federation than
the scheme proposed in this bill. After Canada came Germany, is 1870 or 1871. That federation was based upon principles still further removed from equal representation.

The Hon. R.E. O'CONNOR:

It was a federation of the lion and the lamb!

Mr. HIGGINS:

The hon. member's colleague, Mr. Barton, said practically the same thing in Adelaide; but it is not a question of the lion and the lamb. How can that apply to a state like Bavaria, or a state like Mecklenburg-Strelitz? Was Bavaria a lion, or Mecklenburg-Strelitz a lamb?

The Hon. R.E. O'CONNOR:

What about Prussia!

Mr. HIGGINS:

Bavaria had six representatives; Mecklenburg-Strelitz, two; Prussia, seventeen members; until you come to the cities of Lubeck and others with one member, so that you will find a steady gradation which is still more different from the principle of equal representation. The principle of equal representation proposed in this bill is a retrogressive proposal. The people are gradually coming to understand better what a federation means—a differentiation of subjects where what I may call different strata of people are ruled by the majority upon different subjects. The people are gradually coming to see what a federation is, and I hope that in forming our Australian federation we will not take a step backward, such as is proposed in this bill, by going back to the first real federation of modern times, the federation of the United States of America. I need hardly say that the consent of the states and the consent of the people will not be realised by this proposal, if that is the true principle; because if you have five states, and if there are six senators for each state, and if three states vote with three members on each side, and the other states vote four members against two, or five against one, I ask where then is the consent of the states? That will be simply the consent of one state to a measure. When you talk of this consent of the states as well as of the people it is simply arrant nonsense. You do not get the consent of the states. If you want to get the consent of the states as well as of the people you ought to insist that in the senate they must vote by states, and then you can understand what is being done. This is simply one of those ingenious devices which we have to watch continually to prevent the will of the people, as a mass, having its ordinary and proper effect. It has been used as an argument that this system has been a success in the United

Mr. SYMON:

Why has it not been a success in the United States?
Mr. HIGGINS:  
I cannot answer everything at once. I say that in the United States the circumstances, historically and practically, are as different as possible from ours. I say, first, that it has not been a success in the United States. If you read the comments in the June number of the New England Magazine upon the system of equal representation in the United States you will see the evil of its working.

You will see how the arbitration treaty with England was defeated by equal representation. In that majority were found the representatives in the senate of what are called "rotten borough and sagebush states." A few rich men can control a state with a small population much easier than they can control a state with a large population. If you look into the history of the United States you will see that the great civil war was brought about by equal representation.

The Right Hon. Sir E. BRADDON:  
No! Mr. HIGGINS: I am glad to see the hon. member so lively after his recent illness.

Mr. MCMILLAN:  
The hon. member's remarks are as good as a dose of medicine!

Mr. HIGGINS:  
Some minds as well as bodies need medicine. I hope to administer a useful dose of medicine to the hon. member, Mr. McMillan, and my right hon. friend. I hope they will not take it with wry faces. I read a speech delivered by the hon. member, Mr. McMillan, in the Assembly, and I understood from it that he had seen the error of the principle I am speaking of. In that speech he did not in the slightest way attempt to combat the views put forward with such force by some gentlemen whom I did not know until quite recently, such as Mr. A.B. Piddington, Mr. Millen, and Mr. Ashton, who were mere names to me, but whose able statement of the case from the point of view of the mass of the people I admired exceedingly. There were others whose names I cannot recollect, but who struck me as having seized the position better than most of us and most members in our Assembly.

Mr. WISE:  
The most democratic arguments in favour of your view were used in our Legislative Council!

Mr. HIGGINS:  
I am not going to be led into the question of the virtues of the Legislative Council. I understand the hon. member is sore in regard to the Council in some way, but I do not know the Council officially.
Mr. WISE:
They would welcome the hon. member among them!

Mr. HIGGINS:
As an hon. friend reminds me, it is the only Council in the Australian colonies that would welcome me. If they did I should be exceedingly surprised.

The Hon. Sir JOSEPH ABBOTT:
Only on this question!

Mr. HIGGINS:
However, I do not intend to be misled or led astray by discussing the virtues or vices of the Legislative Council. I wish to keep the subject out of local politics as far as I can. I do not care for anything except the principles I find laid down in these speeches by strong federationists in the Legislative Assembly of New South Wales. There is also the fact that the circumstances are exceedingly different. Historically, the United States were in such a terrible mess that they could not afford to come to some agreement, no matter if it was a bad agreement, and I freely confess that if I had had the honor of taking a part in the framing of that constitution I would have taken it that the only patriotic course was to have accepted that constitution, faulty as it was, under the circumstances. When Delaware was saying, "Unless you concede equal representation, we will make terms with the British," and when they felt that if the British had Delaware and the guns were at the gates of the other colonies, this new federation would be ruined, I do not see what they had to do but to accept the inevitable, and take the equal representation offered to them. But I am thankful to say that we are in no such circumstances. We have not to frame our constitution with the guns of the enemy at our gates. It will be remembered also that in the United States they had not so many subjects of general interest given to the

federation as are given here-subjects like the company law, bankruptcy. They had the subject of patents given to them-six or seven subjects I remember which were very leading subjects; but they had not a number of other subjects, such as insurance, banking, the incorporation of banks company law-

The Hon. Sir JOSEPH ABBOTT:
They did not know anything about that one hundred years ago!

Mr. HIGGINS:
Divorce, and all that kind of thing. I ask where do states rights come in as to that? I hold that prima facie the majority should rule on a subject which affects the whole people; and, if this subject affects the whole people, why
should not the whole people rule by majority; for you cannot get them all to agree? Where do state rights come in in that? Because there is a possibility of a state's interest being affected in one out of ten thousand subjects, you practically propose to give the less populous states equal voting power an to the other nine thousand nine hundred and ninety-nine subjects. Where is the logic of that? The experience of the states of America shows that there are no differences of interests arising between states. There has never been a cause of quarrel between the less populous and the more populous states. What need, then, is there for a safeguard? The people of New South Wales are coming round to the conclusion that this fallacy is merely one of those numerous fallacies which are put about ingeniously for the purpose of preventing liberal and radical legislation. It will be seen that the more consents you require to legislation the less likely is that legislation to be enacted.

The Hon. H. DOBSON:

No!

Mr. HIGGINS:

The only consent that I acknowledge in the case of legislation which is necessary is the consent of the people. I do not acknowledge that the consent of the state has anything to do with it at all.

The Hon. E. BARTON:

Has any conservative influence in the senate of America come by equality of representation? Has it not come by the method of election?

Mr. HIGGINS:

The senate, all American writers agree in saying, is becoming more and more a house to represent the rich men and the trusts.

Mr. SYMON:

That is the fault of the election!

Mr. HIGGINS:

The reason is this: that in the less populous states one or two big silver men, for instance, can get whomsoever they will elected. I do not mean to say that the election by the parliaments of the different states does not also contribute to that result.

Mr. SYMON:

Some of the finest men are from the smallest states!

Mr. HIGGINS:

I want to be perfectly clear, but at the same time I say that the effect of equal representation in the senate was, if you look into it closely, one of the chief causes of that great civil war.

Several Hon. MEMBERS: No!

Mr. HIGGINS:
I do not wish to go into an historical discussion now, but I will tell you very briefly how it occurred. As soon as some of the states found that they could not get any other new state South, of Mason and Dixie's line, which would be a slave state; as soon as they found that by the increase of the number of the states to the west and the north, they were being out-voted in the Senate; as soon as they felt that they were no longer to have a majority in that Senate to work in the interests of the slave states, the southern states put into practice the doctrine they had long been preaching of the absolute right of any state to secede. When Abraham Lincoln was elected they said "that election shows that those states will return senators which will outnumber our senators, and we shall have no protection," and they at last determined to secede.

The Hon. J.H. Gordon:
Did not the stand of the Senate in that case bring about righteousness in doing away with the slave trade?

Mr. Higgins:
It is difficult for me to hear the hon. member.

The Hon. J.H. Gordon:
Did not the Senate in that case do away with the slave trade, and, therefore, support the principle of equal representation?

Mr. Higgins:
Even now I do not hear the hon. member, and I think I had better go on.

Mr. Wise:
The hon. member cannot answer the question!

Mr. Higgins:
The great Civil War in America was owing to equal representation, because the framers of the Constitution had in view the stopping of the slave trade and slavery, but they were not able to bring it about in due time, and gradually, in consequence of the slave states having equal representation in the Senate. As soon as the southern states found that they could not persuade Texas to be subdivided, and they hoped to be able to get in Texas two slave states, then it was that they determined to secede.

The Hon. J.H. Gordon:
Then the hon. member is regretting the abolition of slavery?

Mr. Higgins:
I do not see the logic of that statement—it is not necessary for me to see logic in everything. I do not intend to labour this question, as it is simply the same audience as I had on the last occasion. As far as I am concerned there will be a division, and even if we have merely the same minority as
we had the last time, we can leave with confidence to others the
determination of the question of who was right. I have to thank hon. members for listening to me, and for plying me with questions so courteously. I can only say, in conclusion, that I feel chagrined at the thought that in place of trying in our constitution for Australia, to make an improvement on the federal constitutions of the United States, Switzerland, and Germany we are going back to the first form of federation which was suggested. I think we should try to get for Australia as good a constitution as we can. No one now attempts to justify equal representation on principle. If there is anyone who does so, I invite him, I challenge him, to do so now.

The Hon. J.H. GORDON:
Is it necessary to show that two and two make four?

Mr. HIGGINS:
If there is any hon. member who can justify equal representation on principle I should be very glad to learn of him. I leave my mind open, and if I am convinced on principle that I am wrong, I shall withdraw my call for a division. The only principle upon which this idea can be conceded or proposed is that it is the only way to get federation.

The Right Hon. Sir E. BRADDON:
Hear, hear! The Right Hon. Sir E. BRADDON: Hear, hear!

Mr. HIGGINS:
I am glad the Tasmanian Premier accedes to that.

The Right Hon. Sir E. BRADDON:
That is not the only reason!

Mr. HIGGINS:
Then there is some principle behind it! Hear, hear! and a good one, too!

Mr. HIGGINS:
I hope to hear what is the principle behind it. I may state there has been no attempt yet, in the Convention or elsewhere, to give us the reasons for it.

The Hon. E. BARTON:
Is not that rather an assumption of infallibility on your part?

Mr. HIGGINS:
I do not think so. How is it an assumption for me to say I have been listening for reasons and I have not heard them? I have been listening simply to find any justification, on principle. The only thing approaching justification is, that without equal representation, you will not have federation. I even doubt very much whether, with equal representation, you will have
federation. I doubt very much whether you will have a federation amongst the minor states, and I doubt very much whether the larger populations of New South Wales and Victoria will not refuse federation upon such terms as those. Of course time will tell. We are going back to the system in the United States. We are going back disregarding experience—we are going back to equal representation in the senate. I take it that the circumstances of our geographical position, of our history, of our objects, of our trade, are quite inconsistent with it, and I hope it will not be conceded.

The Hon. Sir J.W. DOWNER (South Australia)[4.13]:

I have listened with very great pleasure to the interesting speech of my hon. friend, because I know that every word he said he meant. I believe the hon. member, honestly meant every word he uttered. The accent of conviction was in our ears all the time he was speaking; but I had a painful feeling that his early education had been neglected. He made a most lamentable mess of "humpty dumpty." I thought any reasonable man would know that, but he stumbled over it. After having carefully prepared his speech, too, he at the last moment forgot that which every good child ought to recollect. The hon. member begins with this illogical proposition and I interrupted him, not for the purpose of bothering him in any way, but for the purpose of getting my mind informed. I said to him, "Is not federation, of necessity, a compromise?" The hon. gentleman had been arguing that federation could only be established on strictly logical lines.

Mr. HIGGINS:

I did not say that!

The Hon. Sir J.W. DOWNER:

The hon. gentleman has certainly been arguing that the only test should be that the majority of the people ought to rule. That was the infallible and only test, democratic and radical, which ought to apply. Having laid down that cardinal principle without which he said federation could never exist, he admitted, in answer to my objection, that federation was a compromise, could therefore proceed on no set logical principle, and, as a necessary result, I should think would be impracticable and impossible. I think my hon. friend gave himself away in the line he took, for when you once admit that the very essence of federation is a compromise, away must go your logical principle. And the hon. gentleman a lawyer, too! Really, I am almost ashamed. Fancy expecting to make a settlement between two people who are at arm's length with each other on logical principles. The logical principle is give-and-take. The hon. gentleman's logical principle is to take and not to give.

Mr. HIGGINS:

What do I want to take?
The Hon. Sir J.W. DOWNER:
The hon. gentleman wants the smaller colonies to hand over to the larger colonies their principal sources of revenue, their customs, their post-offices, and to place a child-like trust in the gentle way in which they will be handled. He says that will be a constitution founded on the eternal right of the majority to rule. That, he says, is a compromise; and what a compromise! I really thought the time had passed for discussing this question of equal representation in the senate. The hon. gentleman referred to the case of America, and he said it had not worked well. The hon. gentleman attributed all the troubles of America practically to the Senate. Even the war of slavery, the hon. gentleman seemed to think, came from the pernicious influence which the Senate exercised. Has my hon. friend ever thought of this—and this was not mentioned at the Adelaide Convention—that whatever difficulties there may have been in reforming the Senate in America, the inelasticity of the constitution before and after that most terrible war and loss of life, was brought about through the acts of the Senate. There was a retributive body in existence immediately after the war—

Mr. WISE:
And they amended the constitution there!

The Hon. Sir J.W. DOWNER:
There was a general with a conquering army, with constitution and everything else at his feet, and amendments were made in the constitution. But at this time, with all the power to redress the grievous wrongs they sustained through this unrighteous body—the Senate—this army, brought into existence through the wrongs this body had created, and of course anxious to do away with the existence of that which had produced the mischief, instead of interfering with the Senate upheld it, and not a suggestion or word was said, when they had the power in their hands, of amending all these grievances, which my hon. friend's industry has found out since, and no one has dreamt of remedying.

The Hon. I.A. ISAACS:
The hon. member must not forget that the one principle in the American Constitution which is unalterable is that of equal representation!

The Hon. Sir J.W. DOWNER:
If the Senate brought about all the mischief of the American war, it was bound to stink in the nostrils of the successful army, which had had to fight for the rights upon which the Senate had been trespassing.

Mr. HIGGINS:
How could they alter it?
The Hon. Sir J.W. DOWNER:

Alter it! They had the power of a conquering army. If you want an argument from experience more conclusive than all the clever speeches made by ingenious lawyers, or all our thoughtful books written by clever essayists, long after the thing occurred if you want an answer to all that, there it is. There was a wrong, you say. I say there was the power to redress it. Could we have a more triumphant vindication of the constitution of the American Republic than the fact that, with a huge standing army—because that is what it had become—flushed with victory, unconquerable, irresistible, the constitution was maintained, except in some particulars which they very properly took means to redress. But in this, the crucial thing—out of which all the mischief and harm had come—the result was a triumphant vindication of the constitution in the publication by the victorious army, not that the Senate had brought about all the trouble, but that under their constitution they would live or for their constitution they would die. We there have argument from fact and experience such as my hon. friend here said we would have to refer to oh financial questions. Speculation, however clever, must prove useless against the mighty experience obtained from those unanswerable facts. Now, my hon. friend refers to Switzerland, and says that there is not equal representation there. I say that, in effect, there is, and the Swiss Constitution was not established last century—not established so very long ago. It was established with the American Constitution before the Swiss people, with nearly one hundred years' experience of its working. It was founded substantially upon that, only with those alterations which differences in blood and country naturally create, and in Switzerland there is, in effect, equal representation.

The Hon. E. BARTON:

Forty-four representatives—two from each canton!

The Hon. Sir J.W. DOWNER:

There are some little places—as afterwards we may have some territories—in which this rule may not be adopted, but the base principle of the Swiss Constitution was equal representation in the Senate.

Mr. SYMON:

And there the Senate has also a voice in the election of ministers—

The Hon. Sir J.W. DOWNER:

Exactly.

Mr. SYMON:

Which we do not ask for!

The Hon. J.H. HOWE:

More powerful than ours!
The Hon. Sir J.W. DOWNER:

Whence come these fears on the part of the larger colonies? Can they suppose for a moment that, under this constitution, if adopted, the senate of this commonwealth will have anything like the powers of the Senate of the American Commonwealth or the Senate of the Swiss Confederacy? The hon. member knows they cannot. He knows that the principal reasons which give the American Senate their power-the control of foreign affairs, the power really of making peace or war, the control of all the civil offices bring along with them of necessity a power which makes them a very effective chamber. The same thing may be said to a less extent about the Senate under the Swiss Constitution. But under this constitution what has the hon. member to fear? The majority must have in one house all the charms and incantations-everything which the larger states and larger populations can afford will belong to them. The smaller states will have enough to hold their own against them under any circumstances. Besides, if this were not so, the conditions are so varying, that a colony on the top to-day may not be so high to-morrow. Western Australia, notably, has Attained a higher position than we anticipated at the time of the Convention of 1891, and is likely to attain a greater position. That is a notable instance staring us in the face. Are we going to assume that the relations of the colonies are always to remain the same, and that there need be no fear? I say that wherever the large population is, there will be the power. I care not what state regulation you may make; the will of the people will be supreme whatever state rule you make to try to prevent it.

An Hon. MEMBER:

Why try to prevent it, then?

The Hon. Sir J.W. DOWNER:

Would the hon. member make the constitution so elastic that it would be constantly varying in its incidence? We want to begin this constitution in trust and confidence, and we want the larger states to recognise that, while we do not distrust them, we respect ourselves, and when we are handing over to them the sources of our most material revenues, we take with us, at all events, not, perhaps, the power of active legislation, but the power of being able to say "No" to anything that would be disastrous to us. In the course of time, I dare say, it will turn out, as it has done in America, that state rights will come very little into theme matters, and the results will be highly satisfactory, because we shall know that we really have become so much one people that these smaller considerations never occur to anybody at all. I say that may be so. But there is a greater chance of doing that if we
begin on a righteous and fair foundation, and if we recognise that this foundation is after all, a compromise-fair terms to be made-to give powers to the whole acting as a whole, and yet to take care that the identity of the units shall be in no way destroyed. If we take care of that, then we shall have a constitution founded on good feeling and righteous consideration for each other, and we shall have some sort of guarantee that in the end it will work well, as I say unhesitatingly the constitution has done not only in Switzerland but also in the United States of America. I did not intend to speak on this subject at all today, and I do not think that at the present stage of our business it is wise for anybody to make a long speech, going exhaustively into this matter. I have just mentioned a few points of view in reply to the hon. gentleman who addressed us on this subject, and I am very pleased to know that he does not represent the majority of the Victorian delegation.

Mr. WISE:
Nor of the Victorian people?

The Hon. Sir J.W. DOWNER:
And much less the Majority of the Victorian people.

The Hon. J.H. CARRUTHERS (New South Wales)[4.27]:
I hope that in this Convention there will be exhibited no feeling of impatience in the discussion of this question, because, no matter what the decision may be, a good deal will depend on the method and manner of arriving at that decision. I feel quite sure that the deathblow to federal instinct in this colony would be dealt in one act by this Convention at this juncture, if it were to reject a proposal of this character, and were to reject it in a manner that showed that the Convention brooked no argument, and was impatient of discussion. Hon. members must not forget that the recommendation from the New South Wales legislature, so far as the popular assembly is concerned, was practically a unanimous recommendation. There were only four hon. members of the whole House who voted in favour of a system of equal representation in the senate. A large and over-whelming majority of the members of the legislature were against that principle. In the Legislative Council - despite that we had the benefit of the presence there of the leader of the Convention and his hon. and learned colleague, Mr. O'Connor, with all the weight of their influence, all their argumentative power-by a very large majority the vote was against equal representation.

The Hon. E. BARTON:
It was pretty well against everything that I proposed!
The Hon. J.H. CARRUTHERS:

But it is the greatest mistake for hon. members of this Convention, and especially those representing New South Wales, to attempt to flout the legislature, as the legislature on some occasions has attempted to flout the Convention. It is better to take the most charitable view of the proceedings of the various houses of Parliament in their deliberations, and I say that if we put ourselves in the same point of attitude, and look at these matters in the way that the legislature here have looked at them, we shall be apt to take a more charitable view of their actions than if we merely look at them in the aspect which some hon. members affect, of being enemies of federation. I deny that these proposals have been the outcome of a majority of the enemies of federation. It is true that we have in the legislature here, as in every legislature, men who fear federation because with federation their occupation would be gone, and the position of a local politician would be belittled. But we cannot include in that class the whole of the members, or a majority of the members of the legislature. Men of culture, of ability, and of patriotism, who are not without influence if they go to the country and arouse public feeling upon the opinions which they hold, have supported this proposition. It will be only trifling with the question if the members of the Convention refuse to apply the best of their reason, and the calmest and closest consideration to it, even though it was decided in 1891, and again this year in Adelaide, by a large majority. The question has to be raked up again, and let us have argument for argument upon it, not any appeal to close the discussion because we have had enough of it. To close the discussion in that way may close federation. I speak as one who anxiously desires, not only the passing of, the bill, but the accomplishment of federation, and as one who desires by every means in his power to contribute something towards its accomplishment. We can better contribute towards it by paying due deference to proposals which will meet the objections, aye the prejudices, of those who have ultimately to be invited to give their assent to the measure which we frame. I undertake to say, be the value of my authority great or little, that so far as the colony of New South Wales is concerned, if a plebiscite were taken on the question of equal representation there would be an overwhelming majority in favour of it, as there would be in favour of federation. Unfortunately we shall not have an opportunity to take a test vote upon this particular question, though we shall have the opportunity of taking a test vote upon the bill itself, and it may endanger the passing of the bill if we have the constitution so rigidly framed that, without granting proportional representation, we have no safety-valve for the expression of
the ultimate rule of the will of the people. I say that it is unfortunate that there can be no opportunity for testing the people upon this point. We may have this greater misfortune—we may imperil the passing of the bill simply because we refuse to make a concession in this direction. I believe, much against the opinion of the majority of the politicians in New South Wales—and I want hon. members to mark this—that the prospects of federation are brighter in New South Wales than in almost any other colony. These prospects cannot be jeopardised by the local legislatures; but they can be jeopardised by the Convention itself. If we deal with the matter in a moderate way, if we exhibit consideration towards the people of these colonies who feel that it is not simply a question of state right but a question of manhood right that is involved, we shall, when the final test vote is taken, win over to our side thousands and thousands of voters, and thereby help forward the consummation of our great purpose. I largely object to arguments based upon the precedents of the past. There has been no period in the history of the world from which precedents can be adduced on all-fours with the position of the Australasian colonies to-day. Here we have a unique story of reform gained by the people in the direction of manhood suffrage and equal political right. In America or in the old country no such reforms have been wrung from the ruling authorities. But here in every colony, and more especially in the two larger states of Victoria and New South Wales, the political aspirations of the people have been directed to acquiring for themselves, not greater rights one over the other, but equal rights as citizens of the same country, so that they may have, not only manhood suffrage, but equal manhood suffrage. The leader of the Convention knows full well that the measure which he was successful in passing through its various stages in the Legislative Assembly of this colony, and which gives us our present electoral system, was the result not only of a struggle for manhood suffrage in its widest form, but of a struggle for equal manhood suffrage, so that we might have equal electorates, each man having one vote, and no vote in one electorate being of more weight than another vote in another electorate. The tendency of agitation and reform has been in this direction in all the colonies. Now, we are asked to invite the people of Australasia to agree, in accepting a constitution for their national life which is to break down all these state instincts and provincial feeling, to give up that which they have been successfully battling for for years and years past, and to adopt the retrograde stage of distinguishing between the voting power of various individual members of the states. We may be able, if we insist upon having equal state rights, and if with it we provide safety-valves which give to the people the ultimate rule in the constitution, with the consequent divergent
forces at the ballot, to get the people to agree to it; but I fear that in New South Wales it would be a hopeless task, even for men of intellect such as the leader of the Convention, the Premier, and others, to go to the country with a bill in their hands conferring, not equal rights upon the citizens of Australasia, but equal rights upon the states, and at the same time closing up every outlet by which the popular will and the popular opinion could be ingrafted upon the statute-book of the commonwealth. I say that the task is too large for the ablest man in New South Wales to undertake. I think that my hon. friends from Victoria would find that if they had that contract to undertake it would be a contract which might very well be postponed until some future date. I think that the amendments emanating from the Attorney-General of Victoria, and other amendments which have been suggested, go to show that the provision of equal representation is accepted with great misgiving in Victoria, and that it will only be recommended by the politicians, and accepted by the electors, when it is accompanied by such safeguards as will ensure to the people that what they are giving away with one hand they will get back with the other.

Mr. HIGGINS:
They are accepting it against their convictions!

The Hon. J.H. CARRUTHERS:
I have always had the feeling throughout the meetings of the Convention, that the going back to precedents, not of ancient history, but even of modern times, has been so much waste of time. Why go to America and have the story told to us of the building up of the constitution there, and the causes which led to the establishment of a senate upon the basis of equal state rights, and the story of the war and slavery, when we have had in the past few weeks the story of the conduct of the Senate in refusing to ratify the arbitration treaty with the mother country, undoubtedly against the popular will of the citizens of the United States. Go to Germany, America, or Switzerland and you are not going to a country where the battle-cry of reform for years and years past has been in the direction of placing greater or equal powers in the hands of the people themselves.

The Hon. A. DEAKIN:
Neither of those countries possesses our form of responsible government!

The Hon. J.H. CARRUTHERS:
Hon. members know that those constitutions are not what they would be if made by the will of the people to-day. The difficulty in the case of these other countries, America especially, is that the people have to live under the constitution, and make the best of it, knowing that it is impossible for
them, by the machinery in their power, to amend it. I want now to leave
that aspect of the case, and in the calmest and most reasonable fashion
possible to invite those who think that the discussion is one worthy of
being continued in the interests of further light to those who are against the
bill as it stands, to answer me on one or two points. In the first place why
do the states desire equal representation? Are there any particular rights of
the states as such involved which can only be safeguarded by granting this
concession in the constitution? Are there questions of so inseparably a state
character that they cannot safely be left to the opinions and the will of a
majority of the people of Australia? And, more than that, is this federation
to be merely a union of the states of Australia according to artificial
geographical lines and boundaries, or is it to be that greater union which
will bind the hearts of the people together? If we are going to accomplish,
as I hope we are, the greater union of the people, why limit and confine the
people by a power of veto vested in the states for some purposes which it is
very difficult to justify? I will take the three great purposes under clause 52
of this bill for which the commonwealth is to be established—for taxation,
for defence, and, what is to my mind one of the greatest of all purposes, the
regulation of the inflow of population so as to secure a white Australia.

The Hon. H. DOBSON:
The hon. gentleman has just mentioned a state right. Queensland, for
instance, could not possibly come in unless you had regard to her sugar
plantations!

The Hon. J.H. CARRUTHERS:
We will take the first of these three questions—the question of raising
revenue for the maintenance of the machinery of government, and for the
defence of the commonwealth. Is that a state question? Is not the very
incidence of taxation a question which affects, not the states as such, but
the individual units that compose the nation? We do not propose by this
bill that we should go to the states and levy a contribution from each state
as such; but we propose to give to the commonwealth parliament or
government the power of levying its taxation directly upon the subject
people.

The Hon. H. DOBSON:
Then it is a state question. If you have a modified tariff, Tasmania will
not have enough revenue!

The Hon. J.H. CARRUTHERS:
My hon. friend imagines this to be a state question. He will find that the
taxes will be collected, not from the state of Tasmania, not from the state
of New South Wales, not from the state of Victoria, but from the individual citizens of the commonwealth.

The Hon. H. DOBSON:
Quite right; but it is a state question for all that!

The Hon. J.H. CARRUTHERS:
And the citizens of Tasmania will pay the same tax as the citizens of New South Wales will pay.

The Hon. H. DOBSON:
Quite so!

The Hon. J.H. CARRUTHERS:
That is to say, so, far as taxation is concerned and the force of its incidence, the Tasmanian will pay just as much as the New South Welshman. Then I ask, what necessity is there to secure the Tasmanian by giving him in one chamber six or seven times the voting influence of the person who is equally taxed with himself-the New South Welshman? That is the aspect of the case as it presents itself to the taxpayers of this colony.

The Hon. H. DOBSON:
Put the power, not in one chamber, but in the two chambers-in the machine?

The Hon. J.H. CARRUTHERS:
The power of veto?

The Hon. H. DOBSON:
Put it in the whole machine-not in one part of it!

The Hon. J.H. CARRUTHERS:
We have felt it in this colony. We know that the power of veto is the power which, when exercised, will mould your laws.

The Hon. H. DOBSON:
Is the man who puts on the

The Hon. J.H. CARRUTHERS:
But the brake cannot be put on, the train cannot be put on, the whole machine cannot work, in this case, without the concurrence of the two houses.

The Hon. H. DOBSON:
Hear, hear!

The Hon. J.H. CARRUTHERS:
So that if one house refuses to concur the machine will not go; and if by any chance an alteration is made, before you can take the brake off the train when once it is put on, according to the constitution my hon. friend desires, you have to get the concurrence of the second chamber. Their power of veto comes in which prevents you from reforming and amending your laws. You may get a tariff at the beginning of federation. which may
meet the necessities of the first few years.

The Hon. H. DOBSON:
If you do not—if you do not have a tariff which gives us enough revenue to keep us solvent—Tasmania has a right to the veto!

The Hon. J.H. CARRUTHERS:
In this question, right through the whole proposal as to the tariff and the imposition of taxation, the state is to have the right of veto at all times, and that right of veto is tantamount to the power of legislation, because the state will say, "You stand where you are."

The Hon. H. DOBSON:
What is the right of veto if we have two senators for Tasmania?

The Hon. J.H. CARRUTHERS:
If two senators are all that Tasmania is entitled to on the score of population, then there is no reason to complain. But there is every reason to complain if Tasmania, being only entitled to two senators on the score of population, should be given four, five, and six times the number she is entitled to. There is ground of complaint then on the part of the colonies with the larger populations. I pass away from the question of taxation, which is one affecting the individuals of the commonwealth, and take up the question of defence. The defence of the commonwealth will not be a matter to be borne by the states. We shall not ask Tasmania to make an equal levy with New South Wales for the defence of the commonwealth. The defence of the commonwealth will have to be undertaken by the individual citizens, and the states which have the larger populations will contribute the larger amount of money and the greater number of men, in proportion to their means and their numbers, towards the defence of the commonwealth. Let me take another point: the very important question of immigration. We may find an instruction to the representatives of Victoria and the representatives of New South Wales in the house of representatives to pass a bill to prevent the invasion of undesirable aliens. That bill may pass in the House which represents the public voice of Australia. In the senate it may be possible for the representatives of the three small states, who do not represent more than practically a third or a fourth of the population of Australia, to exercise the power of veto. What happens? By the exercise of the power of veto they throw open the port of Melbourne and the port of Sydney to the influx of men who may degrade our manhood and our womanhood, and reduce the population to a lower level than we have ever known before. I mention these things as possible. The difficulties felt in the more populous centres may not be felt in those portions of
Australasia where the state has not presented those attractions which would lead these undesirable immigrants to flock to their shores. I think my hon. friend from Tasmania, Mr. Dobson, will admit that the state from which he comes has not felt to the same extent as Victoria, or Queensland, or New South Wales the evils attending the influx of immigrants of a degrading character.

The Hon. H. DOBSON:

I am not talking of the evils. I say that immigration is a state right, which wants protection in the senate, in the interests of Queensland and of every other colony.

The Hon. J.H. CARRUTHERS:

If we could only limit state rights to the exercise of the power of veto in regard to laws affecting state interests, well and good; but the misfortune of it is that state rights go further than that. It is proposed that there shall be a power on the part of the smaller states to impose on the large states, which hold a different view, legislation, taxation, and, practically, administration, which is against the will and wishes of a majority of the people.

Mr. WISE:

The hon. member wants to take power to impose the will of the big states upon them!

The Hon. J.H. CARRUTHERS:

My hon. friend, Mr. Wise, who, unfortunately, has not had an opportunity of being present at the debates in our Parliament, does not know the strength of the feeling there upon this question. The hon. member thinks very strongly with myself, I know, that there should be an adequate safety-valve in the constitution, so that the will of a majority of the people, when found to be in conflict with the will of the state representatives, shall have some opportunity of finding expression upon the statutebook. But we have no warrant for assuming that any provision of that character will be acceptable to this Convention.

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The amendments suggested by the various colonies go to show the trend of the feeling which will probably guide delegates here, and we have, I fear, very little reason to hope that there will be proposed amendments of such a character as will allow those of us who are more anxious to see a constitution passed into law than are some of those who are opposing it in the various parliaments, to see our wish accomplished. I think there is very little hope of the carrying of any of those amendments which the hon. and learned member and myself desire. I was one of those who, in Adelaide, indicated that they were prepared to vote for equal representation in the
senate, providing there were a power of dissolution of the senate, and, with it, the power of referring to the people themselves those questions—mainly questions of social reform, questions such as that of immigration, questions which are likely to provoke a deadlock between the senate and the house of representatives. I have not changed my views upon that point. I know that, to be logical, I should at all times be found voting with the hon. member, Mr. Higgins. I do not intend to depart from the view I expressed in Adelaide until a safety-valve is provided. I intend at all times to vote for that which will operate in that direction, namely, the proportional representation of the people in both chambers. If, in any scheme which is proposed, either of the suggestions thrown out by me in Adelaide—one of them was proposed by my hon. friend, Mr. Wise, himself—are contained, I shall be willing to accept, upon that condition, equal representation. But to say that you trust a minority of the people in a state to deal out rough-and-ready justice in Australia, with this one proviso that when it is found that the will of a minority in the senate is thwarting the will of a majority of the people, the minority should give way, would be a most dangerous provision for us to ingraft, upon the constitution. It would be imposing on the people of the commonwealth under a hard-and-fast rule, the provision that there shall be an overwhelming majority, of the manhood of Australia in favour of a certain reform, and, at the same time, having a constitution of such an unbending character that the reform cannot be accomplished. We know sufficient of the tendency of our race to know that they will not brook the withholding of reforms by reason of any rigidity in the constitution. We have always expressed our admiration for the British Constitution because it has been of such a character that it has adapted itself at all times to the circumstances of the people and to their growing aspirations. The amendments of one branch of the legislature in this colony have been largely fashioned as they have been simply because we have learned to regard with veneration and esteem that model, upon which our own constitution is founded—the British Constitution. There was, and there is, I admit, a desire here and it is not absent from the Convention itself—to have a constitution so framed that there will be power to bend, and not of necessity to break—so framed that there will at all times be an opportunity for the will of the people to find expression upon the statute-book. Now, I leave it to those who are in favour of the bill as it now stands to answer some of the objections which have appealed to the people of this colony; the objection, for instance, that state rights are not so radically involved in this bill as to necessitate the people's rights being over-ridden; the objection that the rule of the people by the states is not such an ultimate necessity as to render it inevitable that the rule of the people should give
way at all times. To answer these objections is the task which we have set to ourselves in this colony, and those members of this Convention who are in favour of the accomplishment of federation must answer them in a direction which will carry conviction to the minds of our people. I would say, in conclusion, that so far as the amendments in this bill, which have emanated from our local Parliament, are concerned, I regret to hear my hon. colleague, Mr. Wise, intimate that they are amendments of the enemies of the bill.

Mr. WISE:

I referred to the amendments of the Legislative Council; I did not refer to the amendments of the Legislative Assembly!

The Hon. J.H. CARRUTHERS:

I regret to hear that stated, because the amendments of the Legislative Council were practically word for word the amendments of the Legislative Assembly.

Mr. WISE:

Then I will say the same thing of the amendments of the Legislative Assembly!

The Hon. J.H. CARRUTHERS:

A charge of that character hurled forth in this colony is calculated not to allay those feelings of excitement and animosity which have been raised, but to call forth bitterness in the accomplishment of a purpose in which the greatest amount of tact and good judgment is necessary. I sat here in this Chamber during the whole course of the debates upon this bill, and I can tell hon. members that while many of the speeches were extravagant, when we came down to the question of amendments, the extravagance disappeared, and we had expressed in a concrete form the reasonable demands of those who represented the people of this colony. If we do not approach the consideration of those reasonable demands in a reasonable way, we are not smoothing the way of federation, but we are making it more difficult of accomplishment. I hope that the utmost generosity will be extended to the consideration of the suggested amendments, or if we have not the utmost generosity extended, I hope that the fullest amount of justice will be conceded to those who, in the performance of a parliamentary duty, have made those suggestions to the Convention. I would only like to add this: that I believe that the amendments will be considered in that spirit. I hope that in the course of the debates there will be a curbing of any expression of a desire not to accept them, or to exhibit impatience concerning them, because they are the suggestions of a minority. I hope that there will be some regard for the difficulties which the minority have
had to face, and that every assistance will be afforded by the use of those arguments which have carried conviction so many times to the minds of a majority of the members of this Convention.

Mr. GLYNN (South Australia):[5]

From the trend of the arguments up to the present of those who oppose the principle of equal representation, I think I am justified in concluding that the chief ground of their attack is from the point of pure principle and logic; in fact they apply the syllogistic method to the question of equal representation. According to the trend of the argument of Mr. Higgins, equal representation is unjust in principle, and dangerous in its tendency in a country where there are various states having a ratio of population varying from one to three five, or six. I would remind hon. members that the moment you begin to apply logic to politics, the moment you attempt to test constitutional or economic axioms or principles by the syllogistic method, you strike at the underlying and essential conditions of political, organisations and the relations of communities. Apply such a test to that combination of compromises and contradictions called the British Constitution. There is not a single principle, power, or tenet contained in or suggested by that combination of contradictions known as the British Constitution that can stand the strictly logical test. Take the power of the prerogative of the Crown. To push it to the extent to which it is recognised would be inimical to popular liberty. The power of the Lords, the necessary corollary of their recognition as an estate, cannot be justified, because it would be inconsistent with the principle of popular supremacy. That very principle of popular supremacy, embodied in the Commons, cannot be pushed to its extreme limit, because to do so would be to sweep out of the constitution as not merely useless but obstructive to the growth and play of popular power, the other estates of the realm. There is not a single principle, tenet, or power in the literature of constitutional relations that, considered merely apart from its objects and application, can survive analysis or be justified on grounds of abstract right. Nor, sir, is there a single constitutional principle that can be success

Mr. HIGGINS:

No; I said that the true principle was consolidation for certain purposes and severance for other purposes!

Mr. GLYNN:

I differ from the hon. member. I say it is a mixed principle in its organisation and a unification in its powers. In its essence it is a consolidation for all purposes. But, notwithstanding that admission, taking a strictly consistent position, I still say co-equal representation of the states
is justified as a matter of expediency and common-sense. The position I take, as a matter of principle, is this: that equal representation is justified in the case of a confederation. It is not at all justified in the case of a consolidation, but it is justifiable in the case of a federation, which is a consolidation having superimposed upon it the check of an upper house with equal representation. Why? Because you cannot bring about a large consolidation of peoples, all diverse in character, prejudices, and institutions, or a consolidation applicable to a very large geographical area so as to preserve interests that have local colour. The day of small states has gone by. Small states succeeded in the old world; but we know that states which are to succeed must be large ones, and, if we are to become an important nation, dominating affairs in the east, we must become a large state. The only states which can succeed according to the analogy of Europe are large states. For instance, there is the power of Russia, which is colossal, and overshadows the higher civilisations of the smaller political organisations on the western side of Europe. What does Mr. Seeley tell us? He points out that the ideal principle, the principle of the future, is extension, is that the larger states must dominate. He says the small states only succeeded when they were small states among small states. Athens fell as soon as Macedonia arose. We are endeavouring to build up a large state, a strong state, which will have by its magnitude some power to offer against possible aggression from the young giants in the north and the east—from Japan, which, in 1906,

will have an addition to its navy measured by an expenditure of £24,000,000. Then we have China, which has been slumbering for 2,000 years, but which, breaking the cake of its inertia, is now awakening to activity. That is a power which must become enormous as soon as the industries of the west are applied to it. We have both, these powers overshadowing us. We are in such a position that we must have a large state, and the only organisation possible is the federal organisation, which, as far as legislation is concerned, is unification. But, inasmuch as consolidation may result in inequality so far as local interests are concerned, we must provide some safeguard against their neglect. That has been shown in the case of Ireland. Inasmuch as she has interests with a certain local colour, although the lines of cleavage are not finely drawn, her interests have been neglected. It is, therefore, necessary to have this anomalous principle of; equal representation in an upper house somewhat emasculated in its powers.

Mr. HIGGINS:

If there were a federation of England, Scotland, and Ireland, you would
not need to have equal representation there!

Mr. GLYNN:
I say that history has shown us that we ought to have had equal representation in that case. It is the only safeguard against local interests being neglected owing to the enormous disparity of local representation in the popular house.

An Hon. MEMBER:
Ought not the majority to rule under any constitution?

Mr. GLYNN:
Must not the majority rule in the popular house? Do you mean to say that the British Constitution could ever be worked unless on that understanding? Do you mean to tell me that if the theoretical power of absolutely vetoing legislation by the House of Lords was ever exercised it would not destroy popular liberty, and will the hon. member say that there is the least danger of that? The Lords must go down as soon as there is are emphatic protest made by the Commons. The very same thing will occur here; it has occurred in America. The popular voice will eventually be heard, and my hon. friend's fears are utterly unsubstantial as to the possible coercion by the smaller states of the states which ought to dominate on the principle of gradual proportional representation. I will give out in one sentence what I take to be the distinction as regards this larger consolidation with the anomalous principle of equal representation in one house. Speaking generally, in an ordinary consolidation the principle of proportional representation is departed from to an extent necessitated by the existence of interests not necessarily dependent on population, and the greater the geographical area, and the more different the conditions of the people covered by a consolidation, the greater is the expediency, if not the necessity, for a departure from the principle of representation in proportion to population. Again, I would tell the hon. member that we are asked to go into a partnership, and we can dictate our own terms with states that have enjoyed this freedom up to the present.

The Right Hon. Sir G. TURNER:
"Dictate your own terms" is rather an unfortunate expression!

Mr. GLYNN:
Perhaps the right hon. member is perfectly right; one is too emphatic sometimes. This fact is undoubtedly before us: We are asked to go into a partnership, and these are the terms on which we will go in.

Mr. HIGGINS:
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Mr. GLYNN:
Does not the hon. member know that I voted with him when he was in a minority of three?

Mr. HIGGINS:
Not on this point, though!

Mr. GLYNN:
I know that the hon. member takes a very strong view on this point. States like ours, which are asked to go into a federation, are very largely imbued with the confederal idea, chimerical though it may be, as regards the effect a it, if fixed in the federation; that is, they are very largely imbued with the principle or the notion of state rights and will not come in under any other conditions. The hon. member referred, I think, to the case of the confederation of Germany, and be sought to discount the argument which had been urged in furtherance of the principle of equal representation by pointing to the analogy of Germany, where equal representation was not granted. From the point of view of historical prejudice, I may say that in Germany they have had proportional representation in the second house even from 1815.

Mr. HIGGINS:
There was no federation until 1870!

Mr. GLYNN:
There was an advanced form of confederation. The arrangement brought about by the Peace of Vienna, although it was called a confederation, was not, in the strict sense of the word, a confederation, such as the confederation which was formed in America in 1777. The arrangement amongst the North German states from 1815 to 1867 was a sort of federation, not as perfect as the one into which they were forced in 1871, but, nevertheless, one in which there was unequal representation in the upper house, or, as we call it, the principle of proportional representation. In 1867 we had the North German Confederation started on a new basis, and still they kept up the principle of giving Prussia seventeen members against a smaller number for Bavaria, and they grouped several of the other states in the Federal Council, which was one of the bodies of the parliament of Confederation of North Germany. Concurrent with that parliament there was the customs union of Germany, which dealt very largely with some of the financial matters which we are delegating to our parliament. This union was composed of two houses; there were the Federal Council and the Parliament of the customs union. In the Federal Council there was the principle of unequal representation kept up, or, as we call it, proportional representation. When Germany did come to a real federation in 1871, the historic, prejudices made for proportional
representation in the upper house, rather than against it. Therefore, any analogy from that point of view, at all events, is not applicable to the case before us. From the point of view of the dangers of granting equal representation, these dangers have never risen, with the exception of the imaginary case of slavery and the Civil War. There is no case in the whole compass of American history which the hon. member can cite, where, through the granting of equal representation, there has been pressure brought to bear on the larger states by the smaller states.

**Mr. HIGGINS:**

Would there be danger in granting proportional representation?

**Mr. GLYNN:**

Undoubtedly I think there would be, because you would always have in the lower house a majority composed principally of large states, and therefore you would have the possibility of special interests of particular localities, affected to some extent by a local colour being neglected or overshadowed. Assuming that there is not much danger on either side, I submit that history has shown us that you have not had oppression from the principle of equal representation, but you have had neglect through the absence of it.

**Mr. HIGGINS:**

Would you say that the people of Bourke ought to have the same voice as the people of Sydney?

**Mr. GLYNN:**

The hon. member again falls back on the logical basis for the justification of his position.

**Mr. HIGGINS:**

I must fall back on good logic as against bad logic!

**Mr. GLYNN:**

Yes, when your outworks are carried. We cannot apply strictly mathematical tests in politics. We are not dealing with the symbols of mathematics.

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The Hon. I.A. ISAACS:

Nor with the abstract entities of states!

**Mr. GLYNN:**

I quite agree with the hon. and learned member. I never took the position which has been assumed by many of the advocates of equal representation of sticking up this imaginary state entity. Where is the state entity? There are state interests which merge into the consolidation interests; but where in a federation are these so-called state entities? They do not exist except
on paper. If you look at the thirty-seven matters delegated in this bill to the federal parliament, there is no single one which can be put down as a confederal matter; but there are very many of them which have very large local colourings or tendencies being of more importance, but not of exclusive importance, in one state than in another.

Mr. HIGGINS:  
The hon. member is coming round to our side!

Mr. GLYNN:  
The hon. member need not have the slightest fear of my coming round. I took this stand at the beginning, and I take it now. I am endeavouring, if lie will pardon the paradox, by logic to show that logic does not apply. America has further shown us that they work under this principle both houses on a consolidation basis. Do we not know from Foster that up to 1828 the old confederal idea was very potent in America, that when the so-called tariff of abominations was introduced in 1828, the Senate absolutely stated that they opposed that tariff because their states told them that they must do so, as they were delegates, but that their convictions would have led them to the opposite opinion? Since then we know they have gone in for the consolidation idea, and that small states vote with large states, and so on. There is a general mixture with the lines not taking their directions according to the large or the small states.

Mr. HIGGINS:  
They vote now!

Mr. GLYNN:  
And that is what will occur here!

An Hon. MEMBER:  
And the better for the large states!

Mr. GLYNN:  
The hon. member has referred to some cases of disparity. I will give some cases of disparity of representation. I will tell the hon. member that the principle of proportional representation is not even approximately applied in these consolidations. Take, for instance, the German Empire. Out of fifty-eight members there are seventeen members for Prussia. On a strict population basis Prussia ought to have thirty-six members.

Mr. HIGGINS:  
That shows that the lion does not absolutely swallow the lamb!

Mr. GLYNN:  
We will leave the swallowing alone at present, as I am rather engaged in giving out. Prussia has one representative in the lower house for 1,800,000 of its population, while Schaumburg-Lippe has one representative for
37,000 of its population. There, again, the consolidation idea is not with mathematical accuracy applied.

Mr. HIGGINS:
I never urged that it should be!

Mr. GLYNN:
To show how poor this German analogy is—and I think it has been suggested by the hon. and learned member, Mr. SYMON, that Prussia practically forced in the smaller states—what do you find in the preamble to the German federation? Why, the smaller states are not even mentioned. They talk about an intended partnership between certain states, and they do not raise them even to the dignity of mentioning that they are parties to the Constitution. This is the preamble to the Constitution:

The kings of Prussia, Bavaria, Wurtemburg, the grand dukes of Baden and Hesse conclude an eternal alliance for the protection of the territory of the confederation, as well as for the promotion and welfare of the German people.

They do not even mention the smaller states. Further, I may state, to show there is no application of the analogy to that case, that in Prussia they vote by delegations. Though she has seventeen representatives, they vote in a block, though I think all votes count, which discounts the effect of their higher representation. Again, in a matter where a particular delegation is not directly interested, that delegation cannot vote. Therefore, we see with what safeguards the principle of proportional representation is surrounded in the second house. What we say is: "Go one better than that; give the principle of equal representation in the second house, and you will have a perfect safeguard to the application of the principle of population in the lower house," because, with communities like these, growing to enormous proportions hereafter, you may otherwise have the Smaller states completely overshadowed by the larger states.

An Hon. MEMBER:

Mr. GLYNN:
Of course, that points to the domination of Prussia—that Prussia forced them in, and said, "We are a military power; we are the people who beat Austria, and who carried to a successful conclusion the war against France." Prussia absolutely dictated the terms upon which the smaller states should come in, those smaller states having, in 1867, refused to come in. Again, as regards Prussia, it occurs to my mind that Prussia's larger
proportion of representation is partly the result of an aggregation of states. Prussia has been added to by several states being attached to her. The very fact that Prussia and some of the larger states appear in the preamble, and that some of the smaller states are excluded altogether; the very fact that Prussia at the time was the successful power, and that the smaller states came in, having in the past refused to come in—the very fact that the Prussian delegation has the final voice whenever there was a tie, shows that Prussia intended to, and must rule. It also shows that the military despotism of Prussia dictated the terms of this constitution. With regard to Switzerland, we have in Switzerland, Berne, with a population of 536,000; Zug, with a population of 23,000; and Uri, with a population of 17,284—each of which have only two members. Where is the population basis there? Sir John Downer has excellently pointed out what occurred in America—that where they had the opportunity of amending the constitution they did not amend it. I would go further and say that the very revolting states made equal representation in the second house the basis of their proposals. The very states alleged to be over-swayed by this principle said: "We will establish a new constitution and put that principle in it."

Mr. HIGGINS:

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Mr. GLYNN:

Do you mean to tell me, than in the face of substantial dangers, which resulted in a revolution, in this desperate war-do you mean to tell me that, simply for the sake of a paper principle, or consistency with precedent, they would keep up this dangerous principle of equal representation in the Upper House if they had not a substantial advantage? Men are not fools; they are not theorists. Soldiers, especially, are not men who are not likely to be called theorists. If they have to contend for anything at all, it is for the dogmatism of practical politicians. The federated states of America went one step further than that, because they gave the power of amending money bills to the dangerous house—a power which I would not give them. Every clause of the constitution, I believe, has been recast on the principle of allowing equal powers to the upper and lower houses; therefore there cannot be much danger in this bogey of the upper house. I have trespassed upon the patience of the Convention in favour of what is probably a foregone conclusion. I have done so, because, as Mr. Carruthers suggested, it is well to show that the principle of equality can be supported by something more than the vote of a majority; that its strength lies not in historic prejudices and numbers alone, but as well in considerations of expediency.

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and reason; that it has the recommendation of precedent and experience, of theoretical recognition and practical success; that it is the essential difference of the federal ideal a concession to the sense of nationality and the fear of subordination; and that without it you have unification under conditions that ensure its failure, or federation without an element that is a guarantee of its success. You will never get states in whom the sense and pride of independence is strong to enter without the pressure of some great emergency into a union that must extinguish their individualities. No vague consideration of material benefits can stand for an hour against the pride of separate life; can outweigh the love of personal identity, the prestige of nationality, that prejudice which is the inspiration of all patriotism, and to which what is best in a nation's records is so largely due. The recognition of this feeling is a prime condition of our union, and can be made without the least substantial danger to the real interests of the larger states.

The Hon. E. BARTON (New South Wales)[5.29]:

I do not think it would be a wise thing to obtain any division on this clause to-night. The discussion which has taken place since we sat in Adelaide has been so keen that the Convention owes it, in reason to those who have expressed their opinions in one direction or another, to deal with this matter in a deliberate way. Therefore, I would propose that we report progress and ask leave to sit again.

Progress reported.

RETURN.

The Hon. J.N. BRUNKER laid upon the table a return-made on motion by the hon. and learned member, Dr. Quick - showing the population and number of electors in each electoral district for the Legislative Assembly of New South Wales.

Ordered: That the document be printed.

Convention adjourned at 5.31 p.m.
Friday 10 September, 1897

Personal Explanation - Correction of Speeches - Commonwealth of Australia Bill - Papers.

The PRESIDENT took the chair at 10.30 a.m.

PERSONAL EXPLANATION.

Mr. HIGGINS (Victoria)[10.31]:

I should like to make a short personal explanation. I find that in this morning's newspapers there are several statements attributed to me which I did not make yesterday, and the like of which I did not make, and I feel it of importance that I should put myself right at this early stage of our proceedings. For instance, I am reported as having opened my speech by saying that I advocated proportional representation from the same motive as actuated the Legislative Council of New South Wales. Of course that gives point to an interjection of the hon. and learned member, Mr. Wise, that the Legislative Council of New South Wales voted for the proportional representation with a view to destroy federation. I think hon. members will recognise that I did not say what is attributed to me in this connection, nor anything like it. Of course I am referring now to the reports of speeches appearing in the newspapers, not to what appears in the leaders or in the crisp and clever articles giving an account of our proceedings. To them I make no objection, because I think that we are only fair game for criticism. I am also referred to as having said that the southern states of America revolted because of equal representation. I did not say that, or anything like it, though attributing such remarks to me gives point to the statement of Mr. Glynn as to why the states of the south adopted equal representation. I refer to these matters, because I feel that, as the public only get information of what takes place here through the newspapers, in my own interest, and in the interests of other members of the Convention, such grave misstatements-

The Hon. Sir JOSEPH ABBOTT:

I submit that the hon. member is now going considerably beyond a personal explanation!

Mr. HIGGINS:

Well, I have said all that I want to say!

The PRESIDENT:

I allowed the representative of Victoria the same latitude that I allowed on a previous occasion to another hon. member; but I would invite hon.
members to consider whether personal explanations ought not to be confined to matters which occur in this House, and that misrepresentations and mistakes in the press open rather too fertile a source of discussion.

CORRECTION OF SPEECHES.

The Right Hon. Sir JOHN FORREST (Western Australia)[10.33]:

I should like to draw attention to the fact that no proofs of the speeches made by me has ever reached me. Certainly in the report of debates which has been issued there is no room to make corrections, unless we tear out the pages or have a double set. It seems to me that the course of sending proofs for correction hitherto adopted would be a very desirable one to continue, otherwise I expect that no corrections will be made.

The Hon. Sir JOSEPH ABBOTT (New South Wales)[10.34]:

I should like to say with regard to the official report of speeches that the practice in this colony has always been to issue a proof copy of the Debates to members. If anything wrong is found in this proof copy the member complaining has the right to go to the Principal Shorthand-writer and have it rectified. With our Hansard staff we have never adopted the practice of submitting proofs of speeches to members for the purpose of correction. If any inaccuracy is found in the proof copy of the Debates now issued the member complaining can have it rectified by directing the attention of the Principal Shorthandwriter to the matter.

Mr. SYMON (South Australia)[10.35]:

Probably the practice to which the hon. member, Sir Joseph Abbott, refers has arisen from the fact that the Hansard reporting in this colony is positively admirable.

The Right Hon. Sir JOHN FORREST:

There were a good many errors in my speech!

The Hon. R.E. O’CONNOR:

The right hon. member sits right under the Hansard gallery!

Mr. SYMON:

Yes; the right hon. gentleman ought to come over to this side of the chamber. I only wish to pay my slight tribute to the fact that the official report here approaches as near perfection as a work of that kind can do.

The PRESIDENT:

I have no doubt that we all desire that in connection with an important gathering such as this every facility should be offered to representatives for the correction of their speeches, and no doubt arrangements will be made for the acceptance of any corrections which hon. members desire to make.

COMMONWEALTH OF AUSTRALIA BILL.

In Committee:

Clause 9 (The Senate).
Amendment suggested by the Legislative Council and Assembly of New South Wales:

Paragraph 1. Omit "six senators for each state, and each senator shall have one vote." Insert "members representing the states in proportion to their population. But no state shall have less than three senators. The senate shall consist of not less than forty members."

Question-That the words "six senators for each state" be omitted-again proposed.

The Right Hon. C.C. KINGSTON (South Australia)[10.36]:

I have no doubt that if the amendment were immediately put to the vote it would be rejected. At the same time I think that it involves, without doubt, the most important question that we have to consider, and I agree with the representative of New South Wales, Mr. Carruthers, in deprecating anything in the shape of undue haste. The financial question in its details may be more troublesome, but it does not involve so great a principle as is involved in the amendment. Further, whilst it has been said that we ought to treat the amendments of the various legislatures with great respect, this amendment, by reason of its origin, is entitled to the very greatest respect. It is presented to us with the endorsement of an overwhelming majority-I might almost say that it was practically carried unanimously-of the popular assembly of New South Wales, a body which has the right to claim to represent more than 1,250,000 of the people of Australia, which is more than one-third of the number of people who will be associated in the federation if our present proposals are carried out. I think our thanks are due to the hon. member, Mr. Higgins, for the lucidity, the courage, and the excellent temper with which he presented his aspect of the case to a somewhat adverse house, and I think also that we should not lose sight of the fact that not only has an amendment of this sort found practically unanimous support in the Assembly of New South Wales; but it has received very substantial endorsement at the hands of a considerable proportion, though not a majority, of the Assembly of Victoria. Under these circumstances it seems to me that it is important, if we are to negative the amendment-as I hope we shall-that we should at the same time give good reasons for doing so, reasons such as are likely to be accepted by the people of the larger states, who, of course, are vitally interested in the amendment proposed. In this connection I would not hesitate to recollect that my first duty is not simply, to the state which I have the honor to represent, but to the nation which is to be. I think that on a previous occasion some of us, honestly differing from the views of our colleagues, gave proof that we were prepared to
separate ourselves from our colleagues in the representation of a particular state to secure what we believed to be the interests of Australia at large. If the occasion arose for similar action here we should not be found to hesitate to adopt it. I might say, incidentally, that I intend to adhere to the vote which I gave in connection with the limitation of the financial powers of the senate. At the same time, I shall not be found recording my vote in favour of the amendment which is now proposed. I am addressing myself more particularly to the amendment suggested by the hon. member, Mr. Higgins, which is to dispense with the equality of representation of the different states in the senate and to provide for the recognition of extra population by increased representation. I am much concerned with justifying myself in this connection as regards the vote which I intend to give; and I propose to state a few of the reasons for the faith which is in me and which impels me in the action I take to-day. Firstly, I put it that no federation of the larger and smaller states is possible within a measurable distance unless you provide for equal representation of all in the senate. There is no room for doubt upon that point. I shall be told-in fact we have been told-by my friend, Mr. Higgins, that that is not a logical reason for opposing his amendment.

Mr. SYMON:

It is an effective reason!

The Right Hon. C.C. KINGSTON:

On a variety of occasions I have heard very excellent reasons given for pursuing what will be an acceptable course in the interests of the people rather than proceeding upon purely scientific and logical lines. No more illustrious example has been given than was afforded lately by the Right Hon. Joseph Chamberlain in the House of Commons when recommending for acceptance that magnificent reform, the Workman's Compensation Bill. When taunted with not pushing the principle to its logical conclusion in its extension to all sorts and conditions of men, he replied that it was his duty to propose that which was practicable under the circumstances, and not to risk the direct defeat of the reform which he was then attempting to effect, and which he was then able to carry out. Subsequent proceedings have justified his most sanguine expectations. He contended that he ought not to endanger that great reform by striving after something which he knew he could not carry. What is the position here? Is there one representative who seriously believes that if the larger states be given, not only proportional representation according to their population in the national assembly, the house of representatives, but increased numerical representation in the senate, federation will or can be accepted at
the present moment, or at any near date by the smaller states? Surely nothing of the sort can be expected. We have met from time to time for the purpose of devising a scheme that will be acceptable to all. How do you meet here to-day? We have equal representation in point of numbers. How are we ever to meet on dissimilar terms?

The Hon. I.A. ISAACS:

We are here to make a bargain!

The Right Hon. C.C. KINGSTON:

When has it been seriously proposed that we should meet otherwise than we do now? I have read with a great deal of interest the utterances of various distinguished representatives when before their constituents-and it was undoubtedly an advantage that they had an opportunity to consult the people on the matter-and I do not recollect that by any of them, take the head of the Government of New South Wales, for example-I may be wrong-it was put that not only should the larger states have increased representation in the house of representatives, according to their population, but that they should have it also in the senate. I think not. I think also as regards my right hon. friend, Sir George Turner, that he did not contend for any such position. Certainly the point was not very seriously or strenuously argued for at the last meeting of the Convention. I do not mind admitting to hon. representatives that I practically feel myself pledged by my declarations on this matter of the gravest principle, upon which I consider we have a right to expect a distinct pledge, to vote against an amendment of this sort and for equality of representation of the states in the senate. I feel that there is no reason for the shadow of a doubt that if this amendment be carried, we shall put back federation for years and years, and that is a responsibility I am not willing to undertake. I venture to think I should be false to my trust and undertaking, false to the pledges which I gave, false to my profession of interest in the cause of Australian union, if I were to do so. But I go a little further, and say that this is not a question of expediency - not simply a question as to what it is desirable to do for the purpose of securing the accomplishment of federation at an early date. Our position can be justified on higher ground. I take it that in a system of unification the states as such have no voice. In provincialism there is no provision for the representation of the nation; but in a federation a facile means is and ought to be provided, whereby under a system of two chambers, both voices ought to be heard - the voice of the nation and the voice of the states as different constituent entities; and no such right and power of audience, it seems to me, can be given effectually to the states unless you provide for their equal representation in
the senate. Personally, I have no fear of the permanent clashing of state interests on important national questions—no fear at all. At the same time, I am reminded of the position which was illustrated by the remark made by the brave captain of a ship when the vessel was labouring in a heavy sea off a lee shore. He was asked, "Have you any fear?" He said, "I have no fear; but there is some danger." Now, the reverse is the case with reference to the clashing of state interests on national questions. To my mind, there is no danger; but there is a good deal of fear. We have to allay this fear on the part of the small states before we can induce them to enter the federation. We can do that in a variety of ways; but the greatest means of all, and that to which most importance is attached, is that of equal representation in the senate. I will be no party whatever to the encouragement of a provision which will enable the states to permanently override the wishes of the people of Australia, as a whole, on great national questions. And, even with equal representation, it seems to me that you will be unable to get away from this position that the representatives of the great states, the most populous states, in the senate, though only, equal in number, if they faithfully represent the views of their constituencies, will and must speak with greater authority on account of the larger section of the community which they represent.

The Hon. J.H. CARRUTHERS:

They will not vote with the greater authority, though!

The Right Hon. C.C. KINGSTON:

They will not have a greater vote, but I am inclined to think that in whatever deliberative assembly you provide for, there will be a disposition on the part of each section of it to act in the interests of all.

Mr. SYMON:

They will exercise their individual judgment!

The Right Hon. C.C. KINGSTON:

And if the senators, say of South Australia, feel that the senators of New South Wales are truly voicing the views of the people of New South Wales in the senate in a matter of national concern I cannot help thinking they will, aye, and that they ought to, regard the expression of the opinion of such a great section of the people in a matter of Australian interest with a degree of authority which—though of course I do not suggest that they should subordinate their deliberate private judgment—they would not attach to, and could not attach to, the representatives of a smaller community. I put it also, therefore, that whilst senators from the larger colonies must speak with a greater weight on account of the greater constituency which they represent, if they faithfully represent it, that that is a sufficient reason why the greater states should be satisfied with their position in the senate,
and with the position also that in the national house, the house of representatives, the representation of the people according to their population will be provided for. I do trust there will be an endeavour on the part of the representatives of both the large and the small states to agree in this. I have tried so far as I could to weigh the matter well, trying, as we are all trying, to come to the conclusion as to what is fair in the interests of all-in the interests of Australia. I think we have given a very substantial concession to the representatives of the larger states in providing for preventing the interference of the senate in matters of purely financial and administrative concern. I ask the representatives to say that they will be satisfied with a provision of that description. The subject of this clashing I think can be further regulated by the limitation of the jurisdiction of the federal authority to national matters. Let us scrutinise as closely as we can the various powers pro-

posed to be conferred on the federal authority. Let none be given in which the will of the states as states ought to be supreme, but let everything be confided which can be better managed on behalf of all by one central authority than by the various provincial governments. Let us make the franchise for both houses as broad as possible; let us provide if we can for a uniform franchise. Just as you broaden the franchise, in the same degree that you effect uniformity, so you lessen the probabilities of any clashing between house and senate; because they will represent, practically, the same constituencies. Here I would like to say that I favour a proposition which will place it within the power of the federal authority to dissolve the senate as well as the house of representatives. I know that that will not necessarily be a solution for deadlocks. I do not think that we will often require a solution for deadlocks if you practically make the constituencies of the two houses alike in character. That will prevent deadlocks from arising. I cannot contemplate the probability-it might be possible-in national questions of some matter of considerable difference arising between a small state and a large one; but I think, if it is a matter of national concern, and properly confided to the federal authority, that a solution will be worked out under a parliament constituted as I have suggested, I merely indicate my intention to support any proposal for the power of dissolution of the senate which may recommend itself to me for the purpose of solving the question, which alone it can solve, as to whether the senate is in touch with its constituency; whether, as a matter of fact, it represents the people whom it is intended to represent. Under these circumstances I shall be found recording my vote against the amendment of the hon. member, Mr. Higgins. Something has been said about the
unpopularity of the American Senate. I have had some opportunities lately of acquiring information on the subject. I think there is no room for doubt that that Senate is not held in the same high esteem that it used to be. As far as I can form an opinion, it arises from two causes, both of which are provided against in our proposed constitution. Here I would like to say that not only have I acquired information at large, but I have had the opportunity of exchanging views with some of the highest constitutional authorities, amongst whom I may mention Mr. Bryce, whose work on the American Constitution has, I am sure, been perused with interest by most hon. members. One of the causes of the unpopularity of the American Senate is this, that it is not elected by the people, that it is chosen simply by the local legislatures. We propose to avoid all this. The result is, so I heard in America, that the local elections turn to a very great extent on the rival claims of senatorial candidates. Wealthy men-and we know full well how many wealthy men find a seat in the senate as a result-do not hesitate to spend large sums in securing the election of candidates to the local legislatures simply for the purpose of securing their vote and influence in connection with senatorial elections, and the result, undoubtedly, has been most disastrous; a mixing up of federal and state concerns in a way which is operating altogether to the disadvantage both of senate and of state. Mr. Bryce, in his work-I think it is in a note-calls attention to a feeling which has been growing in favour of the provision we have adopted. I was, happily, able to supply him with a copy of this bill, and to draw his attention to the provision we propose to make on that subject, and, after the most careful consideration, he was pleased to express his most delighted approval of it as a very substantial amendment, and one which would have been made years and years ago in America had it not been for the very great difficulties which were imposed in the way of any alteration of the constitution.

The Right Hon. Sir JOHN FORREST:
Does he believe in one electorate?

The Right Hon. C.C. KINGSTON:
I do not know that I directed his attention particularly to that; but he had the advantage of a perusal of the whole bill. I have received a letter from Mr. Bryce on the subject, which has gone to Adelaide, but which I hope to have in my hand shortly, and which I shall be very pleased indeed to place at the disposal of this Convention, and of the public generally, as I am sure that any expression of opinion from an authority of such acknowledged weight will be a substantial addition to our knowledge of the subject. The
other objection is that in the American Constitution the provision with reference to the equal representation of states applies not only to the states which were parties to the contract on which the constitution was founded, but also to new states, and the result is that in the admission of smaller states, and in view of the great growth of the population of the older states, the differences are most marked; marked to a degree which we might consider was not within the contemplation of the founders of the constitution. We are profiting by the mistakes of those who have preceded us, and no doubt representatives recollect that in this connection, whereas, as regards existing states, we can count them on our fingers, whilst we secure equal representation to them if they choose to come in, still we take and preserve, as we ought to do, the power and authority in the future of regulating on what terms new states should be admitted. I think in this respect also we are improving on the conditions which obtained in America, and we may be justified in expecting the happiest results. I think if we substantially retain the conditions as regards the senate in the state in which they are, we shall be adopting a plan which we can confidently recommend to the acceptance of the people of the various states. I am more than sanguine, I am positive, that if we adopt the amendment of our hon. friend, Mr. Higgins, however much we respect the motives which induced him to move it, and admire the way in which he has put it, we shall be taking a course which will set back federation for years and years, and I for one am not prepared to take that responsibility.

Mr. SYMON (South Australia)[11.5]:

I make no apology for following the right hon. gentleman, who is on the same side as myself, and a representative of the same colony as myself. Probably it will be difficult for any of us to speak at all on this subject if we wait until we find some preceding speaker taking the opposite view to that which has just been so ably laid before this Convention. I particularly feel that it is desirable that we should lay before the Convention, and before the people of Australia, our views on this subject, because it is the most vital question involved in the constitution which we are about to frame. It lies at the very root of the business on which we are engaged. The effort that was made to establish unequal representation at the Adelaide session met with little support, My belief is that it will meet with equally little support on this occasion; but, at the same time, I agree with what was so forcibly said by the hon. member, Mr. Carruthers, yesterday afternoon, that it is our bounden duty to make clear to the people of this country, particularly to those who may honestly differ from us in opinion, the reason for the faith that is in us, and our belief that whilst it may be a matter of expediency, whilst it is indeed an absolute necessity in order to
secure federation, and an early federation, it is also founded on what we believe to be right principle and just reason. I hold out no threat or menace of any kind. It would

I think, be idle to do so, particularly after the proclamation made by my Hon. and learned friend, Mr. Isaacs, at the banquet at the Town Hall the other night of the banns of a possible union between Victoria and New South Wales. I am quite sure that if that came about all of us would rejoice; we should say, "Bless you, my children." I do not know whether my hon. and learned friend had fixed the federal capital in this twinship of federation to be in Sydney; probably he had arranged that also, but whether that be so or not, I am quite sure that none of the smaller states are likely to disturb the serenity of any such federation if it were brought about unless upon the footing of equal representation in the senate. The Convention upheld during its Adelaide session the provision which is now being called in question, and on that occasion very few of us, indeed scarcely any, debated the question from the point of view that the smaller states take. At the same time I believe it would be a dangerous, and I think an unfortunate thing if we allowed it to be supposed throughout New South Wales and Victoria that we, in order to secure equal representation in the senate, were simply relying on the force of numbers. It would be disastrous. It might create a difficult, and a troublesome feeling to overcome, and for the sake of securing a sympathetic as well as a quick federation, we ought to submit our views, I think, in the fullest possible way. I do not quite agree with my hon. and learned friend, Sir John Downer, that equal representation cannot be defended on logical grounds or on principle.

The Hon. Sir J.W. DOWNER:
I never said that it could not!

The Hon. I.A. ISAACS:
It was Mr. Glynn!

Mr. SYMON:
I was under the impression that it was my hon. and learned friend Sir John Downer. The hon. and learned member, Mr. Glynn, I know, put it that there was no such thing as political syllogism, or put it in some such shape as that. It appears to me, and upon that I accept the challenge of my hon. friend, Mr. Higgins, that equal representation in the senate, if you are establishing a federation, is founded upon a v

Mr. HIGGINS:
Is equal representation to be passed like the forged note?

Mr. SYMON:
My hon. friend must sometimes have misgivings about the argument he
offers. Yesterday there was not that genuine and emphatic ring about his speech-although it was filled with chivalry and good nature-which we remember on the last occasion when the Convention met in Adelaide. I think he has occasional doubt-some misgivings as to the validity of his arguments; but there are times when he thinks them absolutely invulnerable, and then he passes them off upon us. For instance, my hon. friend is carried away by the phrase "one man one vote," and by what he calls the corollary—even the Attorney-General of Victoria smiled yesterday when that was trotted out again—"many men many votes." That is a very fine antithesis. It was served up to us hot in Adelaide; yesterday there was a slight want of freshness about it.

Mr. HIGGINS:
My words were in answer to the misleading phrase, "One man one vote, therefore one state one vote"!

Mr. SYMON:
May I suggest that a truer corollary of one man one vote than that put forward by the hon. member is one woman one vote. I commend that, at any rate, to the consideration of my hon. friend.

The Hon. I.A. ISAACS:
Does the hon. gentleman think that will bring about federation?

Mr. SYMON:
It may be that is the kind of union my hon. friend had in view in his great speech at the Town Hall the other night. At any rate, possibly we, coming from the more enlightened colony of South Australia, may be a little prejudiced as to that form of antithesis, but as the matter is one of highly debatable politics, I will say nothing further about it. My hon. friend interjected with regard to one state one vote. I will ask him, Are the states, in his judgment, to be represented in the federation? Ought the states, as states, to be represented in the federation? I am discriminating between the people and the states, and I ask my hon. friend: Does he concede that the states, as states, are to be represented in the federation?

Mr. HIGGINS:
Certainly not!

Mr. SYMON:
Then he is not a federationist at all. My hon. friend—and I do not blame him, I do not reproach him for one moment—is going for a unification.

Mr. HIGGINS:
It is a mere phrase, you know!

Mr. SYMON:
It is not a mere phrase—at least, we do not think it is a mere phrase. We
think it is a matter of very serious substance.

Mr. WISE:

It obliterates a lot of human nature!

Mr. SYMON:

What my hon. friend is going for is absorption. He is like that celebrated bird, the cassowary, which, it is said,

On the plains of Timbuctoo,
Ate up the missionary,
Body, bones, and hymn-book, too.

That is the position. He wants the larger states to swallow up the less populous. He wants absorption. Again, I say I do not blame him, for I am free to confess that, if it were possible, I should like to see a unified Australia-

The Hon. S. FRASER:

We had that years ago, and we did not like it!

Mr. SYMON:

If it were possible, I have no theoretical objection to it. I say that in order to show I do not reproach or undervalue for one moment the contention of any hon. member or any person throughout the length and breadth of Australia, who believes in unification. All I say is that is not what we are going to do. If we are going to have a federation, and if the states are to be represented, then I say that a man who discriminates between one man one vote and one state one vote, when the states are to be represented, is doing violence to the principles of democracy, which underlie the one proposition as well as the other. Then my hon. friend had a patent way of turning a minority vote into a majority vote, by taking five from the majority, and so converting the minority into a majority of one.

The Hon. E. BARTON:

With the same success which attended Paddy when he increased the size of his blanket!

Mr. SYMON:

I do not know what Paddy did with his blanket.

The Hon. E. BARTON:

He cut a piece off the top and put it on the bottom!

I thought that a most astute way of getting over the majority, and the effect of it. The hon. gentleman also dug up precedent, not with great success, I confess; but my hon. friend, Mr. Carruthers, objected to
precedent being dug up, and I do not wonder at it, if it were put to such base uses—base in the Shakespearian sense—as those to which Mr. Higgins put it yesterday. The way in which he treated the United States Constitution was almost a kind of sacrilege, to say nothing of the Swiss Constitution. He discriminated in the most singular way the Canadian Constitution and the Constitution of the German Empire. The hon. member dealt with the United States—the greatest of all federal constitutions—in a way which, I think, he will find the very greatest difficulty in justifying, either from constitutional writers in America or from American public men of any standing who are willing to express an opinion. We have had an example from the right hon. gentleman who has just sat down, as to what the view in America is with regard to the senate; and an illustration of that kind-of fact produced in that way—is worth pounds of mere declamation or assertion on the subject. But then my hon. friend, in addition to putting these so-called arguments, wound up by some utterly unsupported assertions, and called upon us to give reasons to the contrary. He was like a man who asserts that the moon is made of green cheese, and then calls upon all those who dispute it to prove that it is not. Even at the risk of accepting a position of that kind, it is, I think, my duty to point out to my hon. friend some of the authorities which should satisfy him—at all events, I am sure he will give them the weight of his acute mind—that equal representation in the senate is an essential of true federation, that it is a principle which we cannot ignore, and one which, though it may be departed from, still underlies the basis of any union of that kind. What we are doing is this: we are framing a "federal" constitution. We have no charge or duty to do anything else. The people of Australia may prefer unification.

An Hon. MEMBER:
They do not!

Mr. SYMON:
I say they may prefer it. They may prefer a loose confederation. That is not what they have said.

The Hon. S. FRASER:
They do not want centralisation!

Mr. SYMON:
No, I am sure they do not. But if they want either the one or the other, that is not what they have said in the enabling act, under which they have sent us here, and by the authority of which we sit. We are here to construct a system containing the elements both of unification and of a confederation, if we can. It is to be a union of people and an alliance of
states; it is to be federal; it is to be a national government with a federal union; and, in that respect, I wish to say that I do not agree with the proposition that federation is a compromise—not in the sense in which that expression has been used upon this particular question. I say that either equal or unequal representation is not a subject of compromise.

The Hon. H. DOBSON:

It is a principle!

Mr. SYMON:

Federation is only a compromise in this sense: it is a compromise between unification and confederation; but, once you reach that, then there is no scope for compromise in the principles which underlie the system which you are seeking to establish. My hon. friend, Mr. Carruthers, put it perfectly well, only he put it in the alternative. He said, "Is it to be a union of states, or to bind the hearts of the people." It is to be both—it is to be a union of states and to bind the hearts of the people. That is the answer to my hon. friend's alternative proposition; and it is in order to secure that result that, if we have two chambers, we must have one chamber in which the hearts of the people—to use that phrase—are represented, and another in which the states are represented.

The Hon. J.H. CARRUTHERS:

Suppose inevitable conflict occurs, what then?

Mr. SYMON:

I do not know exactly what conflict my hon. friend is alluding to, but very probably I will have something to say a little further on as to what I think is in his mind. What I want to do now is to refer my hon. friend, Mr. Higgins, especially, to one or two authorities, which should satisfy him as to equal representation being a principle in a federation. The learned editor of the latest edition of "Freeman's History of Federal Government" says:

The object both of ancient and modern federation was to provide that both each state as a whole and each citizen individually should have a voice in the federal assembly.

Mr. HIGGINS:

Who says that?

Mr. SYMON:

A most learned gentleman—Mr. Bury. I have no doubt that my hon. friend is aware of that, though he may have forgotten the name.

Mr. HIGGINS:

Can we learn what our federation ought to be from that book?

Mr. SYMON:
Where is my hon. friend going to learn what federation is unless he learns it from authorities on the subject? I can understand that he wishes to evolve some kind of federation out of his own inner consciousness.

The Hon. Sir W.A. ZEAL:

There is no precedent for the view of the hon. member, Mr. Higgins!

Mr. SYMON:

As the hon. member, Sir William Zeal, says, there is no precedent for the view of my hon. friend, Mr. Higgins.

Mr. HIGGINS:

And there is no precedent for equal representation with responsible government!

Mr. SYMON:

Now my hon. friend is putting his finger on a matter of the greatest importance as though it were a new discovery, but which in Adelaide we threshed out as exhaustively as we could, and which my hon. friend, Sir Richard Baker, now in the chair, dealt with thoroughly, probably long before my ach state as a whole and each citizen individually is to have a voice in the federal assembly, you concede the whole contest—there is an end of it as a matter of principle, because, as regards citizens, the representation must be according to the number of individual citizens, each having the same power—one vote. That, of course, is not always achieved, because one individual one vote to be perfectly scientific, ought always to have one value; but you get as near to it as you possibly can. Then, as regards the states, the representation must be according to the number of individual states. That principle of state equality was established centuries before the United States Constitution was ever dreamt of. I do not propose to deal with the matter academically for more than one single moment; but it is a most fascinating and interesting subject to trace the history of the early federations in Greece and their remarkable similarity to the United States Constitution. Since Mr. Freeman wrote his book—and this is the only academical quotation with which I shall trouble hon. members; but I do think that we ought to make it clear to the people of the country that there is some foundation for this, and it is from that point of view that I take the liberty of occupying the attention of hon. members with this—since Mr. Freeman wrote his book, some further discoveries have been made which have thrown a flood of light upon the principle involved in this question. At page 247 of the latest edition of his work on the history of federal government, there is this footnote:

In the Achaean Assembly, each city, great or small-
because in those days it was, of course, a federal league, not of districts or of countries, but of cities—each city, great or small, had one vote.

Mr. HIGGINS:
It was merely a league!

Mr. SYMON:
My hon. friend is talking without knowing anything at all about this particular subject. I wish to enlighten him if he will allow me; we are all capable of enlightenment:

In the American Senate, each state, great or small, sends an equal number of senators; but the votes are not taken by states—the two senators of a state may vote on opposite sides of a question like the two members for an English county or borough.

And upon this, at page 249, Freeman says:
Probably no two constitutions, produced at such a distance of time and place from one another, ever presented so close a resemblance to each other as that which exists between the Constitution of the United States, and the Constitution of the Achaean League.

But there is more than that. After the lamented death of Mr. Freeman, further investigation was made, and the learned editor discovered that not only in the Achaean League, but also in the AEtolian League, which was a federal league representing the people in the primary assembly, and representing the states in the senate—

Mr. HIGGINS:
What about the Lycian League?

Mr. SYMON:
Perhaps the hon. member will allow me to proceed. I dare say he is familiar with Greek.

The Hon. J.H. CARRUTHERS:
Before the flood!

Mr. SYMON:
I am not going so far back as that.

The Hon. A. DEAKIN:
Before the flood of democracy!

Mr. SYMON:
The learned editor says:
This being so, certainly for the AEtolian, and probably for the Achaean Senate, a parallel and contrast may be drawn between the federal assemblies of these old leagues and the federal assembly of modern Switzerland. The object of both the ancient and the modern federations was
to provide that each state as a whole, and each citizen individually should have a voice in the federal assembly.

The doubt was whether the senators were elected by the assembly in those early days or whether they were elected by the particular states. Since Mr. Freeman's death it has been discovered from an old Greek inscription that they were elected by the particular states just as we propose that our senators should be elected. In the appendix, page 651, we find these words:

We can say definitely in the case of the AEtolian League what could only be put forward tentatively in the case of the Accaean, that the senate consisted of representatives chosen by the states.

The Hon. J.H. CARRUTHERS:
What became of those leagues?

Mr. SYMON:
What has become of the United States? The United States has gone from small things to great until it has become one of the mightiest nations on the face of the earth under a federation including, as an essential part of its system, equal representation in the senate. What is the use of my hon. friend asking me, as implied in his question, whether these old Greek federations have not, like all things human, passed away? Of course they have. But they had elements of weakness which do not exist in a modern federation such as that of the United States of America. If my hon. friend puts the question to me, then I say to him, "Take the United States, and you have at any rate, a most valuable parallel, and you have the proposition, which I am seeking to establish, that from the earliest federation until the latest federation on true federal principles the states have had representation in what has been called the senate, and they have had equal representation per state. That is all I am contending for. But I want to go one step further. My hon. friend, Mr. Higgins, gave us the United States in support of equal representation. He would not give us Switzerland. My hon. friend, Mr. Glynn, has thoroughly disposed of his exception of Switzerland, and, therefore, it is unnecessary that I should travel over that ground. My hon. friend has shown that Switzerland, so far as equal representation is concerned, is identically on the same footing as the United States of America. But more than that-and this is the only observation with which I shall pursue the subject-the senate in Switzerland has what we have abandoned in the senate to be formed under our constitution. It has a voice in the choice of the federal council, which is the governing body in Switzerland. We have not got that. It appears to me that we have reduced our senate under the proposed federation to the barest necessities of the case. Still, I do not
pretend to be bound by precedents. I do not pretend that this convention is bound by precedents. We all represent what are really sovereign states-sovereign states in essence, if not in form-and we can strike out, if we please, an entirely new line. I thoroughly agree with my hon. friend in that. But it is instructive to have examples of other federations, and to fairly follow them, if we fulfil the federal theory, unless, of course, it can be shown that experience condemns them. Now, I have no slavish devotion to the Constitution of the United States. But what is said of that constitution in which equal representation in the Senate is a conspicuous feature? My hon. friend, Mr. Higgins, said it was not a success. Did he produce a single authority? Did he produce the considered judgment of a single constitutional thinker or writer to establish such a proposition? To follow such an example, he says, would be taking steps backward. Surely if it were bad in this particular respect we should have some one, some constitutional authority, to say so! On the contrary, we have the United States Constitution, containing this grave blemish, if my hon. friend's view is correct, spoken of by Lord Rosebery as "the matchless Constitution of the United States." We have it spoken of by Freeman, to whom my hon. friend pins his faith, at page 4, in this way:

The other two-

Meaning the other two federations of Switzerland and the United States—one of them among the least, the other among the greatest, of independent powers, still remain, exhibiting federalism in a perfect, or nearly perfect, form, standing, in the old world and in the new, as living examples of the strength and the weakness of the most elaborate of political combinations.

And at page 5 he says, again-and this is the last I shall quote upon this point from Freeman; there are scores of other passages, but hon. members would not thank me for reading them now:

The Achaean League, and the United States since the adoption of the present Constitution, are indeed the most perfect developments of the federal principle which the world has ever seen.

Surely, sir, that is some authority upon which we can go. Surely that is something which we can tell the people of this country is, at any rate, a fair foundation upon which our claim may rest. Putting Mr. Freeman aside, let us take what Mr. Justice Story says—probably one of the greatest constitutional writers who ever lived in the United States or any other country, and an authority whose value will not be questioned. He says:

The structure has been erected by architects of consummate skill and fidelity. Its foundations are solid, its compartments beautiful as well as useful, its arrangements are full of wisdom and order, its defences are
impregnable from without, it has been reared for immortality.

If we find a constitutional writer so full in his judgment, and in his heart, of this
great federal principle which we are now to some extent following, I think we may very fairly say that it is worthy of our imitation, as far as we can possibly adopt it. But it appears to me that the greatest tribute to that constitution embodying the principle of equal representation is that, though framed for thirteen states on the Atlantic seaboard with a population of something like 3,500,000, it has been found sufficient for forty-five states, with a population of more than 70,000,000, extending from ocean to ocean. It has been found sufficient to withstand the difficulties that arise in peace, and to resist the shock of the greatest civil war which the world has ever seen. Surely that is something on which we can rely. But in addition to that, the confederate states, as was pointed out by my hon. friend, Sir John Downer, yesterday, modelled their constitution upon that of the United States as a whole, and adopted the principle of equal representation in the senate.

Mr. WISE:
Every South American federation has done the same!

Mr. SYMON:
Yes, as my hon. and learned friend points out, every South American federation has done the same. But, what I want to suggest for the consideration of my hon. friend and others who fairly and honestly think as he does is, that we have the seceding states adopting the same principles upon which to construct their constitution, and the nonseceding or federal states retaining their constitution unaltered, or without any attempt to alter it in this particular, although to help them to scatter all difficulties in connection with the constitution to the winds, if they had chosen, they had not only the civil power, but the power resulting from the possession of a victorious army, and the conditions which always follow upon a great civil convulsion. They abolished slavery, which had existed under the constitution, and, if they could abolish slavery, difficult as it undoubtedly is to abolish these great evils once they are established, they could have abolished that principle in the constitution which, it has been stated, was the cause of the civil war—the equal representation of the states in the Senate. I deny that the cause of the war was equal representation in the Senate. Mr. Freeman lays special stress upon this particular aspect when speaking of the immortal work of Washington and Hamilton. He says:

The American commonwealth, with its manifest defects—and which human constitution is without defects?
still remains one of the most abiding monuments of human wisdom, and it has received a tribute to its general excellence such as no other political system was ever honored with. The states which have seceded from its government, which look with the bitterest hatred on its actual administrators, have re-enacted it for themselves in all its essential provisions. Nothing but inveterate blindness of party spirit-

I do not for a moment apply this to my hon. friend-
can hinder this simple fact

That is a quotation, and I hope it will be understood that it is within quotation marks. There is this further observation I should like to make. I do not say for a moment that the vast wealth and splendid progress which we have witnessed in the United States, with its unsurpassed enjoyment of peace and freedom, is due to its constitution, or to its form of government; but with all its defects, that constitution has been no hindrance to national prosperity. Therefore, I ask you, what warrant have you for saying that even if the equal representation of the states is provided for in our constitution it will impede the government, or for one instant, delay the prosperity of the people of Australia when they are united. My hon. friend said that the provision in the United States Constitution giving equal representation of states was a compromise. I have dealt with that statement. He also said that it was adopted with misgivings. But we were not told on whose side the misgivings were. The misgivings were on the side of the smaller states. It is an extraordinary fact, but it is true, that the states, afterwards the United States, some years after the war, were in a state of disorganisation, and, in some parts, in a condition bordering upon anarchy; yet that the Philadelphia Convention and the federal constitution were really the outcome of a desire to establish some better kind of trading system. Webster says that it arose in this way: The precise object of the appointment of the conference which took place at Annapolis, at the request of Virginia, in September, 1786, was to take into consideration the trade of the United States, to examine the relative situations and trade of the several states, and to consider how far a uniform system of commercial regulations was necessary to their common interests and permanent harmony.

Hamilton was one of the commissioners, and the conference, or commission, recommended the general convention which assembled at Philadelphia. It is no doubt true that there were disturbances in some of the states at the time; but it is not true that equal representation of the states was brought about in consequence of the enemy thundering at the gates of the United States. I ask, again, upon whose side were the misgivings? On
the side of the smaller states. Let me establish that by one quotation from a letter of the great Samuel Adams, who was a representative from one of the smaller states, opposed to the federal union, Massachusetts. Notwithstanding equal representation, they were afraid to join the federation. As the last speaker asked, whose fears have we to allay? Not the fears of the larger States; it is the fears of those whom we, coming from the smaller states, represent, the fear that they will be liable to coercion. This is what Samuel Adams wrote:

I stumble at the threshold. I meet with a national government instead of a federal union of sovereign states.

He wrote again to his friend Lee:

I have always been apprehensive that misconstructions would be given to the federal constitution, which would disappoint the views and expectations of the honest among those who acceded to it, and hazard the liberty, independence, and happiness of the people. I was particularly afraid that, unless great care should be taken to prevent it, the constitution, in the administration of it, would gradually, but swiftly and imperceptibly, run into a consolidated government, pervading and legislating through all the states, not for federal purposes only, as it professes, but in all cases whatsoever. Such a government would soon totally annihilate the sovereignty of the several states, so necessary to the safety of a confederated commonwealth, and sink both in despotism.

That is the evidence I have been able to find of misgivings in connection with this matter at the time of the inception of the federal constitution in America, and these misgivings were on the side of the smaller states. It has been said that the federal powers and duties are no concern of the states as states; that upon these subjects it is a unification that we desire. Instances were given. Laws affecting marriage and divorce and other subjects were mentioned. The simple answer to that contention is this: We are not committing these subjects of legislation to a national or unified government; we are committing them to a federal government. If, you do not give us equal representation in the senate and a true federation, we will not commit them. If we were prepared to commit them to a unified government, there would be an end to the matter; but it is of the very essence of the system we are seeking to create, and under which we are willing to come, that we shall have equal representation in the senate. Therefore it is begging, the question to say that these are matters of common concern and proper to be dealt with by the national rather than the state government. Then there is the objection as to the disparity of the populations. South Australia has over 350,000 people
or thereabouts, as against New South Wales with a population of 1,300,000. What is that? It is less than four times as many. But if you look to the other countries that are now existing under a federal system, you will find in the Swiss federation, Berne with nearly 600,000 people, thirty times the population of Zug, with equal representation, nearly forty times the population of Zurich, with about 17,000. Take the United States. In the state of New York, you have 6,000,000, and you have Nevada with 45,000, and Delaware with 150,000.

Mr. HIGGINS:
That is what they complain of!

Mr. SYMON:
I challenge my hon. friend to find one constitutional authority who condemns it. Let him find one. My hon. friend, speaking yesterday afternoon, referred in mild terms to some wretched magazine or other, in which some bitter opponent of the particular party in power, or some person who is, or was, strongly in favour of the arbitration treaty, and of course ready to condemn any one who opposed it, expressed himself. It is all very well to indulge in the loose rhetoric of political denunciation in regard to those opposed to you. We know what that means. It must be all taken with a discount. I have been unable to find-and I have devoted some research to it last night, after my hon. friend's interesting speech, which stimulated my powers of research-I have been unable, I say, to find, although I endeavoured to do so, any constitutional authority who condemned this principle of equal representation in the senate. I have been unable to find one. In regard to this very arbitration treaty, the hon. member quoted some expression about rotten boroughs and that sort of thing. But he did not say that one of the states who voted against it was the immense state of Illinois, containing the city of Chicago—one of the most populous, prosperous, and powerful states of the union.

Mr. WISE:
We have no evidence whatever that that treaty ever passed the House of Representatives?

Mr. SYMON:
There is not. And it must also be remembered that there is a function on the part of the Senate there which would not vest in the senate here—which is peculiar to the Senate as constituted in the United States—an executive function. Epithets such as "rotten boroughs" applied to states of smaller numbers is no argument whatever upon this question. The solution of the difficulty as to smaller states coining in at a later date is either that they should not be admitted, or that there should be a minimum of population in them upon their admission. I am not justifying that, but those are some of
the possibilities. You might either not admit them until they have a minimum of population, or you might admit them on terms, if it be thought just, which, while conserving the principle at the heart of the federal system, would also conserve the interests of those who already belong to the federation. For my part, I confess—and I was pleased to hear the remarks just made on the subject by one who has been so recently in America—I have never heard myself—and I have been in America, I have travelled through it, and taken advantage of the opportunity to communicate with men in political life—I have never heard an American express condemnation of the principle of equal representation in the Senate, or attribute to that condition of things the evils which afflict America, and which afflict other countries as well, tho evils incident, to particular forms of civil government. I have been informed on this point, that some of the ablest senators who have ever been members of the United States Senate, have come from the smaller states.

The Right Hon. Sir G. TURNER:

They would have come all the same had there been no equal representation!

Mr. SYMON:

I admit that equal representation does not necessarily bring good men; but my hon. friend's argument I understood to be that equal representation had a most deteriorating influence—that you could only get the best men by proportional representation, owing to the opportunities for greater corruption in the smaller states. Perhaps my hon. friend's argument did not go to that length, but that was the tendency of it. I do not wish to dwell on the instances given in support of the opposite view—it is of no moment that there are exceptions to the doctrine that the true principle of federation is equality. There may be exceptions; there may be departures. You may constitute the senate on any basis you please. The German federation is no example for us to imitate. All the so-called states in the Germanic federation were dependent principalities. They were not independent commonwealths, and therein lies the great difference between the two positions. When the German states federated, as one hon. member put it in an interjection, they federated at the point of the sword. Prussia was the dominant monarchy, and was able to do exactly what she pleased. She dictated the terms which she thought proper. Perhaps they were not just to the other states; but they were convenient and safe for herself. I remember hearing of a German colonel who, having had an argument with some one, on relating the incident to a friend, said, "I felt that the man was going to
convince me, and so I kicked him down stairs." That was just the case with Prussia. What would have been the fate of the minor states had they expostulated?

**Mr. HIGGINS:**

She took seventeen, although entitled to thirty-six!

**Mr. SYMON:**

It is true, as my hon. friend observes, that she took seventeen members; but she might have taken seventy-seven, and the other parts of the German federation would probably have had to give way, or get nothing at all.

**Mr. HIGGINS:**

According to population she was entitled to thirty-six!

**Mr. SYMON:**

But she did not take that number. She did not join the other states according to population; but she took what she pleased. It was the length of the Chancellor's conscience which me ted out that particular amount of representation, the Chancellor being, of course, Bismarck. We come now to the Canadian federation. That is no federation for us to imitate.

**An Hon. MEMBER:**

They have equality!

**Mr. SYMON:**

There was a kind of equality settled between two large states, and they gave equality to a certain group of states.

**An Hon. MEMBER:**

There was a common interest!

**Mr. SYMON:**

No doubt there was; but whether that be so or not, I do not suppose my hon. friend would apply the nominee principle to the senate of this country as it has been applied to the Senate of the Dominion. My hon. friend, Mr. Carruthers, in the exordium to his speech, dealt largely with the question of manhood suffrage and equal political rights. Those are not infringed in any way whatever. This question does not touch them. He asked whether they were expected to give up that for which they had been battling for years? "Never!" said he. "Are we to throw open the ports of this colony to influences degrading to our manhood and womanhood?" Who is asking you to do anything of the kind? That kind of argument is all very well, but it really has no more relation to the subject with which [P.299] starts here

we are dealing than Tenterden steeple has to do with the Goodwin Sands. My hon. friend then asked some questions. He asked the supporters of
equal representation, "Why desire this particular representation?" Now, I do not share my hon. friend's objection to precedent. I like to dig up precedent. My own vocabulary is poor-

**Hon. MEMBERS:**
Oh, oh!

**The Hon. J.H. CARRUTHERS:**
I do not like graveyards myself!

**Mr. SYMON:**
I am not about to give the hon. member a musty precedent; it is quite a recent one-as recent as February of this

**The Right Hon. G.H. REID:**
Is it Freeman?

**Mr. SYMON:**
No, it is not Freeman. Freeman was a historian, but the quotation I am going to make is from one who is an orator as well as a historian. He says:
Great confusion existed in the matter of the treatment by candidates of the senate and state rights, and he preferred to deal with them as two distinct matters, namely-the rights of the states in the senate, and state rights versus the federal powers.

Now that is a very excellent way of dealing with the subject, and I say amen to it. He was entirely in favour of equal representation of the states in the senate, and by popular election.

That is what we have got in the bill. His reason for conceding this--and this is the answer to the question--
was that at present each state had an equal voice in matters of federal concern-such as defence, tariff, posts and telegraphs, &c.; and they were only granting a continuance of power now existing by giving them an equal voice in the senate.

Now, I assent to that. I submit that answers the question which was put.

**Hon. MEMBERS:**
Author! Author!

**Mr. SYMON:**
My hon. friends are a little impatient. I submit that that is a complete answer to my hon. friend's question. The speaker then goes on to state most admirably the other view which we from the smaller states urge with all humility.

The alternative to granting this power would, he was convinced, mean that the smaller or less populous states, would refuse to federate, and by so doing they would keep that very power which some might protest against
but not destroy.

That is an excellent statement, and I owe my hon. friend, Mr. Carruthers, a debt of gratitude for it. He is the author, and in that declaration he has conclusively answered his own question. I know that my hon. friend who delivered himself yesterday of a powerful speech on this subject will say, because the view of course has been indicated this morning, that there should be some treatment in connection with deadlocks. That is a matter with which, no doubt, we shall have to deal before this Convention is very much older; but the question of equal representation in the senate is one thing, while the treatment of possible deadlocks is quite a different one. I am not going to deal with the deadlock question now; but I only add this in one word before closing, that the senate has also to fulfil the functions of an upper house. That I also commend to the people of New South Wales and Victoria, who may properly and naturally take the view if they choose of the hon. members who have addressed us, that this is an upper house in a sense. It is also to be a check, as all upper houses are, upon the representative chamber.

The Hon. S. FRASER:

They are both representative!

Mr. HIGGINS:

That is why all the tories go in for it!

Another Hon. MEMBER:

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Mr. SYMON:

If I thought that the use of the expression "upper house" was going to cause such a subdued disturbance, I would not have employed it. I would have called it the second chamber. But, at any rate, if it is to be a second chamber in any sense of the term at all, one would think-and I merely offer this as a suggestion-there ought to be some different character about it in some way or other so as to differentiate it from the other chamber, otherwise what on earth is the good of having it?

Mr. HIGGINS:

Just so; what is the good?

Mr. SYMON:

There is the advocate again of absorption.

Mr. HIGGINS:

The hon. and learned gentleman is using the most dangerous argument, one which will be used against his view!
Mr. SYMON:
I always like my hon. friend to point out my danger; but, as I am reminded from my right, a different character is given to it, because it is representative of state interests; that is the reason for it.

An Hon. MEMBER:
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Mr. SYMON:
Yes, it must exercise a revising function, and it is only because of that revising function that there seems to be an argument, and, I admit, a fairly strong argument, in support of something in the nature of a dissolution under certain conditions. I say nothing further about that now; but, at any rate, it is representative of state interests. It is the outward and visible sign of the autonomy of the states; that is what we are going to have unless this Convention breaks up federation by refusing to give it to us. Then it has been purged of every possible source of objection which exists to the senate of the United States. I believe, and I say this advisedly, that the bill, as it left the Adelaide Convention—there are matters which may have to be modified but as it left the Adelaide Convention, the bill was the finest and the most democratic instrument of federal government ever framed. We have taken from the senate their executive powers, their powers of dealing with treaties, and appointment to offices. All that I agree with. We have taken from them the power of dealing with money bills, and possibly this Convention may reaffirm its decision. When the time comes I shall intimate my own view, and I may, at any rate, say this much, that my view has undergone some change since the last convention, as to amending money bills. But we have also taken from it its voice in the choice of ministers which exists in Switzerland, and we have given to it that broadest of all, and best of all foundations, direct popular election. We must also remember that the senators are to vote individually and not as states. I think that is an immense safeguard. The six men who come from each state will exercise their individual judgment just as we in this Convention are exercising our individual judgment. I do not believe for one moment, I have not the least apprehension that there will be a combination of block votes of certain states against certain other states in this senate which we are about to create. I cannot conceive of matters which would bring that about. Slavery in the United States of America was a totally different thing; happily we are free from a bondage of that description.

Mr. TRENWITH:
Not quite!

Mr. SYMON:
I do not want to go into another matter of that kind. I may entertain views which may or may not agree with those of my hon. friend, but I do not want to go into what is a debatable subject, as to the labour conditions in this country at the present moment. But at any rate never we hope, never we believe, never as long as we have life and breath to keep it out shall we admit anything into these free countries at all resembling the condition of African bondage in the states of America.

The Hon. S. FRASER:
They will have to go to their constituencies every three years!

Mr. SYMON:
What are we offered instead of it? We are offered proportional representation. I venture to say that that gives away the whole position. It is a bastard and alien method of dealing with this subject. It must be either equal representation or representation as in the lower house according to population in its widest sense. I admit with my hon. friend, Mr. Carruthers, that we must talk, no matter what the provocation may be, with calmness and moderation with regard to the debates in the legislatures all of which we most highly esteem. There have been expressions which were not very kind towards us from the small colonies. We have been told in some of these whirlwinds of rhetoric that we were deserts seeking to be represented and not human beings. All I can say is that South Australia occupies as good a position as does this state. She is proud of it. She has done great public services. She has prosecuted gigantic national works out of her own pocket and at her own risk and responsibility, and if there is any colony which deserves to rank with the foremost states of this continent it is the colony from which we come. I have no indignation to express about it, but I think it is a pity that sneers are uttered against these smaller colonies, and when we are told that they do not represent individuals, and that the only centres of life and action in this country are Sydney and Melbourne-

Mr. HIGGINS:
Who said that?

The Hon. I.A. ISAACS:
No one has said that!

Mr. HIGGINS:
Who has sneered at the representatives from the smaller colonies, or said anything like that?

Mr. SYMON:
Does my hon. friend put that to me as though I were making the statement without authority? Shall I quote my authority?
Mr. HIGGINS:
It is a most unfriendly statement to say that any member of the Convention has sneered at South Australia!

Mr. SYMON:
Really my hon. friend does not give that attention which he usually bestows on matters of this kind.

The Right Hon. Sir G. TURNER:
It is as well to clear up the misapprehension now it has arisen and to say where it was said.

Mr. SYMON:
I do not think there is any misapprehension, if I may say so.

The Right Hon. Sir G. TURNER:
I think my hon. and learned friend's words were that he was referring to a statement made in this Convention!

Mr. SYMON:
If my right hon. friend says that he was under that impression I will accept it at once. I did not think they were capable of that construction. They were not intended to have it; but if any member of the Convention thinks that my language was capable of the construction which is suggested, then I at once correct it as I have done. I was not referring to any member of the Convention, I was referring to a statement made-

The Right Hon. Sir G. TURNER:
Outside the Convention?

Mr. SYMON:
I was referring to a statement made elsewhere, and only because of the appeal which my hon. friend, Mr. Carruthers, very properly addressed to us, to speak with calmness and moderation, notwithstanding the provocation to which we might have been subjected by members of houses of legislature when dealing with this question. I am quite willing to be to their faults a little blind, and to their virtues very kind. Therefore, I merely indicate the unhappy line which, was taken in some places, and I should be sorry, even in order to clear up a misapprehension, to mention any name.

The Hon. J.H. HOWE:
That is carrying out the scriptural injunction!

The Hon. A. DEAKIN:
What does the hon. member know about scriptural injunctions?

Mr. SYMON:
We always turn the other cheek.

An Hon. MEMBER:
Too much cheek!
Mr. SYMON:

My hon. friend knows best whether he has too much cheek. Is it that you in New South Wales want the federal capital to be in Sydney—is that what is tile matter? I have heard it said—it has been said to myself, "Give us the federal capital, and I will go for federation."

The CHAIRMAN:

Does the hon. and learned member think that this has anything to do with the question of equal representation in the senate?

Mr. SYMON:

I think so, sir; but if you, in that kindly way of asking me the question, really answer it yourself by putting it, I will not deal with the question of the federal capital, except to say this: that I do not wonder at it. I consider that Sydney—if my hon. friends opposite will not jump down my throat—is the metropolis of Australia.

The Right Hon. Sir G. TURNER:

After Melbourne!

Mr. SYMON:

But it does not follow that it ought to be the federal capital. As far as I am concerned, though I hope this will not be considered final, I should be perfectly willing to have federation with the capital in Sydney, if we could not get it without.

An Hon. MEMBER:

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Mr. SYMON:

It is a delightful place; but I do not deal with that aspect of it. All I venture to say is that I hope that the motives underlying the opposition to the contention that there ought not to be, equal representation in the senate, are founded upon such grounds as were' stated yesterday, which are really matters to be fully dealt with, as I am endeavouring to deal with them, and not upon indirect reasons. I thank hon. members for the attention they have so kindly given to me. I am sorry that I have trespassed so much on the time of the Convention—

Hon. MEMBERS:

No, no! Mr. SYMON: But I have sought, and I hope my hon. friend, Mr. Higgins, will believe me when I say that I have sought to meet the challenge which he naturally and properly directed
to those coming specially from the smaller states.

Mr. HIGGINS:
   It is the first real attempt to meet the challenge!

Mr. SYMON:
   I accept that as a compliment, at any rate, to my intention, whatever may be the success of my effort.

The Hon. E. BARTON:
   I have spent seven or eight years in meeting it in New South Wales, and if that is not complimentary enough to my hon. friend it ought to be!

The Right Hon. Sir G. TURNER:
   No wonder my hon. and learned friend is greyheaded!

Mr. SYMON:
   Possibly I may not be able to convince my hon. friend; at any rate, I have sought, as far as I could, to do so. My hon. friend, Mr. Carruthers, assures us, and asks us to, accept the assurance, that his desire is for federation. Let me assure him that I have only one political aspiration, and that is for the union of these great colonies of Australia. When the day of its accomplishment comes, I confess I shall walk with a prouder step on the soil which I love. To help to bring about that consummation, I shall concede much; I shall give way upon everything down to the bare essentials of our freedom and existence as a separate state, to which I humbly venture to think that equal representation is an essential. I ask my hon. friend, to register a like resolve, and I believe he will. As his heart is in the cause let him remember that any serious check to this movement now must be fraught with the very gravest disaster. Every year, I feel, will put us further apart. Generations may come and go before we shall be so near to union as we are now. By that time the years will have told their customary tale upon most of us. The marks which are made by the "slings and arrows of outrageous fortune" may have deepened into fatal wounds. If we are still here, our eyes and our energies may be dim. But the cause will not die. It will live, and it will be accomplished. Others will come after us greater than we as these colonies must inevitably be greater than they are now—perhaps wiser than we, possibly more earnest, and to them will belong the glory and the triumph. But, for myself, I would anticipate that triumph. Let us share the glory of what I conceive to be a godlike task. If we, assembled in this Convention, do our part I have no fear whatever, in spite of all apprehensions, that the people will do theirs. If we say "aye" the voice of the people will respond with a grand "amen" that will roll round the world, and so swiftly and surely will the harvest be reaped and the fruits gathered that the oldest man among us shall see it and rejoice.
The Hon. I.A. ISAACS (Victoria)[12.21]:

I thoroughly agree with the observations that have been made by several hon. gentlemen who have preceded me that the question now under consideration is one of the most critical points in our discussion, and I thoroughly indorse what was said by my hon. friend, Mr. Carruthers, that our decision upon this question is not to be arrived at hastily or by a mere wave of the hand. Its own inherent importance, apart from every consideration, is sufficient to justify that position. The fact that it comes to us under the sanction of one of the most important legislative bodies in Australia carries a weight that we cannot disregard, and what impels me at the present time more than any other matter to deal with it is this: that our determination upon this question may carry with it a determination upon other questions. I think I am justified at this stage of our deliberations in offering some views upon the matter, because, in the absence of the right hon. Premier of Victoria, it fell to my lot to conduct the federation debate through the Legislative Assembly of Victoria, and I wish to place before the Convention as clearly as I can the views which I think, and indeed feel with very little doubt, are entertained by the popular chamber of the legislature of that colony, and by the great majority of the people. When the question was under discussion I announced in no uncertain tones what I believed to be the resolve of the members of this Convention, and I stated—and hon. gentlemen who have, perhaps, followed the debates of the Legislative Assembly in the official record which has been forwarded to them will know—that it was not an easy task to obtain a vote in the Assembly of Victoria in favour of equal representation. Very little, indeed, would have sufficed to turn the majority the other way.

Mr. HIGGINS:

It was carried by the hon. member's influence!

The Hon. I.A. ISAACS:

It may have been my influence to a certain extent. I had to urge against what I believed to be the logical result, against what I believed to be the reason of the matter, the expediency of yielding by way of concession this doctrine of equal representation in the senate; but I wish to make it perfectly clear at the outset that had it not been well understood by a great number, at all events, of those who composed the majority that the principle was assented to, not as a principle in reality, but as a concession which would not carry with it the ordinary results of a principle, their votes would have been found registered on the other side. Speaking for myself I should have voted on the other side under those circumstances. I do not in the smallest degree depart from the opinions which I ventured to express at Adelaide. I stated there, and my opinion has only been confirmed and
strengthened by what has taken place in Victoria, both in the Parliament and in the press, that Victoria will not consent to equal representation in the senate if that principle is to carry with it the consequences that may be claimed to flow from it by those who advocate its insertion on the ground of principle alone; and unless it is accompanied by certain other provisions, which I believe will be consented to by this Convention, so as to secure in the last resort the security to the larger populations that they shall not be interminably outvoted by the smaller populations. Therefore, I desire to impress upon the Convention that they must not accept that vote of 45 to 36 as an indication in the smallest degree that the Victorian legislature-I am speaking now for the popular house-or the Victorian people assent to the doctrine, as such, of equal representation. Some of my hon. friends, more particularly Mr. Symon, have again ventured to assert here that the principle is defensible upon the ground of reason, and upon the ground of the inherent nature of a federation. I do not say for one moment that my hon. friend and those who think and speak with him, are not justified in maintaining to the fullest extent that opinion, or in regarding the arguments of the authorities they adduce as supporting them. On the other hand, I think it is beyond all contest that those who with myself regard that as a vicious principle, who regard it as indefensible on the ground of reason and of logic, and who, furthermore, regard it as branded with the disapprobation of history, are entitled to our opinion also. I should like to say, furthermore, that the principle of equal representation in the senate was never so well understood in Victoria as it is at the present moment. The debates in this Convention, the criticisms upon those debates that have appeared in the press, have been gradually, in my opinion, convincing a larger and larger area of our people that equal representation is not correct as a principle, and I very much doubt if, by any unfortunate mischance, which it is our duty to try, if possible, to avert, federation should not be accomplished on the present occasion, Victoria would never, after the expiration of a few years, consent to equal representation on any terms.

An Hon. MEMBER:

Nonsense!

The Hon. I.A. ISAACS:

I can assure my hon. friends that there is a continually strengthening feeling that it is not correct; and it does require-it did require, I know, in my case, and in that of some of my colleagues-a considerable amount, may I say, of courage, to place ourselves in opposition to a great number of men
of our own way of political thinking—our own supporters—men who are, perhaps, the strongest advocates of popular government that Victoria contains. I wish to say—and I may be permitted to any it now, once for all—that if my hon. friends who have cited precedent, who have quoted history, who have urged opinions of constitutional writers, in defence of equal representation as a principle, have done so in order to follow it up by insisting upon the logical consequences of that doctrine, then, I say to them that it is perfectly hopeless so far as our colony is concerned. I have supported equal representation, because I recognise, as a fact, that the smaller colonies so-called—the less populous colonies—will not come into a federation without it. I recognise that as a matter of fact; it is a political fact, and it is a fact that has the justification of expediency. I am prepared to accept that position provided that, on the other hand, hon. gentlemen representing other colonies are prepared to meet Victoria on terms on other subjects.

The Hon. H. DOBSON:

And yet the hon. and learned gentleman will not give us the logical consequences of it!

The Hon. I.A. ISAACS:

My hon. friend, by his observation, entirely justifies what I have just said. He demands from us the logical consequences of equal representation.

The Hon. H. DOBSON:

No, I do not. My mind is quite open on that point. I want to have federation, and I will take it at any price at which I can get it. I will take it at any price at which I can get it from the wisdom of this Convention, backed up by the common-sense of the people.

An Hon. MEMBER:

Perfectly safe!

The Hon. I.A. ISAACS:

I hope that my hon. friend does not feel that he has committed himself; but I cannot help observing that my hon. and learned friend, Mr. Symon, with the vigour which distinguishes him, put the whole thing in a nutshell when he said that equal representation in the senate is the one visible sign of the autonomy of the states. I venture, with great respect, to differ from him on that point. As I understand the matter, the visible sign of state autonomy consists in the reserved powers.
An Hon. MEMBER:
The states governments!
The Hon. I.A. ISAACS:
The states governments?
Mr. SYMON:
In the federation!
The Hon. I.A. ISAACS:
The states, as states, according to my view, have no place in the federation. We find, at the present moment, a host of authorities, powers, and jurisdictions, in the hands of the several states. We have come to the conclusion that a number of those powers, and authorities, and jurisdictions could be better wielded by some central authority—better than by leaving them under the control of the states—and we create, as we hope, a federal authority, not a state authority in any respect, but a federal authority—a national authority, I prefer to call it—to wield those powers and to exercise those authorities and jurisdictions, and leave the states as they now stand in respect of all other matters. The residuum of power is the visible authority of the states; and in the book to which my hon. and learned friend, Mr. Symon, referred—Freeman—is one sentence which I think contains the matter in the smallest compass and in the clearest words that it is possible to use. He says:

The state administration within its own range will be carried on as freely as if there were no such thing as the union. The federal administration within its own range will be carried on as freely as if there were no such thing as a separate state.

That is the doctrine of Freeman, and I cannot understand why it is being insisted upon that equal representation in the senate is to be regarded as any sign at all of state autonomy. The nearest approach to the preservation of the sign of state autonomy is in a confederation; but my hon. and learned friend must know that, even in the earliest form of confederation in America, though equal representation was given, the reason of it was not because the states were equal, but a very different reason. My hon. and learned friend, if he turns up a very recent work—"Foster on the American Constitution"—will find that even before there was a confederation—when the American colonies were dissatisfied with the British Government, and they met in their Continental Congress in 1774, their first resolution was in these words:

That in determining questions in congress, each colony or province shall have one vote, the congress not being possessed of, or at present able to procure, proper material for ascertaining the importance of each colony.

That was the reason, and Mr. Foster goes on to say:
The larger states were never able to procure an alteration of this rule. Then they had their confederation; and he says in effect—be does not use these words, but he says in effect—that the equal representation of the states in the senate has undergone a considerable modification. He tells us that, though there has been no need of its interposition to protect the smaller states from any encroachment by the larger states, until the Civil War the Senate was more conspicuously the guardian of state rights in general. I am not going to take up the time of the Convention by making long quotations; but he goes on to point out that the senators from the various states regarded themselves as ambassadors from sovereign powers rather than as members of a federal legislature. However, he also says:

These doctrines are now abandoned.

So that, if my hon. and learned friend goes to the very root foundation of this question, he will not find its insertion in the American Constitution based on any ground of principle. The truth is that the American Constitution—I desire to place this clearly before the Convention—the American Constitution is recognised to-day by their foremost political writers—I way mention Mr. Macy, who has just published his work on the English Constitution, and in that compared it with the American Constitution—that the American Constitution of to-day is not the same constitution in substance as that which was originally passed—that the whole flood of judicial decision and official administration, and the whole trend of political thought, and, most of all, that great convulsion, the Civil War, have led to, in many respects, an entirely different view of the American Constitution. He points out that the American Constitution has developed from a mere gathering of so-called sovereign states united under what was then understood to be a federal constitution into what has gradually become to be looked upon more and more as a national state. We have been asked to produce the opinions of leading constitutional writers in America. I can assure hon. gentlemen that the prevailing opinion, the growing opinion of American writers and American politicians, is that the federal authority is becoming greater and greater, that the development of the American Constitution since the Civil War has taken a turn that never was anticipated, that those eloquent words of Mr. Justice Story, which were quoted by my hon. friend, Mr. Symon, and which were written, I think, some two or three years before the Civil War—

Mr. SYMON:
They are repeated in the latest edition!

The Hon. I.A. ISAACS:
But Mr. Justice Story has not lived to write any new edition. There was one in 1858. At all events, the words written by Mr. Justice Story were written not in anticipation of that terrible convulsion that we know of as the Civil War; and the very words that my hon. friend read—how do they look in the light of subsequent events? Absolutely falsified. How has the constitution affected all the peace, the quietness referred to in those words of Mr. Justice Story? It is idle for any gentleman to quote a constitutional writer before the Civil War, because the later writers, and notably one whom I shall quote, Dr. Burgess, who has written as late as 1895—these writers have told us in the plainest possible manner what is now the trend of the American Constitution. The hon. member, Sir John Downer, I think hardly treated Mr. Higgins well yesterday. He said that my hon. friend, Mr. Higgins, had entirely given himself away by admitting that federation was a compromise. Is not the argument of nearly every hon. member of this Convention that the whole of this constitution must be founded on compromise? If it were not to be founded on compromise with regard to, equal representation, the Victorian delegates would have a very short task indeed, and I think the New South Wales delegates, many of them at all events, would be in the same position. But most of all did my hon. friend, Sir John Downer, bring forward an argument which, while possessing, as all his arguments do, great power, was lacking in one thing. He said that if the American Con-
stitution was so faulty in regard to equal representation, would it not have been changed at the termination of the Civil War, when the northern armies, victorious and irresistible, were in the field? I ventured to interject at the time that the one provision in the American Constitution which is substantially unalterable, because it requires the consent of every state, is the provision preserving equal representation in the senate.

Mr. HIGGINS:

And that is in the bill here!

The Hon. I.A. ISAACS:

Therefore, the hon. member will see that, in that respect, his argument was not as cogent as his arguments generally are. Let me take the hon. member a little further, and ask him to carry his mind back to what that irresistible army was established for; and let me point out to him that the American Constitution, with all the boasted elasticity referred to in those eloquent words of Mr. Justice Story, was unable to stand the strain of a people determined on having greater freedom than they had hitherto enjoyed.

Mr. SYMON:
It did stand the strain, and emerged from the fire triumphant!

The Hon. I.A. ISAACS:
Was the army to destroy the constitution it was sworn to preserve?

Mr. SYMON:
To amend it!

The Hon. I.A. ISAACS:
Will my hon. friend permit me to proceed to show that his observations are not justified by history? We know perfectly well that under the terms of the American Constitution no amendment can be made unless certain conditions are complied with, the only one material to this being the consent of three-fourths of the legislatures of the states. The Civil War was the final outbreak of a gathering and growing feeling of antagonism that had prevailed almost from the inauguration of the constitution. Contests had been waged in the courts between the national party and the state party. Degrees of nullification had taken place in some states, and the federal army had been called upon to assert the federal jurisdiction and authority. The matter reached its climax when the Civil War broke out, and then for the first time—I believe for the last time—the American nation met the confederacy on the field of battle. The confederacy fell, the nation emerged victorious. But it was necessary in order that the fruits of that tremendous contest might be preserved that there should be an amendment of the constitution. Without the seceding states agreeing, or a sufficient number of them, that amendment was impossible. In 1866 the Congress passed the 14th amendment of the constitution, giving to the negroes the right of the suffrage, providing that certain confederate leaders should not hold certain offices either in the federation or in their own states, and providing certain other things regarding the debts. The Congress sent that amendment to the states for ratification. The seceding states, strong in the literal construction of the constitution, refused to ratify it—defied the federal government. What was done? Was the constitution strong enough to stand the strain? Was the constitution so elastic as to provide for such a matter? Certainly not. Congress then passed, on the 2nd March, 1867, what is known as the iron law. They divided the "secessia," as it was called, into five military districts. They place a commander over each, and they told the southern states that until they did ratify that 14th amendment they should have no representation whatever in the Congress. There was the irresistible argument that the hon. member, Sir John Downer, referred to. And in order that the necessary provision might be made so as to maintain the Union rather than the paper constitution, the Congress went further. It laid down no a condition that conventions should be held in those rebellious states, that they should pass new
state constitutions, that they should elect new state legislatures, which legislatures should ratify the 14th amendment.

The Hon. R.E. O'CONNOR:

The same force might have been used to bring about proportional representation!

The Hon. I.A. ISAACS:

Not so easily. Let me take the matter a little further. The district commanders under military control had the supervision of registration of elections, and other matters connected with it, in their hands; all but three of the states—Virginia, Mississippi, and Tennessee—ratified under these compulsory conditions. The constitution was literally fractured under the power of that conquering army. In July, 1868, three-fourths of the states had, according to the decree of Congress, ratified, and it went into operation. Even then the three states I have mentioned were not admitted to any representation in Congress until they had ratified the 14th amendment, and another amendment, the 15th, which had been forced upon them. I appeal to my hon. friend whether history does not confirm the view we take that the constitution, unless it is so framed as to give full play to the will of the people as it may be expressed at any particular time, is not liable to such convulsions as may imperil the very existence of the state. We do not want such terrible convulsions here! Heaven forbid they should ever come near us! But we want to make the danger of equal representation, unless this principle is counterbalanced by such other provisions in the constitution as may avert anything like the consequences that history, if we were not blind to it, tells us have occurred in the United States, perfectly clear. It is all very well for hon. gentlemen to go back to the views of the Philadelphia Convention, to bring forward the letter of the American Constitution—the bare words of that constitution. We must go further than that. We must not be deaf to the voices of the orators, the statesmen, the judges who, from time to time, have gone on and interpreted that constitution, and have to a very great extent changed it from the mere form and letter in which it was first cast, and brought it into the condition in which it is to-day. Let me, as I promised to do, read what that learned writer, Dr. Burgess, says on this subject at the present day—

The Hon. R.E. O'CONNOR:

What does the hon. and learned member intend to quote from?

The Hon. I.A. ISAACS:

Dr. Burgess, as hon. gentlemen know, has written a very instructive work upon the constitution. In the Political Science Quarterly Review, volume 10, pages 408 to 418, will be found some of the extracts which I intend to
read. I do not intend to read all that is printed on those pages; but at page 416 of this very fine essay, on what he calls the "Ideal American Commonwealth," he says:

The language of the constitution of 1787 may be construed, and I think should be construed, as changing a confederacy of sovereignties into a national state with federal government, that is with a system of government in which the powers are distributed by the national constitution either expressly or impliedly, specifically or generally, between two sets of government organs, largely independent of each other. Yet, on the other hand, it may be construed with much show of logic as having simply substituted the people of the several states for their legislatures, that is for the organic bodies in the confederate constitution of 1781. A very large portion of the population of the whole country at one time - and for a long period a large majority of the population - held this latter view. Even now it is possibly held by a majority of our people.

But I think this theory is now wholly erroneous. It will not fit the facts of our history since 1860. Those facts can be explained only upon the theory that federalism with us now means a national state, with two sets of governmental organs, largely independent of each other, but each deriving its powers and authorities ultimately from a common source, namely, the sovereignty of the nation.

And this conception of a governmental system I claim to be purely an American product. It is, however the true ideal of federalism, and all other nations must, I believe, ultimately come to it. It reconciles the imperialism of the Romans, the local autonomy of the Greeks, and the individual liberty of the Teutons, and preserves what is genuine and endearing in each.

Hon. members do not need me to remind them that the two sets of governmental organs referred to are, the federal government, having charge of those matters which are of common import, and the state governments, which have charge of matters which are purely provincial. At pages 408 to 410, Dr. Burgess says:

I do not think that it need be feared that the doctrine of the sovereignty of the several states will again seriously threaten this development.

The Civil War fixed the principle of our polity, that the nation alone is the sovereign, that the nation alone is the real state. We do still hear, indeed, the phrase "sovereignty of the states within their respective spheres": but this only signifies that we have not yet invented the new forms of expression to fit the new order of things. All that we can now mean by the old phrase is: that realm of autonomy reserved to the states by
the sovereignty of the nation declared through the constitution.

While I admit most unaffectedly and most unfeignedly that opposite opinions, supported as they are by many learned writers, are entitled to the greatest possible weight, I think I have said enough to convince hon. members that the opinions we venture to support are the views entertained by later writers and statesmen. As Professor Macy, whose work I heartily commend to the perusal of hon. members, points out, the idea of democracy is of modern origin. We know perfectly well that democracy was unknown at the time the Federal Constitution of America was formed, and that some of the men who framed that constitution had strong leanings towards a monarchical system of government.

The Hon. J.H. Howe:

How could democracy be unknown to them, when the constitution declares all men to be equal?

The Hon. I.A. Isaacs:

I am sure that the hon. member's reading must have led him to the perusal of numerous passages in various works which should have convinced him that democracy, as we understand it to-day, was totally unknown then, and that the founders of the American Constitution feared democracy. No one could peruse the debates of the Philadelphia Convention without being convinced of that. We had men there saying, "What have the people to do with this matter; it is dangerous to trust the people with this power?" If they were so democratic, and did not fear the people, why was it provided that the senators should be elected by the state legislatures? There is no room for doubt on the subject, and, to repeat a quotation which I made use of on a former occasion, the fathers of the American Constitution feared democracy. No one could peruse the debates of the Philadelphia Convention without being convinced of that. We had men there saying, "What have the people to do with this matter; it is dangerous to trust the people with this power?" If they were so democratic, and did not fear the people, why was it provided that the senators should be elected by the state legislatures? There is no room for doubt on the subject, and, to repeat a quotation which I made use of on a former occasion, the fathers of the American Constitution, in their fear of arise of democracy "ate sour grapes, and their children's teeth were set on edge." There is no doubt that if they could have risen thirty years ago, and seen the work that the doubts and difficulties of their constitution have produced, they would have been appalled. What they did, as the hon. member, Mr. Higgins, so ably put it, was to make the best constitution under the circumstances, and a marvellously good constitution it was under those circumstances. Their duty and their plain desire was to get the best constitution they could under threatening circumstances, and leave the consequences to be worked out by those who came after them. Massachusetts, great state that it was, received the constitution-how? It accepted it by only 187 votes to 168. One of the greatest American statesmen who ever lived, John Quincy Adams, tells us in words of almost living fire, that it was a constitution "wring from the necessities of a reluctant people."

[The Chairman left the chair at 1.1 p.m. The Committee resumed at 2
The Hon. I.A. ISAACS:

My hon. friend, Mr. Symon, dwelt at considerable length upon the fact that no complaint whatever had been made by any persons or writers with regard to equal representation. My researches have brought to my knowledge a good many observations made in public journals, and in various recognised works on the subject which, to my mind, tell distinctly the story that there is a great and growing dissatisfaction with the principle of equal representation—certainly not to such an extent as exists with regard to the mode of election of the Senate, and some other matters. I shall not attempt to detain the Convention with any number of extracts, but I shall refer to two recognised writers, whose writings I think distinctly point in the direction I indicate. One is Sir Henry Maine—an undoubted authority. He points out that which is not generally recognised—that this doctrine of equality of state representation in the Senate is not at root equality, but is inequality. He takes the trouble to point that out in at least two places in his valuable work on popular government, and at page 186 he says:

The Senate of the United States is in strictness no more a democratic institution than is the House of Lords. As I shall point out in the following essay, it is founded on inequality of representation, not on equality.

He does point it out in the following essay. A reference is made to the subject on page 227, where he says:

It is very remarkable, that the mode of choosing the Senate finally adopted did not commend itself to some of the strongest minds employed on the construction of the federal constitution. Its first article provides, in section 3, that the "Senate of the United States shall be composed of two senators from each state, chosen by the legislatures thereof, for six years." Hence it follows that the Senate is a political body of which the basis is not equality but inequality. Each state elects no more and no fewer than two senators. Rhode Island, Delaware, and Maryland have the same representation in the Senate as the great and populous states of New York and Pennsylvania. The constitutional composition of the Senate is, therefore, a negation of equality.

Mr. MCMILLAN:

Does he condemn it?

The Hon. I.A. ISAACS:

I think he does; he points out that it is an inequality and therefore an injustice to allow the smaller populations to have the same voice in taxation matters as have the larger populations.
Mr. MCMILLAN:

He is a very conservative writer!

The Hon. I.A. ISAACS:

He is; and, therefore, his testimony upon this point is so much the stronger, because that admission has to be made. An American writer, Professor Alden, in an essay-"The World's Representative Assemblies of today"-to be found in the "John Hopkins' University Studies for 1893," vol. xi, page 61, writes in these terms:

As the states of the American Union vary greatly in population, the disproportionate representation of the minor states-notable even at the adoption of the constitution-has become excessive. In Nevada 21,000 persons are represented by a United States senator; in New York nearly 3,000,000, a ratio of 1 to 40. These are extremes. In Wyoming and Idaho a senator's constituency is 30,000 to 40,000; in Pennsylvania, Ohio, and Illinois it is 2,000,000 to 3,000,000.

This gentleman, therefore, does refer in terms of, I should think, disapprobation to the disproportionate or, he calls it, excessive representation in some states as compared with the representation in other states. Therefore, I think I am justified in the observation I made in the course of the hon. member, Mr. Symon's, speech that there were writers who did look upon this principle with disfavour. I have referred to an English writer, and to an American writer. I know that the hon. member contemns newspaper articles, and in a speech which I had the honor to deliver in Victoria I did refer to newspaper articles with which, however, I will not trouble the Convention now. This question, however, seems to be dealt with at some greater length than I anticipated would have been the case, and I should, therefore, think myself wanting, since we are on the subject of

equal representation being a legitimate principle in itself or a mere concession, if I did not refer to two authorities, with one of whom hon. members are more or less familiar, and with the other of whom they are, perhaps, not so familiar upon the federal theory. I should like, however, before quoting them, to draw attention to one very important circumstance. It is conceded by a majority of the Convention, at all events it is embodied in the 114th clause of the bill it has adopted, that future states entering the federation shall be put on terms which will not give them equal representation in the senate. If that be so, and if they are to be admitted into a federation so-called without equal representation, what becomes of the argument that equal representation in the senate is essential to a federation?

The Hon. H. DOBSON:
The clause is a mistake—it ought to come out of the bill!

The Hon. I.A. ISAACS:
What becomes of the argument that equal representation is essential to a federation under these circumstances? Does it not at once dispose of the argument that equal representation of all the states is essential to such a form of government?

Mr. SOLOMON:
That clause contemplates the subdivision of existing states rather than new states!

The Hon. I.A. ISAACS:
It cannot contemplate the subdivision of states; it may contemplate the subdivision of existing colonies, and it contemplates more than that. It contemplates existing colonies without subdivision entering into the commonwealth after its establishment. It contemplates the contingency that there may be some colonies which will wait and see how the commonwealth progresses before they decide to cast in their lot with it. It contemplates their waiting to be certain whether the commonwealth is going to be a success or a failure, and allowing other states which are willing to join the federation to take all the burden of the first few heavy years of its existence. And then it says both to those states who stand out and which afterwards wish to come in and also to future states that may be created—

The Right Hon. Sir JOHN FORREST:
Where from?

The Hon. I.A. ISAACS:
By subdivision or it may be from elsewhere.

The Right Hon. Sir JOHN FORREST:
As existing at the time of the establishment of the commonwealth!

The Hon. I.A. ISAACS:
No; the hon. gentleman is not quite accurate in that respect; but it contemplates either of these cases being met, and the commonwealth being able to say to them, "If you wish to come in, we are perfectly willing to admit you; but upon terms, both as to representation in the legislature and otherwise.

The Right Hon. Sir E. BRADDOCK:
Clause 114 says nothing about admitting new states!

The Hon. I.A. ISAACS:
It does not perhaps use those precise words, and I may not have conveyed my meaning to the right hon. gentleman. What I mean to say is that it contemplates the existence at some future time of states that may not have equal representation in the senate.
The Right Hon. Sir JOHN FORREST:
   Not existing states!
The Hon. I.A. ISAACS:
   Yes, certainly; existing colonies which do not enter into the commonwealth at the time of its establishment.
Mr. LYNE:
   Supposing Queensland comes in afterwards!
The Hon. I.A. ISAACS:
   Of course, that is a case in point. The only colonies that will be named in clause 114 are colonies that do not come in at the time of the establishment of the commonwealth, which have not adopted the constitution. It is the same principle; the idea is right; the existing colonies which have not adopted the constitution.
The Right Hon. Sir JOHN FORREST:
   Queensland is named in the interpretation clause!
The Hon. I.A. ISAACS:
   Will the hon. member permit me to say that I am perfectly right in what I am stating. The clause says:
   The parliament may from time to time admit to the commonwealth the existing colonies of-
   I hope there will be none to be named, but there may be some to be named. For example, and I hope no exception will be taken to the statement, Queensland and Western Australia may be admitted afterwards.
Mr. LYNE:
   Or New Zealand!
The Hon. I.A. ISAACS:
   Yes, New Zealand. Very well, supposing they are named, it will be in the competency of the commonwealth, after its establishment, on the application of any of these colonies, to admit them into the commonwealth as states, and to admit them upon terms, which terms may or may not include equal representation or the reverse. Therefore I say, if that should be so, we will have in the commonwealth one, two or three colonies without equal representation in the senate, and yet admittedly forming part of the confederation.
Mr. WALKER:
   It is the original states that require equal representation!
The Hon. I.A. ISAACS:
   No doubt, but the new states may or may not have that equal representation. Therefore, my point is, if there be states that come in on these terms, which may be of such a nature that equal representation is not
guaranteed to them, we should have a confederation of states, some with equal representation among themselves, and others with less representation. Therefore, how can we say that federalism has as one of its essential points—that is one point without which federalism cannot exist—equal representation of the states.

Mr. SOLOMON:

Is that not an argument for amending clause 114?

The Hon. I.A. ISAACS:

It is an argument to show that the majority of this Convention do not believe that equal representation in the senate is essential to a federation.

The Hon. Dr. COCKBURN:

It is a principle that is departed from!

The Hon. I.A. ISAACS:

I am only pointing out that if this clause is retained, and I believe it must be retained—and it is only fair to retain it—it brings us back to our original contention that equal representation is to be assented to, not as a principle, but as a concession.

An Hon. MEMBER:

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The Hon. I.A. ISAACS:

It may be one of the terms; but the principle and the argument are the same. It is not equal whether it is larger or smaller.

Mr. SOLOMON:

It may not be!

The Hon. I.A. ISAACS:

Therefore it seems to me that that very principle disposes of the argument that it is essential to federation. If we turn to the recognised authorities, we have Mr. Dicey on the constitution supporting my position. What does he say is the fundamental idea of federalism? He says in his "Law of the Constitution," pages 131-132:

A federal state is a political contrivance intended to reconcile national unity and power with the maintenance of state rights.

These state rights of course hon. members will see are those which are conserved by the constitution to the states separately. He goes on to say:

The end aimed at fixes the essential character of federalism. For the method by which federalism attempts to reconcile the apparently inconsistent claims of national sovereignty and of state sovereignty consists of the formation of a constitution under which the ordinary powers of sovereignty are elaborately divided between the common or national government and the separate states. The details of this division vary under
every different federal constitution; but the general principle on which it should rest is obvious. Whatever concerns the nation as a whole should be placed under the control of the national government. All matters which are not primarily of common interest should remain in the hands of the several states.

Then he goes on to refer to the preamble of the Constitution of the United States, and he quotes it. He says:

The tenth amendment enacts that "the powers not delegated to the United States by the Constitution, nor prohibited by it to the states, are reserved to the states respectively, or to the people." These two statements, which are reproduced with slight alteration in the Constitution of the Swiss Confederation, point out the aim and lay down the fundamental idea of federalism.

So, according to his view, the fundamental idea of federalism does not consist in having in the federal sphere two houses based on different foundations, but in having the powers and jurisdictions and the subject matter so divided that one part belongs entirely to the national sphere and the other part to the separate state spheres.

The Hon. A. DOUGLAS:

No, they overlap!

The Hon. I.A. ISAACS:

Perhaps the hon. gentleman does not agree with the writer.

The Hon. A. DOUGLAS:

I agree with him, but not with the hon. member! The Hon. I.A. ISAACS:

The other reference I shall make is to a speech made on a memorable occasion by Lord Carnarvon, when he introduced the British North America Act for the establishment of the Canadian federation. Hon. gentlemen will find it in a book now in the library, "Wheeler's Confederation Law of Canada," published in the present year, page 169. I am quoting from the book which gives the speech:

Referring to the distribution of powers, he said:- I now pass to that which is, perhaps, the most complicated and most important part of this measure, the distribution of powers between the central government and the local authorities. In this, I think, is comprised the main theory and constitution of federal government. On this depends the principal working of the new system; and the real object which we have in view is to give to the central government those high functions and almost sovereign powers by which general principles and uniformity of legislation may be secured on those questions that are of common import to all the provinces, and, at the same time, to retain for each province such an ample measure of municipal
liberty and self-government as will allow, and indeed compel, them to exercise these local powers, which they can exercise with great advantage to the community."

I quote these high authorities to show what their view of federalism is. They may be right, they may be wrong; but I do claim this from the authorities I quote—that the later thinkers, the later writers, the later speakers, and authorities, both in politics and out of politics, are those who express the opinion that federalism consists in dividing the powers and authorities into two distinct portions. On one side we have the federal, the national, sphere, and on the other we have the state sphere, and neither must intrude into the other.

The Hon. Dr. COCKBURN:
The whole tenor of Dicey is against the hon. member!

The Hon. I.A. ISAACS:
What I have stated is the true doctrine of federalism. I admit that it is a bargain. I admit that you can have federalism which does depart from that true principle. I think in this federation we must depart from that principle. I will not go so far as my hon. friend, Mr. Symon, who says "It is my only political ambition," but I do distinctly say that the highest political aim I have is to see Australia united in one national government. I am entirely amongst those who desire—and I say it with all the earnestness and sincerity of which I am capable—that we shall have at the earliest possible moment an Australian union. And to gain that I am willing, I am eager—I will go as far as that, because I know that without it it is impossible—to make known my view, and to concede equal representation to the less populous states. I have fought for that under very great difficulties; I am prepared to fight for it again. I want to assure hon. gentlemen from the less populous states that our strong desire in Victoria is that the federation of Australia shall be complete, that we shall have the whole range of the Australian colonies amongst us from the very beginning. We desire that earnestly; we are prepared to make sacrifices for it; but I want to remind hon. gentlemen that it is no use telling us, when we urge some of our views, that we are playing into the hands of the enemies of federation, because they look only, as it appears to me, when they make that observation, at their own colony. They forget that there is a great body of public opinion in Victoria which, if we do not gain from the smaller colonies the same consideration as we are prepared to give them in this respect, will decline to have federation. We are going to help them to get it. But what we desire is to get a federation which will carry out the very first words of the preliminary resolution which was carried at Adelaide-to
enlarge our powers of self-government. I have no fear about equal representation, accompanied with the safeguards I desire. I do not even go to the length that some of my hon. friends do; but I will apply in this respect the observation of my right hon. and learned friend, Mr. Kingston: "There may be no danger; but there is a considerable amount of fear." I will apply that to what I am now saying, as he applied it to what he was saying this morning, and you have to make allowance for that, just as we are making allowance for the fact that, no matter what my hon. friends from the smaller colonies may think, no matter how, like the hon. and learned member, Mr. Glynn, they may admit that logic will bring them to our view, their people will not enter into this federation without equal representation; so in Victoria, we have a large, and I believe an overwhelming, body of public opinion, that will not enter into a federation unless we have a fair consideration in other respects shown to us.

An Hon. MEMBER:

The Hon. I.A. ISAACS:

My hon. friend's opinions are always entitled to respect, and I am always ready to yield that. He will have an opportunity of expressing his opinions. I am expressing what I think is the state of opinion in Victoria. I have always played with cards on the table; I have never concealed my opinions. I have never endeavoured to twist them for a particular moment, and hon. members know that I expressed in Adelaide the same views as I am expressing to-day, and they have been strengthened and confirmed by what I have learned since. Therefore, having that great aspiration, of which we may all be justly proud, that we want a federation of Australia at the earliest possible moment, I do ask of my hon. friends from the other colonies, when we come to the later portions of this bill, when we come to the questions which will present themselves as to the powers of the senate, and as to the means of settling deadlocks, that they will recognise in their turn what we are recognising on our side now, that without conciliation, without compromise, without recognising and allowing, for the great body of public opinion amongst the populous colonies, federation will be impossible.

Mr. WISE (New South Wales)[2.26]:

I only continue this debate because I agree with what fell from my hon. friend, Mr. Carruthers, that it might be to the interest of Australian union in this colony if the Convention did not appear in any way to slur over the discussion of this matter. But I candidly confess that, in my view, it is a discussion which appears to be more suited to a debating society than to a
serious political Convention, because I regard the equality of Austra
lian states—and I limit my remarks to Australia—as one of those essential
political facts which we ought no more to be called upon to justify than we
are called upon to justify the principles of Magna Charta, or of trial by
jury. I feel very much inclined to treat the arguments that have been urged
with great force, and in a most interesting fashion, against equal
representation as that great moralist, Dr. Johnson, treated the arguments
which were urged against free-will, when he settled that interminable
metaphysical controversy in the single sentence—"Sir, we are free; and there
is an end on't." I would say, as to this political controversy, "We are equal,
and there is an end on't." I quite recognise that it is conceivable to base a
federation on a different theory; that, as my hon. and learned friend, Mr.
Isaacs, said, "You might have a federation in which it would be agreed that
on certain matters there should be a complete unification, whereas on other
matters there should be absolute isolation. I recognise freely that there may
be a limited unification for certain subjects, and as regards those subjects a
complete unification; but I decline to discuss these wire-drawn theories of
political philosophers. We have to deal with facts as we find them to-day,
and it is because to-day we are equal, because these states leave a separate,
independent, national existence, that we come to deal with this question of
federation on the basis of the facts as they exist. I really regret, if I maybe
allowed to express my own opinion, that the views contended for so ably
by the hon. and learned member, Mr. Isaacs, did not find favour in Victoria
in 1851. I deeply regret that his predecessors in office did not then take the
view that he and his supporters take to-day, that for certain municipal
purposes there should be a complete independence, and separate action of
large states, and that for the larger matters of common concern the two
States should be united. If that view had been taken in 1851, Victoria
would be to-day a part of New South Wales. But I have always understood
that that on which Victorians pride themselves more than anything else was
that they, achieved a separate and independent national existence by their
separation, which they celebrate every year, I believe, by a national
holiday. It is because Victorians do not appear to me to bear in mind that
the smaller states have exactly the same feeling with regard to their
absorption by larger states that the Victorians themselves had in 1851 when
they were a small state, that they fear to go into a union even for limited
purposes. The smaller states fear to go into a union for the limited purposes
contained in this bill, which will place them completely at the mercy of the
larger colonies, even though one of the larger colonies be New South
Wales, which has always shown them a more sympathetic countenance.
than has Victoria. There is this further fact: that no single movement
towards the achievement of the Union of Australia has ever been made
except upon the assumption of the equality of the states. Every conference
that has been held to deal with federal matters has proceeded upon that
basis. The larger state has had no more voting power than the smaller in
dealing with any matter affecting the Post Office, the tariff, or defence.
There has not been a gathering of the states for any purpose whatever
throughout our history that has not given equal voting power and equal
strength and influence to the largest as well as the smallest state of the
continent.

An Hon. MEMBER:
   Take the Federal Council Act!

Mr. WISE:
   Yes, take the Federal Council Act. Each state has equal voting power
under it. Take the very act under which we sit. It provides that each colony
shall send an equal number of delegates

here. In other words, it provides for equal representation. I am very glad it
does. If it did not, we should be entitled to ten delegates and Victoria
would only be entitled to nine. I believe the hon. member, Mr. Higgins,
occupies upon the Victorian list the same position as I occupy on the New
South Wales list. He was last on the list. If it had not been for the equal
representation which was agreed to in the Federal Enabling Act we should
not have had the hon. member, Mr. Higgins, sitting amongst us. I regret
that he should have turned with such unfilial ferocity upon a principle to
which he owes his existence here. I contend that we, summoned as we are
to consider what is to be the constitution

[P.316] starts here

for Australia. We are not making a constitution for Utopia. We are not
making a constitution for the United States, and I decline to follow
altogether Mr. Higgins or Mr. Isaacs in their new reading—very new reading
I may say—of old history. We are dealing with facts as we find them,
recognising that in every movement towards union, in every expression of
its public opinion, each state now has an equal voice with every other, and
we are met to ask all the states to surrender some of their equality. It seems
to me that when we make that demand we are all justified in saying, "We
will surrender some portion of our equal power, but we will not obliterate
our separate national identity." There is only one way I know of by which
the effective voting power in each state as a separate national identity can
be preserved, and that is by giving each state representation as a state. If I
am asked on what principle I justify that, I retort with another question,
"Upon what principle do my friends justify the proposal that there shall be proportional representation in both houses?" I have read the speech of Mr. Higgins, and I have listened to the speech of Mr. Isaacs, and I notice the very large phrases about the power of the people, and the absolute right of the majority to prevail; and I apprehend that they justify their demand for proportional representation on the ground of the absolute right of the majority to rule in every case. I deny that the rule of the absolute majority has ever been a principle either in the British Constitution or in any of the constitutions of these colonies. It is not the prevailing principle to-day in Victoria. It is not the prevailing principle in New South Wales or Tasmania. If it were, Sydney and the county of Cumberland would return to this parliament more than one half of the representatives of New South Wales.

Mr. HIGGINS:

Does the hon. member propose that Bourke should have the same representation as Sydney?

Mr. WISE:

No; but what has been acted upon in this colony and in every other colony is that where you have different districts and separate local interests, those districts should be represented irrespective of the fact that they contain a minority of population. I care not for the theory which says that the majority ought always to rule. My answer is, that the majority, as a fact, does riot rule, and, personally, I think it is far preferable, within certain limits—based on the good sense of parliament and of the country—that different interests should have a separate representation, irrespective of population. I do not know how it may be in Victoria, but I do know that the divergence of interests between Sydney and the country is a constant source of conflict in this colony. I am told that there is the same divergence of interest between Melbourne and the country districts. I wonder whether Mr. Isaacs or Mr. Higgins, when they go back to Victoria, will urge throughout the country districts of that colony the absolute right of the majority to dominate over the minority. Could they urge to the farmers and to the inhabitants of the country districts that because there is a larger population in Melbourne than in any other quarter of the community, therefore there should be no representation according to local districts, that the vote should be taken all through the country as one electorate, in order that the overwhelming concentration of population in the city should have power to override the wishes of the minority. Would they tell the electors in Melbourne, "you are bond slaves; you are serfs to the minority; you are the majority in Melbourne, yet, owing to your absurd
electoral system, which does not give one man in Melbourne the same voting power as is given to one man in the country, the majority is ruled by the minority."

Mr. SYMON:

It is not one vote one value!

Mr. WISE:

It is not one vote one value, and it ought not to be, and no one wishes that it should be in local politics. Why, then, do we ask for it in federal politics? We have adopted an electoral act which goes nearer to one vote one value than the electoral act of any other of the colonies; but even then we have given a different quota for suburban and city districts than we have given for the country districts.*

An Hon. MEMBER:

Are the interests of the several states different in respect to the subjects of common import?

Mr. WISE:

No; I think they are exactly the same.

An Hon. MEMBER:

Then the analogy does not apply!

Mr. WISE:

I think the demand for proportional representation which is being made now is exactly equivalent to that demand which has always been raised in our local parliament, that the town shall dominate the country. I believe the resistance to proportional representation arises very largely from the fact that the smaller colonies are agricultural, pastoral, or mining communities, with no large city populations. They see with the utmost clearness that if proportional representation is acceded to, they will be, in federal matters, as completely at the mercy of the large urban populations of Sydney and Melbourne, as they decline to be in their local affairs to-day. It is the old controversy between town and country in a new form; and that is why I do not apprehend great difficulty in carrying this bill past the criticism of its opponents and ensuring the support of the popular majority in this colony. The moment it is perceived that equal representation means an assurance to the country districts—to the agriculturists, pastoralists, and miners of the whole of the continent—that they shall not be dominated by city populations who have little knowledge of their wants or little sympathy with their local interests.

Mr. HIGGINS:

It can be all met in fixing the districts!
Mr. WISE:

What I wish to make clear is this: that the so-called small colonies—only small in population—are small in population because their interests are chiefly agricultural and associated with country pursuits. The colonies of Victoria and New South Wales are large because we have two great concentrated city populations. I, for one, think it would be a misfortune to put the control of the destinies of Australia completely in the hands of the city populations of Melbourne and Sydney. I am sure, when this matter is properly understood by the country voters, not only of this colony but of Victoria, this demand for proportional representation will greatly lose its strength, and they will see that their interests are bound up with the maintenance of that which the smaller states are now insisting upon: equal representation of each colony in the senate. It is said that there might be no diversity of interests

* Note by Mr. Wise on revision:-Omit "given a different quota for suburban and city districts than we have given for the country districts," and insert "in fact, differences between the numbers of electorates in order to secure adequate representation of local interests."}

between the small states and the large states. I think that there is a diversity of interests, as I have already pointed out, but I agree with my hon. friends in thinking that that diversity of interests will not under any system of equal representation break out into open conflict between the small states and the large states. There is a diversity of interests which needs protection; there is not any diversity of interests which is likely to lead to conflict. It does seem strange that the statement that there should be no diversity of interests comes from those who insist that there is a danger to the large states from conceding to the small states equal representation in the senate. If there is no conflict of interests between the small states and the large states, what have we to fear—we who represent the large states? If the small states have no interests different from those of the large states, how inconsistent it is to argue that there will be a combination of the small states against the large states?

Mr. HIGGINS:

What have any of the small states to fear?

Mr. WISE:

I do not think they have anything to fear; but they have something to guard—something to guard, which, despite criticism and theories, is perhaps more precious to them than logical consistency. They have to guard their own historic identity, for which they care perhaps more strongly than we do, because such feelings are more strong in small communities than in
large ones. They care for their provincial history, and take pride in their past, and, therefore, they decline to come into a union if they have to give up powers to such an extent that they will be altogether merged in communities in which their own identity will be obliterated. When the hon. and learned member, Mr. Isaacs, remarked that later speakers were insisting that federation consisted in dividing the powers and authorities-I think I am quoting his words exactly-into two distinct portions, and, therefore, that it was in no way inconsistent, as a matter of principle, to urge that the states a clear and broad line drawn between those matters and the matters left to the states, I admit that there would be no state interests to conserve, no possibility of any conflict arising. But has any such measure ever been drawn, has anyone ever proposed it? This bill certainly does not make that line of demarcation clear. It does not make it impossible that there should be any matters of states, as states, which should be affected. We have a clause in the bill which has been copied from the American Constitution-a most valuable one, without which federation would be incomplete-a clause providing the federal parliament with power to regulate the commerce. The hon. and learned member, Mr. Isaacs, knows very well that it is that clause which has given rise to more disputes between the commonwealth and the States as states than any other clause in the American Constitution. I think that the state of New Jersey, for example, has been five or six times in the Supreme Court, suing officers of the federal government, or being sued by them, in order to assert those state rights which it claims-sometimes successfully and sometimes unsuccessfully-are being infringed by the action of the federal parliament.

An Hon. MEMBER:

Mr. WISE:

I admit that. I am only pointing out that if it were possible to draw a clear line of demarcation between those matters on which we were to unify and those matters distinctly conceded to the local government, I would admit at once that there would be no state interests to be conserved. But as the bill now stands, I think it is undeniable that there are certain interests of the state, as a state, which May be affected under the bill.

The Hon. I.A. ISAACS:

Incidentally!

Mr. WISE:

Incidentally-sometimes very, seriously. If there are, there is something
more than mere sentimental historic justification with regard to the states being equally represented. If they are not represented in that way, they have no effective means of making their voice, as states, heard. It is idle to say that a state which has two representatives in a senate composed of thirty-six members, and has seven representatives in a chamber composed of eighty members, has any effective voting power in either house. I grant fully that the representation of opinion by the representatives of each state does not necessarily ensure that those views shall prevail, and that those opinions could be equally well represented by one representative as by six. But there can be no doubt that in the popular imagination-and, this is a matter in which we cannot afford to overlook sentiment, or in which we can appeal only to pure logic and reason-there can be no doubt that in the popular imagination the effective voting power of six men representing a state, when they are equal in number to the representatives of any other state, is likely to carry far more weight than the vote of two in a house of thirty-six.

The Hon. I.A. ISAACS:

It would not be two in a house of thirty-six!

Mr. WISE:

I am assuming they are not equal, but proportional. Finding that the states are equal to-day, and that they are unwilling to surrender their equality, is there any method—a practical question we have to deal with—of recognising that sentiment, which, whether well or ill founded, exists? It is that of giving some form of representation to the states as states. I do not know that either the hon. member, Mr. Higgins, or the hon. and learned member, Mr. Isaacs, would dispute that. They boldly take the bull by the horns, and, in the boldest and most emphatic way possible, deny the right of states to have any representation whatever as states. Putting that on one side, not as illogical, but as unworkable and impracticable, are we not driven to the conclusion that the only representation which is a possible one is representation on the basis of equality?

Mr. HIGGINS:

If the hon. and learned gentleman assumes that the other is impracticable—yes!

Mr. WISE:

I do assume it, and the hon. and learned member, Mr. Isaacs, assumes it.

The Hon. I.A. ISAACS:

I do not assume that it would be impracticable, but—

Mr. WISE:

I understand the hon. and learned member to mean that it is not impracticable in Utopia, but it is in Australia. I was very much struck by a
curious omission in the arguments of the hon. and learned member, Mr. Higgins, and the hon. and learned member, Mr. Isaacs. I have always regarded the hon. member, Mr. Higgins, as the apostle of proportional representation, or of hostility to unequal representation, and the hon. and learned member, Mr. Isaacs, asserted that the objections to equal representation were thoroughly well understood in Victoria, or were getting more understood there every week. Why have they not given us an alternative scheme? What proposal do they offer?

The Hon. I.A. ISAACS:

The answer is because, by a majority of 9, they thought there should be equal representation!

Mr. WISE:

But I ask my hon. and learned friend for an alternative. In our Parliament here, the matter was discussed on one side only—there was no presentation of the view of the smaller states at all in our Lower House. I ask the hon. member, Mr. Higgins, now, "If you are not going to have equal representation in the senate, what is the alternative scheme"?

Mr. HIGGINS:

A compromise between proportional representation and equal representation!

Mr. WISE:

What, compromise on a matter of principle! My faith in the hon. member is completely shattered.

Mr. HIGGINS:

I was prevented from answering the question fully by the howls around me. I intended to say, compromise to meet the groundless fears of the smaller states!

Mr. WISE:

If I thought the objections to equal representation were as great, if I believed as strongly in the absolute rule of the majority, as I understand Mr. Higgins does, I should decline to compromise. If you are going to compromise, on what basis will you compromise? Is the question only to be, then, what degree of inequality is to exist? Will you admit that there is to be a certain amount of inequality, or will you take your stand boldly, as the Lower House in our Parliament has done, upon this, that there should be absolute proportional representation?

Mr. HIGGINS:

I put forward a scheme in Adelaide which proposed a compromise!

Mr. WISE:
I remember the hon. member's scheme, and I apply this test to it. Under the hon. member's scheme—I will not weary the House by working out the figures in detail—would it not be possible for the senators who represent a minority of the population to outvote the senators who represent a majority? Under that scheme if you raise our representation to twelve, and treat the others proportionately, you will find the figures work out this way; Although the majority in the combination of the smaller states is less, there will be a majority still, and under any scheme you may propose, based on unequal representation, there will always be that danger. The opponents of equal representation never give this a moment's consideration. In the lightest and airiest fashion possible they simply will not have equal representation. They never suggest any other scheme of representation that is workable. Suppose, as has been assumed, that votes are given to each colony, not strictly according to population, but on a basis that will give the larger states a larger proportional representation in the senate. One plan suggested here was that New South Wales should have twelve senators, Victoria should have twelve, Queensland eight, South Australia six, Tasmania six, and Western Australia six. Any one adding up those figures will find that New South Wales and Victoria, the two large colonies, who in these curious calculations are always supposed to be going to combine harmoniously, would have twenty-four votes, while the other four colonies combined would have twenty-six votes. I throw out this challenge to some of these ingenious mathematical calculators who want to introduce their theories into the practical working of Australian politics—I ask if they can suggest any system of representation for each of the colonies in the senate which has not an equal basis and is not proportional, which will not be open to exactly the same objection as that which is urged against the system of equal representation, namely, that a majority of senators representing the smaller states, and, therefore, representing a minority of the population, would be able to outvote a minority of the senators representing a majority of the population in the two larger states?

Mr. HIGGINS:
Assuming that you have three senators for the first 100,000, and one for every 200,000 more, you will find you will have twenty-seven members of the senate, of which there will be seventeen from the larger states.

Mr. WISE:
That might work out on the present basis, but it would not work out as the populations altered.

Mr. HIGGINS:
Quite so; but I answered the hon. member's question!

Mr. WISE:

The hon. member does not suppose that we are framing a senate for to-
day. We are framing a senate for all time. It cannot be done on any basis
for permanent representation without rendering it possible under certain
circumstances for the smaller states to combine and out-vote the larger
states.

Mr. HIGGINS:

It all depends upon how the population alters. I cannot deal with all the
centuries at once!

Mr. WISE:

But we have to frame a scheme which we can put forward to each state,
and point out to them that even in the future they are not going to lose their
separate national identity, which will be preserved for all time, just as it is
to-day.

Mr. MCMILLAN:

One state might ultimately have a population greater than all the rest put
together!

Mr. HIGGINS:

And it should have more votes!

Mr. WISE:

If we adopt the plan which has been suggested-and the only alternative
plan which has been suggested by any legislature-that of proportional
representation, we are in this difficulty. Of what use is the second
chamber? I am one of those who have long been in a hopeless minority
here-like a voice crying in the wilderness-in the belief that in all local
parliaments for state purposes we ought only to have one chamber. But I
find an overwhelming expression of public opinion against that view.

An Hon. MEMBER:

There is only one chamber in Ontario!

Mr. WISE:

One of the principal reasons why I hope to see federation accomplished
is that, I believe, the inevitable result will be that in a very few years there
will be only one chamber in all the component states. But we have most
emphatically declared, not only by the several conventions, but by the
popular voice throughout all the colonies, that federation should be
accomplished with two chambers. That issue was put directly to the people
of this colony; directly to the people of Victoria; directly to the people of
South Australia; and we have come here charged with an absolute mandate
from the electors of the whole of Australia to frame this constitution with a
parliamentary machine composed of two chambers. Once concede that, and how impossible does it become to conceive of two chambers elected on the same suffrage, representing exactly the same class of people, the same interests, with no difference whatever between them, except that the second o

An Hon. MEMBER:
Not only a longer tenure of office, but also continuity of existence!

Mr. WISE:
Just so. I was greatly struck by one of many admirable speeches in the debate in the Victorian Assembly—and I may be allowed perhaps to say here that there was no parliament which appeared to me to discuss the Commonwealth Bill with greater acumen and lucidity or to take a broader view of the situation than the Parliament of Victoria, and I think this was very largely due to the fairness with which my hon. friend, Mr. Isaacs, presented the bill, and the lucidity with which he explained its clauses. One of the speeches on this point that made a great impression upon me, and I wish it had been more widely known, was that of Mr. Deakin in dealing with this proposal, and I hope my hon. friend will give the Convention the benefit of his reflections on this matter before the debate closes. I will only indicate briefly what was the trend of the argument of my hon. friend, as I understood it. He pointed out that if the views of those who insist that there shall be proportional representation in the senate prevail, all hope of limiting the power of the second chamber is gone—all hope of securing responsibility of government to the lower house is gone; because it will be impossible to deny to the second chamber coequal powers with those exercised by the first, if you constitute it on the same pattern, representing the same constituency, on the same franchise, and strengthen it by giving it a longer period of existence and a continuity of existence. So if there is any proposal more calculated to shook the true democrat, any proposal more likely to destroy the responsibility of ministers and the people, and to destroy the powers of the first chamber in dealing with money bills, and, in fact, to give up altogether those democratic demands with regard to the constitution of parliament which have been so loudly voiced both here and outside, it is this proposal which would suggest that the second chamber should be made stronger than the first, based upon the people's will just as the first, but having a greater strength from having a longer tenure and a continuity of existence.

Mr. HIGGINS:
Does the hon. member think that continuity of tenure will make it
I do; and that is why I propose, later on, to limit its powers in the most effective manner possible. As I am speaking as a representative of one of the colonies in which there has been a great deal of misapprehension as to the meaning of equality of representation, and in which the question has been greatly obscured by the use of misleading analogies and the statement of half truths, I propose to ask those who, on behalf of the large colonies, are afraid that they are going to give up something, and surrender themselves entirely to the mercy of the smaller colonies, to consider a very few facts. When we are told that one man in New South Wales is to have only one-eighth of the voting power of a man in Tasmania, and when pictures are drawn, as we have seen them drawn, showing the big Tasmanian and the little New South Welshman.

The Hon. E. Barton:

They made the New South Welshman one sixty-fourth of the size of the Tasmanian!

Mr. Wise:

That I should expect. We wonder how these ingenious calculators come to forget the distribution of voting power in the election of the first chamber. On the basis of this bill the voting power in the first chamber is as follows:-New South Wales gets twenty-six votes, Victoria twenty-four, Queensland nine for I decline to discuss federation upon the hypothesis that Queensland will not come in-South Australia seven, Western Australia five, and Tasmania five, making seventy-six in all. Among these seventy-six representatives New South Wales, the colony which is going to be at the mercy of the four small "robbers," the colony whom Queenslanders, South Australians, Western Australians, and Tasmanians are going to forget their divergent interests in order to combine to rob, has actually more voting power than the whole of them put together. Under these circumstances, speaking as a representative of New South Wales, it seems to me an absolute travesty of the truth, if it is not something more serious-a deliberate misleading of the public—to assert that by

granting equal representation the colony of New South Wales is placed at the mercy of the other colonies.

An Hon. Member:

It is quite the other way!

Mr. Wise:

It is quite the other way. I could understand a Tasmanian saying, "If I am
only going to have five representatives in a house of seventy-six, and only
two in a senate of thirty-six, I will not join the federation; " but I cannot
understand a voter of New South Wales who is acquainted with the facts
having any such fears.
Mr. HIGGINS:
You admit that Tasmania has nothing to fear under a system of
proportional representation!
Mr. WISE:
The hon. member absolutely refuses to consider the historical and
political sentiments of great peoples. I decline to discuss this question as if
it were a mere matter of chopping logic. I recognise that all the colonies
have to a certain extent separate interests, separate histories, separate local
traditions, and pride in their provincial history. It is that local patriotism
which I wish to foster, not to destroy. I venture to think that those who
have spoken so enthusiastically in favour of unification have ignored one
of the most powerful causes of development in the United States, namely,
the encouragement to local patriotism afforded by the separate existence of
the states, of which the outward and visible symbol in the federal
parliament has been the equal representation of the states in the senate. It is
because this separate representation has impressed the popular imagination
to keep alive the love of the provinces, and has been one of the most
stimulating factors in the development of the United States, that I desire to
continue the proposal which the bill contains. I admit that it would be
possible under the bill for the representatives of the smaller states to block
a proposal which was supported unanimously by the representatives of the
two larger states; but I absolutely deny that the power of veto is the same
power as the power of legislation.
The Hon. E. BARTON:
If it is the power of dominance, why do not the representative chambers
claim that they shall have the power of veto alone, and give all their other
powers to the upper chambers?
Mr. WISE:
That would be a very good test of the sincerity of the objections of those
who insist upon proportional representation.
Mr. HIGGINS:
A veto along with a strongly fixed senate which cannot be moved!
Mr. WISE:
I am not dealing with the question of a strongly fixed senate, but with the
question of equal representation.

An Hon. MEMBER:
It would be a good thing if we, had a strong senate in the separate colonies to stop extravagant expenditure!

Mr. Wise:

I hope that we shall not get into a budget discussion of the finances of either Victoria or New South Wales. I quite admit that a veto may in some circumstances be equivalent to a denial to the popular will of the achievement of its desire for a time; but I would point out a matter which I think has not received the full consideration it deserves. The power of veto is far less troublesome to a government exercising a delegated power than where there is a sovereign power. The power of veto in the second chamber in the case of a state situated as we in New South Wales, or as the people of Victoria are situated, might be a serious curb upon the popular will, an intolerable curb upon the popular vote. Because each of these provinces is to-day, within very wide limits—so wide as to be almost negligible—a sovereign body. The people of each of these provinces have a potential right to legislate on any subject affecting the welfare and the good government of the community. But the federal parliament will have no such power. It will exercise a strictly delegated authority, largely an authority conferred for the first time upon the voters of the commonwealth. If there is a power of veto, that power will not deprive any voter of a single province of any power he exercises to-day; and it will not prevent him from enjoying to the full the power he enjoys to-day. On the contrary, by federation he gets a larger effective voting power than he has to-day, because his voice can be felt through the ballot-box outside the limits of his own state. All that the power of veto does is to say, "You shall not exercise that power under certain conceivable circumstances to its utmost extent." Nothing is taken away from the voting power of the voters in the provinces, but new powers are granted to them. There are some who seriously urge that because, under very unlikely, but hypothetically conceivable circumstances, you will not be able to exercise your powers to the fullest extent, therefore, you should decline to accept any of them to any extent. Because you cannot get all you want; because, under certain circumstances, you will not be able to do all you could do under other circumstances, therefore you will not come into this union, you will not accept any of the larger powers of government, that the bill offers to the people of Australia. I venture to think that the difference between the power of veto when exercised in a federal state and when exercised in a government which only exercises delegated authority, is such a material difference that it ought to remove most of, if not all, the fears of some that the popular will might not be able to find expression.
But is there any serious doubt that if the people of Australia, as a whole, are deliberately determined that their will shall find expression in a certain direction, they will discover the means of giving effect to their wishes, and find that means through the constitution? With public opinion behind them, any ministry and any parliament may exercise their powers to the extremity of their constitutional limits. Without public opinion, neither ministry nor parliament can exercise the smallest of its functions, and if public opinion determines that a certain course shall be pursued, and if the large states have that public opinion, does anyone really believe that the smaller states would be able to withstand that powerful force for many months? There is only one conceivable set of circumstances in which the smaller states would be able to offer opposition to the will of the majority, and that would be some circumstances difficult to imagine—almost impossible to imagine—where the interests of all the smaller states as states were so seriously threatened that it was a matter vital to their very national existence that they should refuse to give way before public opinion in the larger colonies. I say that in such a case they ought not to give way. If there were a case—one can scarcely imagine it—where the inhabitants of two larger colonies were so regardless of their political responsibility as to pass a measure intended to destroy the existence of the smaller states, I say that these small states ought to have the safeguard and power of veto. If the matter in dispute is one of those matters which have up to the present divided the voters of Australia into two classes, if it be a question between progressivists and conservatives, then the popular will of Australia will prevail. I intend to propose, as I did in Adelaide, a scheme which, while securing to the states the utmost protection which state interests require, will provide to the people in those states an opportunity, to compel their senators to give proper effect to their wishes. If we can construct a measure which will bring the senate into touch with popular opinion in the states, and which will at the same time give to the states that measure of protection which, although never required to be put into use, will remain as a permanent safeguard against aggressive acts on the part of the larger states, then we shall have taken a step which will bring the constitution into harmony with the wishes of the people in every colony, and that certainly will not be out of harmony with the democratic sentiment of Australian public opinion. That vitalising force which pushes one bill on and stays the progress of another makes itself felt, and has its strongest expression in that chamber which is drawn directly from the people, and which represents a majority of the people. But does anyone doubt that the people of the larger states represented in
that chamber and in the senate will be as powerful and will have as much
effect in modifying the views of the representatives of the smaller states as
public opinion in London or in Paris modifies opinion in the provinces.
When those who live in the larger states hear others speak of the tendency
of the smaller states to dominate the larger, they cannot help thinking that
those who use such language ignore the overwhelming potency of the
influence of large cities. If a large city is more seething with great ideas,
and if those ideas commend themselves to the people, of the larger states,
depend upon it that there will be a considerable minority in all the smaller
states in the common way of thinking. The ideas will penetrate from one
state to another, so that in time, if we have the means of dissolving the
senate - of bringing it into touch with its constituents - we shall ensure that
the popular will will prevail in all matters affecting the popular interest as
distinguished from the interest of states as states. I venture to urge,
therefore, that I have answered the question put by the hon. member, Mr.
Higgins, and that I have shown that equal representation is not only a
practical necessity, but that as regards the principle, it can be justified in
theory, and has also a sound basis in Australian history. I am very
unwilling indeed to quote authorities, but so many authorities have been
already quoted that I cannot help referring to a quotation from Mr. Justice
Story, which, although it happens to have been written forty years ago, is
as true to-day as it was then, and in which he points out two grounds for
the existence of the senate, and emphasises a double reason for its
existence in connection with our proposal. The senate is not merely a state
house - it is something more; it is also a revising chamber - a revising
chamber which we determine shall be free from the faults, as some of us
consider them - I hope I shall not cause controversy by calling them faults -
of the revising chambers of the separate colonies, by being more in touch
with popular sentiment; and, being kept by the device which we hope to
introduce into this bill, continually in touch with public opinion.

Mr. HIGGINS:
Why is a statehouse particularly fit to be a revising chamber?

Mr. WISE:
I do not know. I want to know how you are going to get any other?

The Hon. E. BARTON:
How is it that it generally is so?

Mr. WISE:
How are you going to get any other revising chamber? We want a
revising chamber, so we have been told, and we have been instructed to
provide a revising chamber in this constitution.
An Hon. MEMBER:

The lower house is also a revising chamber for the legislation of the upper house!

Mr. WISE:

Mr. Justice Story, referring to the statement that the senate was a mere accident, says:

Whatever may now be thought of the reasoning of the contending parties no person who possesses a sincere love of country and wishes for the permanent union of the states can doubt that the compromise actually made was well founded in policy, and may now be fully vindicated upon the highest principles of political wisdom and the true nature of the government

which was intended to be established. It may not be unprofitable to review a few of the grounds upon which this opinion is hazarded. In the first place, the very structure of the general government contemplated one partly federal and partly national. It not only recognised the existence of state governments but perpetuated them, leaving them in the enjoyment of a large portion of the rights of sovereignty, and giving to the general government a few powers and those only which were necessary for national purposes. The general government was therefore upon the acknowledged basis one of limited and circumscribed powers. The states were to possess the residuary powers. Admitting, then, that it is right among a people thoroughly incorporated into one nation that every district of territory ought to have a proportional share of the government, and that among independent states bound together by a simple league there ought, on the other hand, to be an equal share in the common councils whatever might be their relative size or strength-both of which propositions are not easily controverted-it would follow that a compound republic partaking of the character of each ought to be founded on a mixture of proportional and equal representation. The legislative power being that which is predominant in all governments ought to be above all of this character, because there can be no security for the general government or the state governments without an adequate representation, and an adequate check on each in the functions of legislation. Whatever basis, therefore, is assumed for one branch of the legislature, the antagonist basis should be assumed for the other. If the house is to be proportional to the relative size and wealth, and population the states, the senate should be fixed upon an absolute equality as the representative of the state sovereignty. There is so much reason and justice and security in such a course that it can with difficulty be overlooked by those who seriously consult the public good
without being biassed by the interests or prejudices of their peculiar local position. The equal vote allowed in the senate is in this view at once a constitutional recognition of the sovereignty remaining in the states, and an instrument of the preservation of it. It guards them against-what they meant to resist as improper-a consolidation of the states into one simple republic, and on the other hand the weight of the other branch counterbalances an undue preponderance of state interests tending to disunion. Another and most important advantage arising from this ingredient is the great difference which it creates in the elements of the two branches of the legislature.

That is the answer to the hon. member, Mr. Higgins, who asks why the state chamber should be a revising chamber? It is differently constituted from the other chamber. It would be no use to have a revising chamber constituted exactly similar to the chamber whose work it is intended to revise.

The Hon. I.A. ISAACS:

The American Constitution is compounded of checks and balances!

Mr. WISE:

I admit that.

Another and most important advantage arising from this ingredient is the great difference which it creates in the elements of the two branches of the legislature which constitutes a great desideratum in every practical division of the legislative power. In fact, this division, as has been already intimated, is of little or no intrinsic value, unless it is so organised that each can operate as a real check upon undue and rash legislation. If each branch is substantially framed upon the same plan, the same plan, the advantages of the division are shadowy and imaginative; the visions and speculation of the brain and not the waking thoughts of statesmen or patriots.

I commend this to those who urge that there should be proportional representation:

It may be safely asserted that for all the purposes of liberty and security, of stable laws and of solid institutions, of personal rights and of the protection of property, a single branch is quite as good as two, if their composition is the same and their spirits and impulses the same. Each will act as the other does; and each will be led by the same common influence of ambition, or intrigue, or passion, to the same disregard of the public interests, and the same indifference to, and prostration of, private rights. It will only be a duplication of the evils of oppression and rashness with a duplication of obstruction to effective redress.

These last words say, in words that I do not wish to put into any other form, all that can be said against proportional representation. It is
remarkable that this demand for proportional representation should come from two such distinct classes in this community. I can well understand that those who urge that there should only be one chamber in a federal parliament should urge that there should be proportional representation in the senate, because when they get that they get the advantages of one chamber with the further advantage of having an increased number of legislators. But I fail altogether to comprehend how, on any theory consonant with the desire to achieve federation, the extreme tories should urge proportional representation. I confess that when I find the surly tories of the Legislative Council joining hands with the extreme socialists of the labour party to enforce this scheme of proportionate representation, I regard it with the utmost suspicion.

The Hon. I.A. ISAACS:
Is the system of proportionate representation in force in New South Wales, with practically equal electorates?

Mr. WISE:
Practically not; it is more nearly so than in any other colony.

The Hon. I.A. ISAACS:
Substantially so!

Mr. WISE:
No. We have a larger quota in the towns than in the country-I forget the figures.*

The Hon. I.A. ISAACS:
A small margin!

Mr. WISE:
Although it is a small margin it tots up to a considerable amount in the towns. I am not going to trespass longer upon the attention of the Committee. I have endeavoured, more fully than was necessary for the purposes of this debate, but not more fully than was required in order to bring out prominently the main features of this discussion, to deal with a matter that for all practical purposes is settled. I, personally, think that it is something more than a mere matter of expediency; I believe that the system of equal representation will ensure that this constitution can be adopted by every province without undue detriment or depreciation of any smaller province, and without any unfair exaltation or advancement of any of the larger provinces, whilst at the same time it will preserve that which I regard as of the utmost value to the national life of the country, the spirit of local patriotism, which is the moving impulse of great national advances.

The Hon. A.J. PEACOCK (Victoria)[3.25]:
Seeing that one of my colleagues from Victoria has supported the amendment, and that the debate yesterday was conducted by the hon. and learned member, Mr. Glynn, from South Australia; the hon. member, Mr. Carruthers, from New South Wales; and also the hon. and learned member, Sir John Downer, from South Australia; and that we had a speech from the Premier of South Australia this morning, and one from my colleague, Mr. Isaacs, and another from Mr. Wise, all gentlemen belonging to the legal profession, and all occupying prominent positions in connection with the bar in their respective colonies, and all well informed on the subject, and all being able to quote from text books the history of this question for many years past, I am surprised at my own rashness, as a layman, in stepping forward to discuss the question at all. But the reason that has caused me to offer a few remarks on this subject is this: At the previous convention I was a patient listener to all the observations from the different members, and belonging to the younger generation of politicians, and having taken a great interest in federal matters for many years in my own colony, and knowing well that if every one exercised the full right of speech with regard to this question we should not get on with the work that we have been sent here to do, and noticing that several of our legal friends get up to offer a few remarks which spin out to a great length, I think it would be wise for me to offer a few remarks on this question, remembering that it is one that will really settle the whole business that has brought us together here. I see my hon. and learned friend, Dr. Quick, from Victoria. He and myself for many years past, long before we thought there was going to be a

*Note by Mr. Wise on revision:* Omit, "We have a larger quota in the towns than in the country," insert, "By the use of a variable margin our quotas are not the same for all constituencies."
enthusiastic worker in the cause; I have visited many parts of the colony of Victoria—and the hon. and learned member, Mr. Deakin, has done the same—so that we have become acquainted with the people in the country districts as well as the citizens in the towns; therefore, we are, fortunately, in the position, through the medium of the Australian Natives' Association, of having the electors generally well educated, not only with regard to the general sentiment, but also as to the principles of federal union; and I do not hesitate to say that I have never heard seriously discussed out of doors, in our own colony, that it was wise to go into a system of proportional representation.

Mr. HIGGINS:

There is the difficulty. It has been assumed right all through, and now it is too late to change!

The Hon. A.J. PEACOCK:

I cannot deal with interjections. I must go on in my own way, and I will express what I believe to be the view of my own colony. My hon. and learned friend, Mr. Wise, who preceded me, took away, as nearly every speaker does, some of the points which I intended to deal with, though, no doubt, I should not have done it so effectively as he has done. I remember well when it seemed that the federal movement was about to drop to the ground, after the Convention of 1891 in our own colony, that my learned friend, Dr. Quick, took a great deal of interest in the matter, and consulted the political federal leaders in this colony, also in Queensland, in our own colony, and in South Australia. After he had done so, I had the privilege and the honor of being consulted by him with regard to what views the Australian Natives' Association held— I then occupying the position of president— as to the best means of trying to awaken interest. I am not going to enter into all the details, but I remember well the doctor asking my opinion as to the true constitution of this Convention, namely, that it should consist of an equal number of representatives from the different colonies, thus conceding, at the very outset, the principle that we have been advocating ever since, and that was really passed in the Adelaide Convention—that the interests of the different colonies as states required equal representation. I am not going to argue whether it is a right, or whether it should be given as a concession to states, but I argue in this way: It is of no use for us to go on with the work one bit further if the amendment of the hon. member, Mr. Higgins, be passed. That view is a view held strongly in the colony which I have the honor, with my colleagues, to represent. I quite agree with what the hon. member, Mr. Wise, has said in his excellent speech just now, when he showed that you cannot go in for proportional representation as a compromise. I may not be
as clear as others; but, as I have understood the debate yesterday and to-
day, it strikes me that there are only two positions open to us-the first,
actual representation accord-
[528]ing to population in the senate, or, second, equal representation. If you
come to that position, and my hon. friend, Mr. Higgins, does not come as
far as that, then you may as well concede that there should be no second
chamber whatever. I do not think any one from my own colony, or those
who have heard anything about me in the other colonies, would say that I
have been a conservative or a tory in our own local politics. I have been
one of those who always advocated that Parliament should represent, not
only the manhood of the country, but also the interests of the country. I
never have advocated in my own colony that the electorates of the lower
chamber should be framed on the basis of exactly equal population; for, if
that were done, numbers of our great country interests would be
completely sacrificed. That has been recognised in, our own colony and in
the very bill brought in by Sir George Turner's Government last year in
both houses, providing for the reduction of members this very principle
was recognised. Why then should the second chamber not be elected on the
basis of equal representation? Simply because it has to represent the
interests of the state as a state. As a very patient listener to all that
transpired both in Adelaide and here up to the present, I do confess that it
has seemed to me that from the very fact that we did not have a full debate
on this principle at Adelaide at the outset-because some of us representing
the larger colonies were prepared to recognise, whether it was a matter of
right or a matter of concession, that there should be equal representation-
because that was admitted by the two larger colonies-it is my honest
opinion, and I never have failed to express it, that some of the
representatives from some of the smaller colonies were led to make a
demand for such powers as in my opinion I believe the colonies of Victoria
and New South Wales would never concede. Therefore the very fact that
we agreed at Adelaide to an adjournment has shown the wisdom of not
dealing too hastily with this and other matters. That is shown by the speech
of Mr. Symon. We all know he is an ardent federationist, and people in my
colony have been taught to believe that he is an extreme tory; but we now
recognise that he is prepared, as we, have been prepared all along to admit,
I do not care what any one may say, that we will submit a constitution to
the people which will not be framed on absolute logic. It will have to be
based on such principles that we, living in these times, can cast aside what
occurred one hundred years ago, because the circumstances then were
absolutely and entirely different. All the authorities quoted to-day and
yesterday, which were supposed to bear on this question, will, in my judgment, have no influence upon the public mind outside. The people will look at the circumstances which exist in Australia today, and they will say this—remembering that there are larger colonies with different interests, remembering these two chambers are to represent, one the people and the other the states, what are the powers proposed to be conferred? We who represent the larger colonies—and that is why I am sorry the amendment has been moved—should recognise the same spirit which was displayed at Adelaide by Mr. Henry, Mr. Lewis, Mr. Brown, and also the Right Hon. C.C. Kingston and Mr. Glyn, who cast aside for a moment the fact that they only represented their own province and their own colony. They felt, as every man here feels to-day, no matter what his views on this question may be—that if you do not provide equal representation in the senate the movement for federation is as dead as a door-nail. That is what my hon. friends recognised at Adelaide. That is what we have to deal with to-day. I maintain, no matter what the consequences may be, that the people of Victoria, despite all that has been said to the contrary, will be prepared to accept this constitution providing for equal representation, provided there will be some safeguard in case of any difficulties arising between the two chambers.

The Hon. A. DEAKIN (Victoria)[3.38]:

I would not have followed my hon. colleague, the Chief Secretary for Victoria, had it not been for the fact that possibly I might not have another opportunity of contributing a few sentences to this debate. The ground has now been so thoroughly traversed, the difficulties of the field have been so cleared by those who preceded me, that I certainly do not think it necessary to apologise for the brevity of the observations I propose to offer. I take it that our views upon this question, however much they may be supported or illustrated, are not likely to be altered by the citation of historical precedents or text-book quotations. Not that such aids to argument are to be despised—quite the contrary; but my hon. friend, Mr. Higgins, and the Attorney-General of Victoria on one side, and Mr. Symon and Mr. Wise on the other, have, I think, contributed to this Convention Hansard all that is necessary in that direction. Whatever opinion we may hold as to the proceedings taken in the United States—whether we consider with my hon. friend, Mr. Higgins, that equal representation was the cause, or, as I consider was merely a condition of the great eruption which occurred in the republic of the west—is, after all, comparatively immaterial. The issue which faces us is, first of all, a practical issue. My hon. friend, Mr.
Peacock, gave me an undue measure of credit when he remarked that I had
in any respect devoted the same attention to the preaching of the federal
cause to the Australian Natives' Association in Victoria as he has done.

An Hon. MEMBER:
You have done a good deal!
The Hon. A. DEAKIN:
I have not contributed a tithe as much as the hon. member, Mr. Peacock,
who, as president of the association, has undertaken for several years that
most onerous duty, discharging it with an ability and enthusiasm with
which I think members from that colony are now familiar. As a mere
private member of that association it has been rarely my lot to contribute in
the same way. I introduce that fact for the purpose of basing another upon
it. I fear that my hon. friend, Mr. Peacock, addressing as he does that body
which with us is practically the heart and soul of the federal movement,
and which consists almost without exception of enthusiasts in the federal
cause, has undervalued the strength of the support which is likely to be
rallied to the cause of which in this Convention my hon. friend, Mr.
Higgins, has constituted himself the standard bearer. It seems to me
therefore that we should err if we allowed this debate to close-without each
of us contributing his mite, especially those who represent the larger
colonies, and especially those whose politics are usually associated with
the implicit acceptance of that doctrine on which the hon. member, Mr.
Higgins, relies as the basis of his argument-the doctrine of the rule of the
majority. We have to be prepared to show to the citizens of Victoria and
New South Wales that the principle of the rule of the majority, as applied
in our constitution, is not seriously interfered with, is not seriously
impaired by the proposal for equal representation in the senate of the
federation. So much has been said by my hon. and learned friend, Mr.
Wise, in that stirring, admirable, and effective speech of his, on this score
that I have little to contribute. But, speaking as he does to a constituency
which will largely prejudge this issue by, as it seems to me, a
misapplication of that

all-important principle, that fundamental principle of the British
Constitution, the rule of the majority, I will venture to add a few words
even to what he has said. In the first place, I think my hon. and learned
friend has applied that doctrine with a too rigid radicalism to the
interpretation of what our constitution really contains. Our constitution
embodies the principle of the rule of the majority, not as its working
principle or method, but as its final and ultimate test of the work done. If
we succeed in embodying in this federal constitution the principle of the
rule of the majority as the final and ultimate court of appeal on great public
questions, we shall have imparted to it all the authority which it possesses
and all the sway which it enjoys under our own constitution.

Mr. LYNE:

What if you don't?

The Hon. A. DEAKIN:

I must confess, if we do not, I shall take an entirely different view of this
problem. I must confess, if we do not, that the colony of Victoria, as far as
I with my opportunities can judge, will take an entirely different view of
this problem. It is because, like the Attorney-General of Victoria, I am
counting in advance on some constitutional safeguards being added to the
bill, that I am using these arguments.

Mr. WISE:

So are we all!

The Hon. A. DEAKIN:

My hon. and learned friend, Mr. Higgins, whom I congratulate as others
have justly done on the courage and consistency with which he has
advocated his view in the face of an adverse majority, is entitled to exult,
as he undoubtedly did exult, in the fact that since we parted at Adelaide, he
has had on his side an exhibition of hearty support and encouragement
from great constitutional bodies, in this colony in particular, and from large
numbers of representatives in other legislatures. That adds, if anything
were needed to add, even more force and emphasis to the arguments which
he has submitted to us. But let me urge a reconsideration of the doctrine of
the rule of the majority, as he, appears inclined to apply it in this particular
instance-and I speak of him, although of course my hon. friend, Mr.
Carruthers, practically adopts the same position, and puts it from another
standpoint with great force. These gentlemen appear to me to be
endeavouring to apply the doctrine of the rule of the majority in a manner
which would be absolutely inconsistent with our constitutions as they exist.
If it is to be pushed to the length to which they go, I fail to see how they
can stop short of the declaration which my hon. and learned friend, Mr.
Wise, has made in favour of a single chamber. If proportional
representation is the only means by which majority rule is to be expressed,
and it is to govern absolutely, I fail to see the purpose of a second chamber;
in fact, we should see in the future the disappearance of even the first
chamber, and as a substitute legislation by referendum. This is the
inevitable conclusion of their argument, if it is to be pushed to the extreme-

Mr. HIGGINS:

There will be no debate under a mere referendum!
The Hon. A. DEAKIN:

The second chamber as we have it exists for the purpose of debate, for the purpose of fuller and further consideration, and if my hon. friend's argument is to apply, it must be swept away. You are reduced to one chamber, and is only another step to say that the press—that great organ of public opinion, which discusses every problem presented to a legislature—is in itself a sufficient means of arousing and expressing public opinion, and all you need are, first, leading articles in the newspapers, and then the referendum to decide what your legislation shall be. I am pushing the argument to an absurdity, I confess; but if my hon. friend is to insist on a logical deduction from this principle, so as to exclude any other possible means of representation in the second chamber, except proportional representation; I fail to see how his principle of an absolute and unqualified, and, apparently, immediate rule of the majority would leave him any second chamber, or any first chamber, or any recourse existing, except a voice which will speak to the people, and the answer from the people which declares their will.

Mr. HIGGINS:

I have been accused of being logical!

The Hon. A. DEAKIN:

If I offend my hon. friend by terming him logical, I will willingly withdraw the charge. I am perfectly sure that this is the last thing he desires.

Mr. HIGGINS:

I never knew of a debate in which a man was accused so much of being logical.

The Hon. A. DEAKIN:

As my hon. friend knows, logic, though an excellent servant, is a bad master in some cases, because the whole of your case is assumed in the premises with which you start.

Mr. HIGGINS:

The hon. and learned member accuses me of being illogical, and I want to agree with what he says!

The Hon. A. DEAKIN:

Scarcely so much as that. I fail to see that my hon. friend has yet indicated any reason why he should pause where he does pause, or propose what he does propose, if he accepts, as he appears to accept, the one doctrine of the rule of the majority as the sole guide in constitution making. I hold that two chambers and an executive such as we are aiming at, form no less an important part of constitutional government than the ultimate
decision of the majority, and are, in fact, the essential means by which we arrive at a decision as to what the will of the majority really is. You cannot take away any part of that mechanism without disarranging your whole scheme, and therefore my hon. friend is omitting grave and important factors which must be included in his premises. He cannot apply his logic, correct as it is within limits, without making the problem he is solving quite another one from that which is being submitted to us. The problem which is submitted to us is, not simply to provide for the rule of the majority, but to provide for the rule of the majority by constitutional means-by those means which long experience has sanctified to us, and than which human experience has yet not been able to discover better. We have now first, the representation of the people by those to whom they delegate a certain measure of their authority-who discuss in a first chamber in administrative detail, in legislative detail, the whole of the business submitted to them. From that chamber it passes, when it has received the impress of its authority, to a second chamber, to a chamber of revision, review, and reasonable delay; a chamber in which and by means of whose criticism the public-the electors-are enabled to arrive at those right and reasonable conclusions, that ripe and reasoned judgment on which action is finally taken. You can no more say that this last step in the argument is the only valid step any more than you can say, if you ignore all our existing constitutional machinery, that you have fairly described its character. So I am not prepared to admit that the hon. member has been logical in dealing with this problem. I say he has been logical in dealing with the problem as he stated it; but that his statement is imperfect.

Mr. HIGGINS:
He omitted those important factors which require to be taken into account!

The Hon. A. DEAKIN:
The hon. member is logical within limits.

Mr. LYNE:
Does not the hon. member think the introduction of the referendum to a large extent destroys the principle of equal states representation?

The Hon. A. DEAKIN:
I shall have much to say when we come to the referendum.

Mr. LYNE:
It all hinges upon that now!

The Hon. A. DEAKIN:
No; I do not think it does, because, excellent as the referendum is, much
as can be said for it, it is not the only means of solving difficulties and
deadlocks. Even if I were to reply to the hon. member at length on that
point I should not be able to give him the answer he desires. It is
inadvisable to enter on a discussion of the question of the referendum now,
especially as I am anxious to fulfil my promise in regard to the greatest
possible brevity. I will admit that beyond the objection I have already taken
in the Victorian Legislative Assembly, and to which Mr. Wise was kind
enough to call attention, and which, therefore, I need not elaborate except
to repeat that to allow the senate to be elected by the proportional method
would be to deprive the Legislative Assembly of its strongest argument
why there should be differing powers in the two bodies, and different
duties discharged by them. Why, if you made the two bodies identical in
franchise, in constituencies except as regards their boundaries, in the
qualification for representatives, and the qualification for electors, I fail to
see the necessity for a second chamber at all; or, if you have a senate, I fail
to see how you could logically refuse them co-equal powers. Putting that
aside, no liberal, so far as I know, can see any objection to proportional
representation.

Mr. HIGGINS:
There is always that objection to liberalising the upper house!

The Hon. A. DEAKIN:
If Australia were at this time unoccupied territory, and it remained for the
Convention, as a body of imported authorities to determine a constitution
for the territory, there is no doubt that first of all we should adopt very
different boundaries from those which exist, and having adopted different
boundaries it is probable that we might take equal representation, but it is
more probable that we should adopt proportional representation. If we were
a body of men coming from the mother country, saturated with the
principles and doctrine of the British Constitution, we should certainly not
create a second chamber either with proportional or equal representation.
We should create it on a nearer approach to British precedent, and I am far
from sure that we would not be taking a wiser course than that proposed.
But we are not dealing with a sketch map—with an unpopulated continent;
we are dealing with settled Australia, with settled communities, absolutely
independent of each other, enjoying all the rights and privileges of self-
government, and without exception, absolutely self sufficient. I make no
exception. The colony of Tasmania is sometimes alluded to as an
insignificant portion of Australia. I am far from holding that opinion.
Tasmania is not only much larger than several European states, but it
contains within itself, so far as I know it, natural resources and
potentialities of development which will enable it, in a comparatively few
years, to outstrip those European states. There is nothing in the circumstances of Tasmania to forbid a policy of separate existence being carried on for all time, and with great success. If that is true of Tasmania, it is absolutely and unequivocally true of every colony of the group. Every one of these great colonies possesses within itself sufficient resources and powers to stand alone. Meeting, as we do, equal numbers of representatives from those equally self-governing states, equally capable of self-sufficient life, we naturally meet on an equal platform, and it seems to me that the proposal for equal representation is therefore one which is naturally laid before us for our consideration. And it

is one which, if it does involve, as the hon. member asserts—and as I admit—that an elected body should be constituted by equal representation of units without regard to population, means a sacrifice and concession on the part of larger populations, accustomed, as the final test of all their constitution working, to, adopt, the principle of the rule of the majority. It is a sacrifice and it is a concession; but, on the other hand, have we no sacrifices or concessions to ask, and do not we expect to obtain them? Are we to ask these smaller communities to simply merge themselves in a great Australian state and disappear for ever? Are we, to expect them to accept a number of members in both houses which shall leave them absolutely powerless on those rare occasions when a question affecting state existence does arise? Are we to say that they are to commit themselves absolutely to our hands in a sense in which they, cannot ask us to commit ourselves to their hands while we have proportional representation in the house? Although Mr. Higgins admits this difficulty, and fairly meets it, as he does every difficulty he sees, by modifying his demands for proportional representation—

Mr. HIGGINS:

I say the fear is wholly imaginary!

The Hon. A. DEAKIN:

From his point of view the hon. member fairly meets that by his proposal as to their scale of representation. But even then we require to obtain from this Convention two other important concessions, one of which is already embodied in the bill in part, while the other is not yet introduced into the bill. The first is the distinction between the, two houses in regard to the control of matters of finance—a distinction without which, to my mind, our system of government cannot be carried on, a distinction without which it would be impossible for the taxpayers of the future federation to retain that just control over their contributions to the revenue, since these ought necessarily to be governed by their numerical strength. On financial
questions, it appears to me that we have to ask the representatives of the smaller states, when conceding them equal representation, to concede to us the control by the taxpayers numerically of the expenditure of the commonwealth. Then we come to the other necessity which has been alluded to-the introduction into the bill of that which is not at present in it-of some means of providing for a solution of disputes between the two houses-some means of imposing a limit on the veto which the second chamber is able to, exercise. We may refer the chamber itself or the question in dispute back to, the constituencies, we may take a means, preferable to met of sending the Senate representatives back to their constituents, to ask for a renewal of their confidence, or another means, suggested from Victoria, by which those constituents would, be asked the question directly as to whether they, approved or not of the proposals in dispute between the two chambers. Finally the question as to whether any danger exists in this concession of equal representation is the last point to, which, I propose to address myself; and I submit, without hesitation, that, granted the two conditions to which I have referred, the concession can be made without any real danger to any substantial or permanent interest of the great body of the people of the, future federation. I say that, admitting that at the outset, not only does the demand for equal representation possess a certain amount of equity-as we meet here on an equal footing-but also because I take it we desire to preserve in the future the dignity of the separate states. We do not wish to see, any of the communities possessed of all the appendages of self-government, possessed of independent parliaments, independent governors, with wide, and undefined privileges-sovereign states, except for the powers included in this bill-we do not desire to see them so reduced in dignity that, in any future federal house of parliament, their representation may be reduced to an insignificant minority. We could not do that without largely impairing the machinery of government which would exist in those colonies, and upon which they must be dependent still for their legislation and administration in most, of the practical interest of their daily life. I say that they are entitled to this concession, and that it implies no obstruction to the final rule of the majority. I say so for this reason: I have always contended that we shall never find in the future federation certain states ranked against certain other states, or that party lines will be drawn between certain states which happen to be the more populous and those which do not happen to be so populous. I have said before, and venture now to repeat with emphasis, that this appears to me a wholly mistaken reading of the situation. What is absolutely certain is that, as soon as this federation is
formed, parties will begin to declare themselves in every state. Every state will be divided. Our form of government is not susceptible of continuous or successful working without parties.

Mr. HIGGINS: 
Not of states against states!

The Hon. A. DEAKIN: 
I concede that to the hon. member. It partly helps his argument, and partly, helps mine. The crucial question that we have to ask ourselves is not as to the voting power to be given to the less populous states as against the more populous states; but how—with equal representation granted—those votes will be employed by political parties. There is in every colony of the group a liberal party and a conservative party.

The Hon. J.H. HOWE: 
Liberal and socialist—there is no conservative!

The Hon. A. DEAKIN: 
The good old English names of liberal and conservative are sufficient for my purpose. If the hon. member sits uneasily under either name, he can coin another for his own particular benefit. There exists in each colony a party that can be considered liberal, and also a party that can be considered conservative. Is it not, then, inevitable that so soon as the federation is formed, the liberal parties in the different colonies will coalesce and throw in their lot with each other; and that the conservative, parties in the different colonies will do the same, irrespective of state boundaries altogether. There is the progressive party, which is aiming at extending the liberties and rights of the masses of the electors which will range itself on one side, and the party who think that we have progressed, or are progressing too fast or far, will range themselves on the other side. There will not be any question of large or small states, but a question of liberal or conservative. Then, as to the senate, how does the question of equal representation affect parties? It affects them to this extent: that, as in the American Union, the leaders of those parties wA defeat in the smaller states, if parties were evenly balanced, might mean a defeat in the federal parliament, although there was a majority of the representatives of the larger states. That must be admitted.

An Hon. MEMBER: 
Under equal representation!

The Hon. A. DEAKIN: 
Yes, and, to some extent, under almost any other system of representation. What is the effect in America? It is that the party efforts, the party speakers, the party energy, are concentrated on doubtful states,
whether large or small. Is that an evil? It is not an evil. I say, on the one hand, that
if you had or could have a second chamber completely proportional in representation, what you might see would be this: A party strong enough to seize the two great colonies, or wherever the larger population might be, could treat with contemptuous indifference the outlying parts of Australia, feeling, "There are not sufficient votes there to be of importance to us in either chamber."

Mr. HIGGINS:
Does the hon. and learned gentleman call only the smaller states doubtful, and not the larger ones?

The Hon. A. DEAKIN:
They might be either one or the other. In America, parties concentrate their efforts on the doubtful states, whether the states are small or large, and the same would be done here. But the principle of equal representation has this value-and I consider that it is no inconsiderable value, from a practical point of view,-it compels both parties to study the interests of the small states to take care that in their programme they include no proposition aimed at the liberties or privileges of those states, or their industries, or anything that affects them in a material manner. I think that this is a perfectly legitimate end. I do not believe that the extra burden of responsibility which it imposes on political parties in the larger states is one that they can complain of. In the lower house, the larger states will have a great majority of members, and their safety will be assured; but if they wish to keep the government of the commonwealth, they must study the interests of the small states to such an extent that they will be able to gain a majority in the senate also.

An Hon. MEMBER:
Like Nevada!

The Hon. A. DEAKIN:
Yes, like Nevada. Unfortunately, owing to the peculiar circumstances of that state, which I happen to have visited-confined as it is wholly to its mineral wealth, and concentrated as that wealth rests in the hands of a particular number of wealthy men, who are interested in obtaining for the silver which is there produced special concessions in the United States—a difficulty has arisen. I fail to see the slightest possibility of an occurrence of such a difficulty in Australia. The states here are so few proportionately, and they are so large and important that I fail to see any possibility of the occurrence of those particular American difficulties. What I say, to put it
briefly, is that in practical working-as a matter of practical politics-the states will be fought for by the two parties, liberal and conservative, and that the effect of equal representation will be that, instead of passing those minor states by as lightly as they might do under proportional representation in the senate, the party seeking to win or retain power will pay as much attention to the small states as to the large states. That makes for the good of everybody-for the good of politics. Now I come, I think, to my last point, and it is, that on this question, at all events, we are not taking a leap in the dark; we are not proposing that equal representation should be granted without having before us illustrations of what we may expect will be produced by a house elected on the basis of the proposed franchise in this bill. Fortunately for us I can pass by without allusion the Chamber over which my hon. friend, Sir William Zeal, so admirably presides. If we wish to discover what the future senate must be we must look to a house not elected on a restricted franchise, but to a legislative council such as that of South Australia, elected on a franchise practically almost as broad as that of the Legislative Assembly.

Mr. TRENWITH:

It is not broader than ours, except that the qualification is different!

The Hon. A. DEAKIN:

The qualification is different, and the voting qualification is also different. The hon. member will see that as what he says is accurate, it supports,

as he intended it should, my argument, for the future federal senate will be based on a more liberal basis than that of the Legislative Council of South Australia. Any difference there is between the two bodies tolls in favour of the future federal senate from a liberal point of view, and therefore supports my argument; but I say that in the Legislative Council of South Australia we already see that, even with large provinces and under certain local restrictions, the liberal party of that colony, which is as advanced as the liberal party in any colony in Australia, is able to obtain very considerable representation. Under the same circumstances, most undoubtedly the federal electors of New South Wales and Victoria, as well as of South Australia, will certainly return a large proportion of liberals to the federal senate. I go further. In Western Australia and Tasmania there is a great mining development at the present time. Mining development means miners, and miners are liberals; and from both those colonies, as well as the other colonies of the group, there will be no small infusion of liberal principles in politics into the future federal senate. I observed with some surprise the energy, enthusiasm, and unflinching devotion which my
friend and colleague, Mr. Higgins, threw into the discussion of this
question. It appears to me that so far from the grant of equal representation,
carrying in its train the dangers which seem to appal the hon. member, and
to affright him almost from the proposal of federation, they are
comparatively small in themselves—that the sacrifice or concession which
the more populous colonies are asked to make is not an unreasonable
sacrifice or concession. It is one which preserves the dignity of the
communities to which it is made, and should be the means in the future of
simply diffusing a wider political education, and a more diffused party
action—when parties arise, as undoubtedly they will—in the federal
commonwealth. Now, I think I have said on this question practically all
that it is necessary for me to add to what I have said previously at Adelaide
and elsewhere. I could perfectly understand if this were a proposition for
combining with these colonies the French settlement of New Caledonia
and the German settlement of New Guinea, and other foreign settlements
in our neighbourhood; or if any of our colonies were inhabited by
populations of different blood and different race, such as the South
American republics are—if the proposal was that we should unite with them,
I could understand the apprehensions with which my hon. friends approach
this question. But, situated as we are, in colonies which are more united, as
has already been pointed out in this Chamber, in blood, in race, in political
opinions, political ways of thinking, and methods of political action than
any other communities on the face of the globe, why is it that we should
regard with apprehension the proposal to give to certain smaller bodies of
these our own fellow-countrymen, our own fellow-citizens, our own
fellow-members of the British nation—why is it that we should regard with
such apprehension the proposal to give them a greater representation than
the large states? That greater representation is not to be given to any class,
or I could understand the reluctance with which it is proposed to be
granted. If this equal representation in the senate was a question between
one class and another, I could understand the hesitation; but in each colony
the majority will rule, in each colony it will rule on the very broadest
franchise which is possible, and in each colony it will return
representatives without restrictions as to qualifications or any restrictions
whatever. It is scarcely possible to imagine, and certainly not possible to
propound, a more liberal constitution than this when thoroughly and
carefully examined. Give us the safeguards we ask for, and surely we may
commit, as far as

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it is in our power to commit, the future destinies of Australia to a body of
this kind, knowing that that body is to be constituted of Anglo-Saxons,
elected by Anglo-Saxons, containing representatives, many of whom probably I see before me now, Men trained to parliamentary-government in these colonies are not likely idly to depart from Australian traditions, or-even, from those longer and greater traditions of the British Constitution, to which I myself would like to see even a closer adherence than that promised under this, bill.

Mr. Higgins:
On the same principle the majority in Old Sarum should satisfy the hon. member!

The Hon. A. Deakin:
The majority in Old Sarum consisted of six or eight persons, and six or eight persons bore no proportion to the population of England at that time that could be measured with the proportion which the population in any one of these great colonies can ever bear to the whole of Australia. Probably as time rolls on these colonies will be divided on other lines than those which exist at present. Population will increase in special places. With that we need not concern ourselves. The fact remains that whatever the future states may be we are handing over this equal representation to electors trained under the British Constitution, and who for half a century have proved their competence to work successfully the constitutional governments with which they have been endowed, under difficulties-many of them-more serious than those likely to confront the federal government for many years to come. None of the constitutions under which we live are perfect. The Constitution of Victoria contains provisions to which I have the greatest objection, and which, as long as I am a citizen of that colony, I shall unceasingly endeavour to reform. But for all that we have lived under it; for all that we have prospered under it; for all that we have gained more, than we could have hoped to obtain under any form of government, except one that has sprung from the British Constitution.

The Hon. E. Barton:
Only free men, could have such a system of government!

The Hon. A. Deakin:
I hope we are free men, and I am sure we shall continue so under this proposal. The constitution on this table is a constitution that can be safely offered to free men. It is a constitution which leaves, as it ought to leave, in the hands of those who will be, the electors of the future federated Australia, the power of shaping it. If we obtain the two safeguards of which I have spoken, if we make those amendments in the bill, then if that constitution does not fit, as it probably may not fit, the Australia of a century hence, the Australia of a century hence will be competent to alter it. The proposal now made is one for which much may be alleged on the
ground of fairness and equity, for which much may be alleged on the
ground of generosity and consideration to those who are about to join us in
this federation. It has been apparent to me from the first, and particularly
since, 1890, that without this special concession federation is impossible.
The question I have put to myself has always been the same I may prefer
some other system—I do prefer some other system—to equal representation;
but would I sacrifice federation, would I miss the union of these colonies,
on this question of equal representation—much smaller as it is, I believe,
than some of my hon. friends think it is? I would not dream of such a thing.
Would I lose federation, when asked to make this concession or sacrifice,
even if it be as serious as they believe, at the very time when I shall be
asking my fellow representatives to make concessions or what they may
consider sacrifices to us? Do we desire to absolutely dominate the smaller
colonies

because we have larger populations, and to drag them in our train? That
might be a federation; but a federation launched on those lines could have
no bright or sunny future before it. Its foundation must be laid on justice.
There is no sufficient departure from justice in this proposal of equal
representation, balanced as it is, as it should be and as it, must be, by other
reasonable concessions to us—there is no such departure from a foundation
of justice as to cause us to fear to accept it as, the basis of the whole future
federal structure for Australia.

The Hon. E. BARTON (New South Wales)[4.17]:

As this question has now been rather fully debated—it was the subject of a
very full debate in Adelaide and took some time there, and it has now been
debated here for more than a day and a half—I do not propose, unduly to
prolong the debate, and I would suggest to hon. members that while it is
open, to all of, us to speak, and to speak at, length, still the real question is
whether the reasons on each side have been adequately and fairly put,
before the Convention, so as to reach the ears and eyes of the people of all
the colonies. I have very little to add to what I have always urged on this
question. I believe that so far as New South Wales is concerned, my views
on it are thoroughly well known. They have not been kept secret. They
have been the subject of many speeches, and I think that all who are likely
to read what I say to-morrow will have read what I have already said on
this question I am convinced that equal representation is not only
reasonable, not, only expedient, but just. I say that, having fully in view
that the constitution we are about to establish must nevertheless be a
constitution which will work the machine of responsible government. I
cannot, therefore, support equal representation with such co-ordinate
powers as would prevent the proper working of the system of responsible government. Short of that - which is a position I must take unless I am prepared to give up the system known to us for some other system of which we have no practical experience among people like ourselves - short of that, I am prepared to support equal representation. But beyond the point at which it is workable with constitutional government, of course, I cannot support it with powers which would make that kind of government impossible. Consequently, upon some such terms as exist in this bill, I am prepared to support equal representation as expedient, reasonable, and just. If we were to add to the powers of the senate, proposed in this bill, powers of amendment, I might ask myself very seriously the question whether a senate, having powers of amendment in money bills, together with equal representation of the various states, would be a body which could bear its part with reasonable smoothness in the machine of responsible government. But, in the vote I shall give, and in the remarks I shall make, I shall assume that this body will, on the whole, think it wise and just to adhere to the lines upon which the relations of the two houses, in respect to money bills, were adjusted in Adelaide, and upon that assumption I shall again give my vote for equal representation. A great deal has been said, not in this debate particularly, but during the proceedings of this Convention, and particularly in Adelaide, upon, the question of deadlocks. We have not yet reached that point for full discussion, but it is open to us to make remarks; upon it at the present time. I have repeatedly said that I do not attach any great importance to paper provisions for the solution of deadlocks, mainly because I think that these are matters to be settled so much, by the common-sense of the parties in a state that the ordinary provisions of a constitution are scarcely very well fitted to deal with what may be the variable operations of their commonsense, acting upon varying circumstances at different times; but there appears to be a considerable and growing feeling in favour of the institution of some method to deal with deadlocks in the case of equal representation being granted. I have not heard the question of the nature of that provision very fully debated during the present session of the Convention. I take it that if provision is made for deadlocks, it must be made by clauses separate from those which exist in the bill, either by the adoption of some amendment proposed by one of the legislatures which has sent suggestions to the Convention, or by dealing with a proposal made by one of the members of the Convention. I shall endeavour to keep my mind open upon the question, but I should not like it to be understood that, while I am voting for equal representation in the senate, I am prepared to
resist all and every provision for the solution of deadlocks, if I find a
solution proposed which, in my opinion, is not likely to prove an
obstruction rather than a facility to the working of government. With
regard to the general question, I do not propose to detain hon. members.
The quotation from Mr. Justice Story's commentaries upon the constitution
of the United States read by the hon. and learned member, Mr. Wise, is one
which was well in my memory, and which I thought of making myself. In
my opinion, it puts the question with remarkable directness, clearness, and
force. The question which arises upon that quotation, and upon the
consideration of all the arguments which have been advanced, seems to me
to be this: The extreme proposals from the federal point of view and from
the national point of view reduce themselves to this: The extreme federalist
goes so far in one direction as to make the constitution entirely of the type
one would call a confederation. That style of reasoner demands equal
representation in both houses, as it was demanded in America at the time
of the framing of the United States Constitution. The person who would
subordinate every federal interest to a national interest demands
proportionate representation in both houses. These being the extremes,
what is the just mean, what is that reasonable compromise at which to
arrive in order to give due force to the federal principle, and also to see that
the national government of affairs proceeds without undue interruption? I
take it that the mean is to be found in the dividing line between those two
forces, and that dividing line is so obvious as scarcely to require
description. It is found in proportionate representation in the one chamber
where the national interests are more peculiarly conserved, and equal
representation in the other. If the two extremes are those which will lead to
the extreme type of national government in the one case and of federal
government in the other, then, if you wish to constitute a body which will
work under responsible government, and reserve something like a just
mean between the federal and the national type of government, you can
only do that by giving proportionate representation to one chamber and
equal representation to the other. That is the sum of what is involved in the
remarks of Mr. Justice Story, which were quoted by the hon. and learned
member, Mr. Wise. I have been convinced of the justice of that proposition
from the beginning, and, much as I admire and respect the arguments of
my many friends who hold opposite opinions to my own, and who have
addressed themselves to this question, while I have given due and grave
consideration to all these matters, I have heard nothing which causes me to
alter my opinions. Of course the question of money powers is a very
serious one indeed; but, taking, it for granted that equal represen-
tation may be conceded upon terms which will admit of the continuance of responsible government in the form in which we know it-and I have no doubt whatever that upon the terms proposed in the bill with regard to money matters that machine can work, and have its due efficiency-then without further detaining the Committee I will say that upon this question I shall adhere to my former opinion.

The Hon. Sir GRAHAM BERRY (Victoria)[4.26]:

I would like to say a few words upon this subject. I have listened very patiently to the whole debate, and to the many very able and learned speeches which have been made by the learned members of the Convention, but I venture to say that the historical precedents which have been brought forward on this question of giving equal representation in the senate are without analogy to our present circumstances. The hon. member, Mr. Symon, drew an analogy with the leagues of antiquity. I presume that those alliances or leagues were for mutual defence, and for nothing more, and have no relation whatever to the conditions and circumstances under which we find ourselves in forming this federation. Passing from that we have the analogy of the United States of America. That constitution broke down in the immense Civil War, which was a matter to be deplored at the time, and is a matter of history now. That alone, I think, should make us pause before we adopt implicitly the provisions of the American Constitution. Then we have had brought before us the Constitution of Germany. That constitution was dictated by a powerful military state, and consequently acquiesced in by the other states, and forms no analogy to a proposal for the federation of these colonies. Nor can we take Canada as an analogy or an illustration, because in Canada the Senate is nominated by the Governor-General, while we propose that the senate shall be elected. Under these circumstances I do not see that there is any analogy in the historical incidents and events which have been referred to to guide us now. But we have a more reliable and surer mode of proceeding if we take into consideration modern thought and the trend of political events and proceedings. That has eventuated more and more as the years have gone by in the affirmation and confirmation of the theory that the majority must rule, based upon the widest possible adult suffrage. I think that is a principle which we can very fairly hold to and regard when we are considering the question of the formation of our constitution. I would even ask, would any liberal delegates ignore that principle unless it was to the advantage, or the supposed advantage, of his own particular colony? I think not. The state rights are to be protected, it is said. But what state rights are there of an isolated character in the federation which we propose to inaugurate? None whatever. The fact is that the work of the senate will be
the ordinary work of an upper chamber. and when we bear in mind the constitution of that senate, under the provisions of this bill we have every reason to believe, every reason to fear, that it may be a large predominant power in the constitution. It has continuity of existence; it is based on manhood suffrage; it has power to amend money bills, or to make suggestions equivalent to amendment; it has the initiation of money bills under certain circumstances. Altogether it is a body powerful enough to make headway, under favourable circumstances, with the house of representatives, and I would ask, are the larger colonies of this group New South Wales and Victoria-to be in a combined minority in a chamber which would be powerful enough, if the powers proposed in this bill be made definite and permanent, to a large extent, to a considerable extent, to control the course of legislation, not only of general legislation, but also of financial legislation. If the senate is to be as powerful a body as it is proposed in this bill to make it, then I say that Victoria and New South Wales ought to have a weight and representation in that chamber corresponding to their population, their importance, their wealth, and their power. Equal representation is insisted upon, not only by hon. members who represent what I may designate as the smaller states, but by a number of the representatives of the larger states, especially of Victoria; and I cannot conclude that that opinion is held for any other reason than the avowed reason given-that it is expedient, seeing that in the absence of such a provision there could be no federation at all. A modification of opinion has taken place upon this question since the Convention met in Adelaide, and it has been suggested by more than one speaker—and we may almost assume that this is authoritative, and that it will be acted upon in the future consideration of this measure—that such an alteration might be made in the powers and existence of the senate as will largely remove the objections which have been raised to equal representation. If there be a power to initiate money bills, if there be a possibility of the dissolution of the senate as well as of the house of representatives, if, above all, there be a referendum to the people, if there be an outlet for deadlocks between the two houses—if there be a referendum to the entire body of the people, so that in the last resort a majority of the people of Australia, the people of the commonwealth will decide any subject in dispute between their representatives in one house and in the other—I can see and acknowledge that a great deal of the objection to equal representation will be done away with. In Adelaide the powers proposed to be conferred upon the senate were accompanied by equal representation in that body; but if its powers
are limited to the ordinary powers of a second chamber I see less objection to an equal representation of all the colonies. If, however, that be not the case, if the powers given in the bill are continued, if the senate is to be a chamber so powerful as not only to obstruct, but largely to dictate the course of events in this progressive part of the world, I should hesitate to recommend, so far as my influence went, the population of a colony such as Victoria to enter the federation upon those conditions. Having regard to the powers proposed to be conferred upon the senate I think I am justified in expressing the opinion that equal representation is not a good basis, that it is not a fair and equitable basis, and that proportional representation would have been far more just. At the same time I am able to realise that, from, the initiation of this Convention, it has been possibly almost a necessity that equal representation should be given because we have equal representation here. We have the same number of delegates from the smallest colony as from the largest, from the less populous as from the more populous. This having been conceded it was almost certain that a Convention so constituted would in its very nature insist upon a similar principle to that embodied in its own creation being extended to the federal legislature. Undoubtedly the question is prejudged in the formation of this Convention. Further, it has been acknowledged by large organs of public opinion in the press from time to time, and, as I formerly said, it is almost impossible to get away from the necessity of allowing this principle of equal representation to prevail. Therefore, it was that in Adelaide I emphatically protested against the powers which are conferred upon the senate in this bill without any outlet for deadlocks. I protest most emphatically against the conferring of these powers without some outlet for deadlocks. If, on the other hand, there be some outlet for deadlocks, then I confess that the concession of larger representation for the smaller states in comparison with the larger states may be fairly submitted to. I would also urge that the consideration of the financial question is of the greatest importance, and that, therefore, there should be some modification of the other portion of the clause—some modification of those great powers which, at the sitting of the Convention in Adelaide, were conferred upon the senate. If those powers are modified somewhat in the direction which I have heard indicated by some hon. members who support equal representation, then I think that a concession of that nature might be fairly allowed. I do not know nor have I been convinced that this principle is true and just in itself. But we have become entangled with it; we have become so committed to it directly and indirectly in many ways that I see no possible way of escaping
from it, nor do I wish to jeopardise the possibility of federation by any action in connection with it. I wished to say a few words on the question; but what I most emphatically desire is a modification of the subsequent portions of the measure, and the provision of safeguards against deadlocks between the two houses as being essential to the full and fair representation in the commonwealth of every state whether large or small. I do not wish to detain the Convention, and will, therefore, simply say that, with the views I have expressed, I shall vote for the amendment, although knowing that it will be defeated. If the other question had been dealt with first in the manner some of my colleagues from Victoria have indicated, I might have voted differently. I shall vote now upon the bill as it stands. We have only one question before us at the present time—the question of equal representation, as settled at Adelaide; and, under these circumstances, I shall vote against equal representation.

Mr. TRENWITH (Victoria)[4-43]:

I wish to ask the leader of the Convention, as we have now reached nearly the ordinary time for adjourning, whether he will agree to report progress? I know that there are several hon. members who wish to speak on this subject, and there is no more important question than this to come before us. Although we have taken a reasonable time, we are not wasting time in discussing a question of this magnitude. I should like to address myself to the question, but I am not fit to do so this evening. The hon. member, Mr. Lyne, who has spoken to me on the subject, also desires to address the Committee on this question. It seems to me that we should not be very much facilitating business by going to a division, because, if this debate is closed, time will only be taken up in discussing the same phase of the measure at a future stage. It is obvious that, if we make this discussion as full as it can reasonably be, we may save time.

Dr. QUICK (Victoria)[4.45]:

I desire to support the request of the hon. member, and I think that an adjournment of the debate would result in a saving of time. I have listened to the debate which, I may say, has taken a very high level, and I think will impress the public of this colony as well as the public of the other colonies. I believe that if the debate is continued it will result in the strengthening of the position of those members of the Convention who are in favour of equal representation. I do not wish to take up a very great length of time in discussing, the question myself, but if the debate be adjourned until Monday I think it will result in a saving of future time, as well as in the strengthening of the cause of federation.

The Right Hon. Sir G. TURNER (Victoria)[4.46]:

I hardly like to oppose a suggestion which is made for the convenience of
hon. members; but surely it is not wise to let it go forth to the public that, having had this question under consideration for some time, we are not prepared to go on with the debate until half-past 5. We know that some are anxious to get away as quickly as they can, but if we commence adjourning at a quarter to 5 we shall not get through the work we have to do. Some hon. member must be prepared to speak now, and we ought not to adjourn.

The Hon. E. BARTON (New South Wales): I should be very loth, indeed, if it is persisted in, to oppose a request such as that which has just been made. but I would ask hon. members to consult the public interest of Australia by not persisting in it. I happen to know that there is at least one other gentleman who desires to speak, and he occupies the important position of leader of the Opposition in New South Wales. Although he would like to speak on Monday, I do not take it that he wishes to press his request for an adjournment unduly. I would only like to say that this matter was very fully debated in Adelaide, and it has been very fully debated now. If I could be informed that there was any set of strong arguments which have not yet been advanced, something which we did not hear in our debate in Adelaide or in our debate here-if there was some new phase of the question which had not been put, I should, on being informed of that, ask hon. members to agree with me in consenting to an adjournment. But if we find, as I found when addressing myself to the question, that all the arguments have already been put, and that my song, to use the vernacular, had already been sung for me-if we find that, is it not a good thing to let the matter stand on that full elucidation, that complete placing of it before the public which ought to satisfy the public on the one hand or hon. members on the other, if anything ever will? That is the view I wish to take. I know it would be very convenient for some hon. members who may have to leave town early, and who may not be back on Monday at the beginning of our proceedings to have a division. I may be wrong, but I do not think that the cause, either for or against equal state representation, can now be advanced one jot by further argument. I would ask my hon. friends to recollect that amongst the amendments of the legislatures there are affecting this clause some thirteen suggestions. Of course, on the negativing or the carrying of one or more of them others may not be put, as being Substantially identical; but there is amongst those amendments a complete putting of the various phases of the question, affording a complete vehicle for debate on all the phases of the matter, which I think will be ample for hon. members, and any new views on any of the other amendments, any phase not hitherto advanced, can be got in easily without
the curtailment of debate.

Mr. TRENWITH:

The question of equal representation cannot be discussed!

The Hon. E. BARTON:

I would put it to my hon. friends that we ought to proceed with the matter. If they persist in their request I leave it entirely in the hands of the Convention. I shall not offer any opposition, especially as owing to the physical reasons advanced by my hon. friend, I should only be too glad to accede to his request. But I ask my hon. friends who take up this position whether it is not better in the interests of the commonwealth not to throw the debate into another week?

The Right Hon. Sir JOHN FORREST (Western Australia)[4.50]:

I wish to say for myself and also for my colleagues from Western Australia that we should have liked, and we were prepared to speak upon this question. We entertain very strong views in favour of equal representation in the senate, but the subject has been so fully debated, and all the arguments, it appears to me, have been so clearly and fully placed before us that I and my colleagues do not propose to address the Committee any further on this subject, the real reason being that we do not think we can advance the matter further by argument than it has already been advanced by hon. members who have addressed the Committee.

Mr. TRENWITH (Victoria)[4.51]:

I desire to say that I intimated to the hon. member, Mr. Barton, that I would not have asked for an adjournment of the debate upon my own account, although I wished to have an opportunity of saying something on the question. In view of the opinions expressed, I readily agree, as far as I am concerned, to withdraw my request.

Dr. QUICK:

In view of the opinions that have been expressed, I wish to withdraw my request.

Mr. HIGGINS:

It would be positively improper that such a debate-

The Hon. J.H. HOWE (South Australia)[4.52]:

I wish to submit a question of order. I believe we are acting under the rules which govern the Parliament of South Australia. I should like to point out that if the hon. member, Mr. Higgins, speaks at length, any member can follow him at whatever length he pleases. The hon. member's reply now does not necessarily close the debate.
The CHAIRMAN:
The proceedings being in Committee, other hon. members can speak after the hon. member, Mr. Higgins.

The Hon. Sir W.A. ZEAL:
I trust hon. members will conclude the debate on the subject this evening. I have listened to the arguments of hon. members who have elaborated the consideration of this clause; but very little new matter has been introduced. A number of us have refrained from speaking solely in the interests of federation. We are most desirous that this matter should be dealt with this evening. We are now subject to the reproach out of doors that this Convention is sitting for the purpose of its own pleasure.

Mr. HIGGINS:
The hon. members are afraid of debate!

The Hon. Sir W.A. ZEAL:
Hon. members are not afraid of debate; but the hon. member, Mr. Higgins, is like Don Quixote—he is tilting at an imaginary foe. There is no substance in his opposition. That has been proved by an hon. member who knows far more of Victoria than the hon. member, Mr. Higgins—I allude to the hon. member, Mr. Peacock. He knows far more about the position in Victoria than the hon. member, Mr. Higgins, does. The hon. member, Mr. Higgins, is producing something which is not valid; he is only taking up time unnecessarily. I trust hon. members will come to a division, and not allow the reproach to be cast upon us that we are seeking our own pleasure rather than our work.

Mr. HIGGINS (Victoria)[4.55]:
I have to thank hon. members throughout the debate for the courtesy with which they have treated me, except in the case of the remarks of the last two speakers. We have now spent half an hour in debating whether there is to be any further debate.

An Hon. MEMBER:
NO, only twenty minutes!

Mr. HIGGINS:
I wish to address myself very briefly to hon. members in reply. I did conceive, until I was corrected by the hon. member, Sir William Zeal, that it would positively be improper for me not to take notice of the strong arguments which have been used on both sides in this debate. The hon. member, Sir William Zeal, for whom I have a great liking and respect privately, seems to misconceive altogether the position which we occupy. What is the work we have to do?
Is it to vote, or to debate and vote? I say that debating is the most valuable part of our work. If he thinks that his repeated cries of "Divide! Divide!" are helping the federation of Australia, he is wrong.

The Hon. Sir W.A. ZEAL:

The hon. member is misrepresenting me. I never called, "Divide! Divide!" so that the hon. member is wrong altogether!

Mr. HIGGINS:

Then I hope the hon. member will not do it again.

The Hon. Sir W.A. ZEAL:

I did not do it at all!

Mr. HIGGINS:

I think this is too serious a matter for us to indulge in protracted discussions as to whether there is to be further debate or not. I conceive it to be our duty to debate this important question, no matter who cries out against it. I think hon. members will recognise that whatever may be the issue of this vote, the indirect effect of this debate is even still more valuable than our direct vote. I think that those who are strongly in favour of equal representation must feel this: If they are sincere in their belief, as I think they are, all the colonies will look to those who favour equal representation for a strong expression of the reasons by which they justify it. These reasons will go out to the public, and hon. members who favour equal representation will be able to rely upon the public being convinced by the excellence of their arguments. I must say this also, that if I can judge from the expressions of the leader of the Convention, Mr. Barton, in his final statement, I think it is perfectly clear that this debate on equal representation has led to a very modified tone with regard to the provision against deadlocks. It is perfectly clear that, if this matter of equal representation had not been raised-and the raising of it, I may say, has been a matter of great difficulty, and nervous anxiety to myself, and has been done at considerable sacrifice to my own feelings-I say that the raising of this question, even if unsuccessful as to equal representation, may lead to such an adjustment as will, ultimately, enable us to carry federation, even upon its present impulse. With regard to the arguments used, I threw out a challenge to hon. members to show the principle upon which equal representation was to be based. I have to thank the hon. member, Mr. Symon, and others, who have manfully faced that challenge. The difficulty, however, with me has been to try and reduce to simple terms what is the answer first in principle. We must deal with principle first. I cannot put in one sentence the principle on which the argument in favour of equal representation rests. If you ask me, "Can you put proportional representation into a definite sentence?" I would say, "It means that you
must count heads, instead of breaking them." If hon. gentlemen have any simple formula by which they can put equal representation into plain words, I shall be glad to hear it; but I have not been able to understand it yet. We have heard a great deal about historic identity. and preserving historic identity. The answer to that simply is that we shall have the historic identity of Victoria, New South Wales, Tasmania, and the other colonies, preserved in their own governments and parliaments. What surely can you want more than that? Is there any formula, is there any sentence, is there any shortly-expressed reason, which you can extract from Story and the other writers who have been quoted, which can convince people that equal representation is right? With regard to an expression used by the hon. and learned member, Sir John Downer, the chief thing I could gather from his argument against me was that I had quoted "humpty-dumpty" wrongly. As to humpty-dumpty," I feel very sore. I may be wrong on equal representation, but I do submit that there are two versions of "humpty-dumpty." I gave one of the two which I had in my mind, and which I thought to be the most appropriate. The only other argument he could use was that because the northern army, when it was in the full flush of victory, did not proceed forthwith to stamp out equal representation in all the states in 1865, therefore, it felt that equal representation was right. Sir, the position is this: In the Constitution of the United States, equal representation is a matter of fixed law which cannot be altered by any change in the constitution; it must be done with the consent of every state, and all the northern army did they did professedly believing it to be according to law. All these war powers, and extraordinary war powers they were, were justified by the federalists on the ground of the ultimate power which must be involved in the constitution that a state must protect itself and keep itself indissoluble. As regards my hon. and learned friend, Mr. Glynn, whose careful and eloquent speech we heard last night, it is simply reduced to this: that he accused me of being illogical, that he accused me of driving logic to excess. I am afraid I wandered from logic too far, and I was glad to hear my hon. and learned friend, Mr. Deakin, remind me of it. What I have said right through is this: Do not carry your proportional representation to an extreme. Give the small states a minimum, and give them some little advantage as against the large states in the senate, simply to obviate their fear. All the speakers appear to admit that the small states have nothing whatever to fear, but still I say, if they have nothing to fear, give them certain advantages. Then, sir, Mr. Glynn's other argument is simply this: That I do not recognise that there are anomalies in every good constitution and especially in the British
Constitution. I do not know where he got the idea. If we recognise that there are anomalies, are we going to make anomalies without any sufficient motive? I recollect reading of an officer on the China station, who wanting a silk handkerchief made on the same pattern as a handkerchief he had, handed it to a Chinaman to make a copy of it. The Chinaman brought it back with a stain on it exactly similar to a stain which was on the first handkerchief, and it turned out that the Chinaman had actually copied the stain as well as the handkerchief.

The Hon. E. Barton:

That is what you are trying to do between the federal and the state constitutions!

Mr. Higgins:

Are we to keep the anomalies as well as the good principles which we find in the American Constitution? This system of following the American Constitution for the senate is simply a Chinese imitation, and nothing else, and no one has shown yet how it is to be justified by reason or common-sense. My hon. and learned friend, Mr. Symon, in his excellent speech, to which I think we all listened with intense interest, has said that our argument is simply for unification, and that we are met here for the purpose of having a federation. Can it be clearer that a unification is simply where all subjects are committed to one parliament for every country, as Great Britain and Ireland are under one parliament, and Ireland and Scotland are unable to deal with their own affairs? The distinction which we draw, rightly or wrongly, is that for the common subjects which pertain to these five colonies, we must be a unification, and that for the subjects which are not common, and which we still retain, we shall be still severed colonies. That is the principle; and it is no answer to us to say that it is unification.

The Hon. Dr. Cockburn:

Clause 52 contains matters of local interest!

Mr. Higgins:

Why give them to the federal parliament? Of course everything which is given to the federal parliament is a matter of local interests. What I want to know is why, if you agree to give matters to the federal parliament, do the states try to keep the control of those matters? The true provincialists are those who are going in for equal representation. My hon. and learned friend, Mr. Barton, who has been so strong an advocate of federation right through, is a provincialist, and behind him are all the selfish forces of provincialism to which be alluded in Parliament. The selfish forces of
provincialism are still trying to retain for the states the control of matters which the states agree are to be left to the federal parliament. I think no one can deny that.

An Hon. MEMBER:

We do not want centralisation!

Mr. HIGGINS:

Centralisation I have explained already. We will have perfect severance and no centralisation as to the subjects for each colony. The difficulty in this matter has been that hon. members in reasoning and speaking on platforms appear to treat federation as if it were some definite, fixed, rigid scheme to which we must work up, no matter what happens, and it was well illustrated by the interjection of my hon. friend, Dr. Cockburn, "Are we to go back to pot-hooks?"; as if every one had read some text-books, and in those textbooks there was a definition to which we must all conform, or else make a mistake. That is a very false attitude with which a number of us are approaching this question. Federation is not a question of textbooks, but, as Burke says, government is a mere human contrivance for the purpose of meeting human wants, and the question is what will be the best contrivance for the purpose? My hon. and learned friend, Mr. Symon, has referred to Freeman and his editor. He has also referred to the Achaean League at some length. I will briefly ask the Committee to consider a passage in Freeman which expresses not the opinion of the editor of Freeman, Mr. Bury, but Mr. Freeman's opinion, and the opinion of Montesquieu and Bishop Thirlwall. On page 162 of the same book as he quoted, referring to what he calls the Lykian League, he says:

I mean the wise and well-balanced federation of Lykia, whose constitution has won the highest praise from Montesquieu in the last century, and from Bishop Thirlwall in the present. The antiquities and the language of Lykia have lately attracted the attention of scholars in no small measure. To the political inquirer the country is no less interesting as possessing what was probably the best constructed federal government that the ancient world be held. The account given by Strabo, our sole authority, is so full, clear, and brief that I cannot do better than translate it. The "ancestral constitution of the Lykian League" is described by the great geographer in these words:

There are three and twenty cities which have a share in the suffrage, and they come together from each city in the common Federal Assembly, choosing for their place of meeting any city which they think best. And among the cities the greatest are possessed of three votes apiece, the middle ones of two, and the rest of one; and in the same proportion they
pay taxes and take their share of other public burthens.

Then at page 165, referring to the fact that in most of the ancient constitutions each tribe or state, whether great or small, had only a single vote, he says:

The Lykians avoided this danger by giving to their cities a greater or less number of votes, according to their size, being the first recorded instance of an attempt to apportion votes to population.

My hon. and learned friend has appealed to Freeman—and to Freeman he shall go.

Mr. SYMON:

I have been there!

Mr. HIGGINS:

The Achaean League was the only one to which the hon. member referred, if these old precedents have anything to do with it. I am prepared to meet the hon. and learned member on his own ground. As soon as I try to meet hon. members on the ground of logic, I am told you must not be logical; as soon as I meet hon. members on the ground of history, I am told you must not refer to historical precedents; and as soon as I refer to matters of expediency or practice, I am told you are forgetting the pothooks of federation. I must meet what I conceive to be bad logic by what I conceive to be good logic. I must meet what I conceive to be bad historical analogy by referring to good historical analogy, and I must meet also questions of expediency by counter considerations of expediency. What I say is that there has been, as yet, no attempt to justify this equal representation, except by reading from text writers a sort of loose statement as to the American system as matters of fact. The nearest thing to it is what Mr. Bury puts, not as a matter of expediency, but as a matter of fact:

The object of both the ancient and the modern federations was to provide that both each state as a whole and each citizen individually should have a voice in the federal assembly.

He merely states there a fact in federation. The question is what are we to do? I submit that the true tendency of the federal systems, which are likely to be more general as the centuries go on, embracing afar larger numbers of people within their area and leading to a great distribution of subjects, so that people may be united on some subjects and disunited on others—the true ideal of federation is that the people shall rule on subjects of common interest, and that within separate organisations they shall rule as to matters which come within those separate organisations. That would be a true ideal of federation; but here, unfortunately, we are going back to the ruck; we
are going back to retrogressive legislation. We are going to try and adopt the system which was adopted under pressure in America, and which they would never adopt if they had to start again. I desire to refer to one argument mentioned by Mr. Wise, in regard to the separation of Victoria from New South Wales in 1851. The hon. member's argument was, I think, misconceived. We Victorians are not going to give up our separate parliament. We have no repentance about our separation from New South Wales. Our separation was well considered, and has, I think, resulted in great advantage to both New South Wales and Victoria. But at that time, 1851, we had no railways connecting the two capitals-no railways running throughout the continent as they do now. The capitals were simply connected by a few vessels which took a week to go from one to the other. But even at that time—at the time of the separation of Victoria from New South Wales—Earl Grey did his best to bring about a kind of federation. He failed. The time has now come. We have a population now right down from Sydney to Adelaide. We have railways running between the capitals, and it is only fitting for us to have a union for those purposes which are common to the different colonies. But as to preserving the historic identity of Victoria we have not the slightest intention of giving it up. The hon. member, Mr. Isaacs, has given very valuable assistance to the arguments which I put forward, and I think I ought to express my regret that he cannot also give us his vote. I feel hon. members present will be convinced that if that vote had not gone the other way at the Adelaide Convention, and if my hon. friend had not committed himself so far at that Convention, his vote would have gone with his voice on this occasion.

**The Hon. I.A. ISAACS:**

No, I was as convinced then as I am now that without equal representation we will not have federation!

**Mr. HIGGINS:**

I would not have said this if my hon. friend had not been present; but I still hold to my opinion that no one could have spoken so clearly and forcibly against equal representation, and not given his vote against it, if he had not been in a corner with regard to the matter.

**The Hon. I.A. ISAACS:**

I expressed exactly the same view at Adelaide!

**Mr. HIGGINS:**

It was expressed very late in the debate—after the representatives from Victoria had given away the position right off. I found in Adelaide that the representatives of the less populous states were pressing larger and larger
demands in regard to their admission into the union. I should like to know, after this was once given away by the larger colonies, after it was once given away without any reservation, how the representative of a less populous colony could possibly have expressed his own clear and straight voice on the matter. The representatives of the smaller colonies were bound to take the concession which was showered upon them unnecessarily and prematurely by the representatives of the other colonies. There is no doubt the hon. member, Mr. Peacock, hit the nail on the head when he said that the difficulty is that for several years back in Victoria as well as elsewhere they have been assuming this matter of equal representation. I feel myself like a man pulling against a flood current, and although the vote will be against me, I feel convinced that the raising of this question will do a great deal of good to the immediate prospects of federation. I feel sure that this matter, having been considered and reasons given for and against it, along with the fact that the strong recommendation of the Legislative Council of New South Wales, backed up by a considerable minority in Victoria, has not been thrown aside or ignored, will help those who think they can carry this constitution without equal representation in it.

Mr. LYNE:

Also the Legislative Assembly of New South Wales!

The Hon. J.H. HOWE:

Does the hon. member think there would be any possible chance of carrying federation without it?

Mr. HIGGINS:

I have expressed my opinion before as to whether it can be carried in Victoria or New South Wales with equal representation. I know there are other opinions with regard to Victo

Mr. WISE:

The people are far ahead of the politicians in regard to federation!

Mr. HIGGINS:

It is all very well for politicians to decry politicians. One of the greatest evils of political life is for politicians to be always using the name "politician" in a disrespectful sense. I think if we do earn disrespect amongst the people, it is because we do not respect ourselves. I may say I have only been three years in Parliament, but I have come to respect members of Parliament more than I did before I entered Parliament. A strong point seemed to be made by the hon. and learned member, Mr. Deakin. He says, "If you have proportional representation in both houses you have no distinction between the houses, and, therefore, the senate will really attempt to enforce its will to deal with money bills." That is the same
old argument that has been trotted out against every attempt to improve an upper house in these colonies. They are always saying, "If you make the Upper House more liberal you cannot give any reason for not giving it more power with regard to money bills." I declare to accept that reason as sufficient. We must attempt to make our upper house, as far as we can, amenable to the will of the people—the only will I can recognise, especially having regard to the extreme difficulty of moving the people.

The Hon. E. Barton:

Which would the hon. member give the most power to—a strongly based upper house or a weakly based upper house?

Mr. Higgins:

It would all depend upon circumstances. I think that if they will think a little further, those hon. members who have laughed without understanding the meaning of my answer will see that I am right. You cannot answer that question without qualification—just as my hon. friend, Mr. Dobson, to-day had to qualify an absolute statement which he made, when he said that he would take federation on any condition, and afterwards said he would do so if it were accepted by the Convention and based on the will of the people. Supposing that you have a senate constituted with a certain qualification, with regard to proportional representation, in deference to the fears of the smaller states, it will not and cannot be the house of the people; and, therefore, so long as there is a senate—so long as an upper house is deemed to be necessary—there will always be a good and solid reason for saying that that house which does represent the people by the number of heads shall have supremacy of power in regard to money bills. My hon. and learned friend, Mr. Deakin, said "in each colony the majority will rule—is that not democratic?" I interjected, "What about Old Sarum—what about the rotten borough system in England before the Reform Bill?" In Old Sarum there might have been six voters, and it might have been said, "Among those six voters the majority will rule. What could you have fairer than that?" The same would apply in Western Australia. Supposing that in the interior of Western Australia you have a rouse about and a station overseer, and that you say that all that area is to be represented by one member, and no more, you might say that there the majority would still rule. It is no answer. Why talk of plural voting? I say it is enacted by equal representation in a still more outrageous form; for whilst you provide that no man shall have more than one vote by saying that he shall vote only once, you give him, by one scratch of the pen in one polling booth in Tasmania, a power which is equivalent to eight votes. In place of having
the trouble in plural voting of going about from one booth to another, he, by simply going into one booth in Tasmania and scratching out one name, has eight votes to the New South Wales man's one. I am obliged to hon. members for the kind way in which they have dealt with my arguments. I felt all through that I was doing my duty, and I feel that I have done it.

Mr. LYNE (New South Wales)[5.25]:

I wished to address the Convention at some length on this important question, but, if there is not to be an adjournment of the debate to-night, I do not feel able to do so, considering that I have been two nights in the train, which is not conducive to assisting anyone in dealing with a question of this kind. I do not wish to receive any undue consideration from the Convention, but, if there is not to be an adjournment of the debate, I shall not be able to express my views as I desire; and I regret it more particularly because, from the earliest inception of this Convention, I have considered that this particular point is the kernel of everything, around which everything centres, as far as the federation of the colonies is concerned. Once this matter is settled, I think it is for good or ill as to whether we shall or shall not have federation. The smaller states, I was made amply aware, at the Adelaide Convention, were intending to grasp all the power they could; and, as the hon. member, Mr. Higgins, stated just now, they were induced, I believe, to ask for more than they probably would have asked for, by the action taken by some members of the larger states in conceding very largely a great deal that was never asked for.

The Right Hon. Sir J. FORREST:

They did not ask for more than they asked for in 1891!

Mr. LYNE:

I must differ from the right hon. gentleman. I must adhere to the view I took at the Adelaide Convention: that the action of a majority of the delegates of the larger states assisted much to increase the claims and demands of the smaller states-

The Right Hon. Sir JOHN FORREST:

Oh, no!

Mr. LYNE:

As the hon. member, Mr. Higgins, so justly said just now. I would like to ask whether in this Convention the larger states are or are not to be dominated absolutely, and in almost every particular, by the claims of the smaller states? Are we in New South Wales to be dictated to absolutely on this question, and are the representatives of Victoria—a large state also—to be dominated also by the demands of the smaller states? I think it is unwise that any such course should be taken. Listening, as I have to-day, to only
scraps of this debate—which has been an able debate—I think it is to be extremely regretted that there seems to be such an overwhelming determination in the Convention to listen to no argument.

The Hon. E. Barton:
Surely that is not so!

Mr. Lyne:
To listen to no argument without showing very strong symptoms of irritation—I mean no argument that is on the side of the hon. member, Mr. Higgins. The speeches that have been delivered have been mostly made by the legal talent in this Convention; they have been legal speeches, some of them logical, some of them, I think, absolutely illogical. I cannot conceive that any man could deliver a logical speech on the side of equal representation of the smaller states; and, as far as the hon. member, Mr. Higgins, is concerned, I think that his arguments have been almost absolutely logical. The only point upon which he could be accused of not being logical is where he admitted the privilege of the smaller states to have a minimum of representation. To be absolutely logical there should be no minimum; we should deal with this question altogether on the basis of population. It is not the question of a large state, it is not the question of land; it is the question of population that should govern the whole of the Australian colonies, if we are to have that representation which will satisfy the people. The taunt has been hurled at those who entertain the views that I do that we are against federation. One of the representatives of New South Wales the other night asserted in my hearing that because I was against equal state rights, I was against federation. Mark my words, sir, that those who want federation are going the wrong way about it if they adhere to equal state rights in this bill. I do not claim to know the feeling of the people of New South Wales better than others; but I fancy I know it fairly well, and I am strongly of opinion that with equal state representation the people of New South Wales will not accept the Convention Bill. The Attorney-General of Victoria, Mr. Isaacs, delivered a very logical speech against equal state representation, and his vote, if he gives it in favour of that system, will be an illogical vote. There are a very large number of electors in Victoria—I know a great many—who are against equal state representation, and it will be found to be the case I think when there is an appeal to Victoria on this bill, as I presume there will be. I venture also to suggest that there is not likely to be an federation without the colony of New South Wales. Anything inserted in this bill which is likely to jeopardise the measure in New South Wales will be the strongest factor possible in preventing a general federation. I do not think
two or three colonies can federate without the larger ones. I scarcely think they would attempt to do it. I do not believe, that South Australia, Western Australia, and Tasmania would attempt to federate without Victoria and New South Wales. These two being the larger and more populous, and, at the present time, the wealthier states, some regard should be had to the voice of the people in those two colonies in framing, this bill. It is not necessary that I should reply to the intricate arguments advanced by the legal talent in the Convention on the side of equal state representation. I think it would be unwise to do so at the present time. My object as a true federationist is to see a bill framed that will meet the views and the support of the people of New South Wales, and I desire very much to see a bill framed which I can support before the country. If equal state representation is inserted in the bill in the bald manner in which it seems likely to be, however much I may be in favour of federation, I shall have to oppose the bill after it is framed in this Convention, and I should extremely regret having to do any such thing. There is another feature that struck me when listening to some of these debates. I listened attentively to the speech of Mr. Deakin, and I cannot see much difference between the views of that gentleman and my own, unless I altogether misinterpret what he said, for I interpret his remarks as having this meaning, "I am in favour of equal state rights, provided you insert in the constitution some machinery which will give a power of reference to the people in the case of deadlock." I should like to ask those gentlemen who have been saying so much about logic, what logic there is in standing up for equal state rights if you are going to import into the bill some machinery to destroy the power of the senate elected with equal state rights? Mr. Deakin, I think, made it abundantly clear that unless he obtained some provision in the bill that would be a solution of deadlocks between the two chambers, his words would be different, and I think he said his action would be different, regarding the vote on this particular question. It seems scarcely fair to ask the Convention to vote, to some extent, in the dark on this matter. I should like to ask my hon. friend, Mr. Isaacs, whether if he votes in favour of the motion on the present occasion, and if, when it is proposed to insert a provision in the bill giving power to the people to decide in case of deadlocks, that proposal is not carried, and the bill is framed with this hard and fast rule in it which will give to a, minority of the states the power of overwhelming a majority—a power of overwhelming all legislation that may take place by the representatives of the people—I should like to ask my hon. and learned friend whether in that case he would be prepared to accept the bill without the referendum or anything that would get rid of deadlocks between the two chambers? We are asked to vote on this question as
though the Convention had agreed to import that provision into the bill. I venture to think that before many days are over, it will be found that no provision of the kind acceptable to the majority of the people will be inserted. What was the result of a vote on that question in Adelaide? The result was that such a provision does not appear in the bill now.

The Right Hon. Sir G. TURNER:
The voting was pretty close on that occasion!

Mr. LYNE:
I forget exactly what the voting was.

The Hon. I.A. ISAACS:
It was 18 to 13!

Mr. LYNE:
That is not a very close vote. Suppose the Convention decides that it will not insert that provision, or any provision of the kind will my hon, friends; Mr. Deakin and Mr. Isaacs, and other hon. gentlemen who are now willing to, vote for equal state rights, be prepared to accept the bill with equal state rights, and with no provision, to do away with the possibility of deadlock between the two chambers? It is, therefore, scarcely fair to ask the Convention to deal finally with, the question at this particular time. I would go a step further, and say that I cannot see that the adoption of the referendum, or any provision under another name, but having the same effect, will do away, to a great extent, with my objection to equal state rights. I do not support equal state rights at

The Hon. E. BARTON:
The simple answer to that is, that there is nothing in the bill to that effect!

Mr. LYNE:
I beg the hon. member's pardon-there is. Will the hon. member deny that Tasmania, with a population of 160,000, and Western Australia, with a population of 130,000, can each return six representatives to the senate, while New South Wales, with a population of 1,300,000, can only return the same number of representatives?

The Hon. E. BARTON:
That is not what I meant. What I meant was that you do not give a man in Tasmania eight times as much power as you give a man in New South Wales by providing for equal representation in one home and proportional representation in the other.

Mr. LYNE:
If you provide for proportional representation in the house of representatives, and if you create another body which will revise the work
done by that house—a power to refuse to pass and absolutely veto anything passed in the house of representatives—is not that equivalent to giving a man in a small state eight times the voting power possessed by a man in a large state? This, seems to me an unanswerable statement. You provide machinery for passing: legislation up to a certain point; but when you get to that point you provide further machinery to block it from going an inch further. What is the use of the machinery created in the first instance when the work of the house of representatives can be blocked by the upper chamber? We have had bitter experience of that in this colony on more than one occasion. The work done after arduous labour by the Legislative Assembly has been absolutely vetoed by the Legislative Council. Will the hon. and learned member, Mr Barton, tell us that if work is done in the house of representatives which the senate has the power of vetoing, the senate will not exercise that power? I venture to think that my hon. and learned friend has introduced a distinction without a difference, and that I am correct in stating that in the provision to be inserted in the bill, the representatives of the smaller state will be able to thwart the will of the majority of the people as expressed by their representatives in the lower house. There can be no answer to that. I think that if we negative the amendment this colony will not accept the bill. My objection to equal state representation would, to a very large extent, be done away with if there were a provision, or if there were to be a provision inserted in the bill giving an opportunity for an appeal to the people under certain circumstances by way of referendum. If that is not done, my objection, to equal state representation will remain whether I am in a minority here or in the country. If the members of the Convention desire to see the bill passed into law, I counsel them to fully consider the question which is to be forced to a vote this evening—I think unwisely, because we know that, great regret was expressed after our meetings at Adelaide were adjourned, because this matter, among others, had been hurried through in such an undue fashion, in order that the Premiers might get away to Great Britain.

The Hon. E. BARTON:

This matter was not hurriedly dealt with in Adelaide. Anyone who said that in the press has spoken an untruth.

Mr. LYNE:

I conceive that this matter and every matter was hurried through. During the last week or ten days of our Adelaide meeting we were sitting not only during the day, but for three parts of the night, and I ask whether, under such circumstances, the minds of hon. members were in a condition to
consider important matters of this kind, and to deal with them in a manner satisfactory to themselves or to the electors they represent. I do not wish to detain hon. members longer; but if the arguments used by the representatives of the smaller colonies and by other hon. members who favour equal state representation have not underlying them the desire that the smaller states should have power to veto the will of the people in the larger states, they can have no effect at all. Hon. members might just as well not try to force on the Convention and on this colony the powers of the smaller states as compared, with the powers of the larger states. I say that it is ridiculous for those who favour equal state representation to imagine that the three colonies of South Australia, Tasmania, and Western Australia are fighting so hard for this right if they do not wish to have a very strong whip to lay upon the shoulders of the representatives of the larger colonies should occasion require. Having made these few remarks, which in a sense I apologise for, because they, are not the remarks which I had intended to make if I had had more time, I shall vote for the amendment. I hope that my prophecy that its rejection will do more to retard federation than anything else will not come true, though I think that it will.

Question—That the words "six senators for each state" proposed to be omitted stand part of the first paragraph—put. The Committee divided:

Ayes, 41; noes, 5; majority, 36.

AYES.
Abbott, Sir Joseph Isaacs, I.A.
Braddon, Sir E.N.C. James, W.H.
Briggs, H. Kingston, C.C.
Brown, N.J. Leake, G.
Clarke, M.J. Lee-Steere, Sir J.G.
Cockburn, Dr. J.A. Lewis, N.E.
Crowder, F.T. McMillan, W.
Dobson, H. Moore., W.
Douglas, A. O'Connor, R.E.
Downer, Sir J.W. Peacock, A.J.
Forrest, Sir J. Quick, Dr. J.
Fraser, S. Reid, G.H.
Fysh, Sir P.O. Solomon, V.L.
Gordon, J.H Symon, J,H.
Grant, C.H. Turner, Sir G.
Hackett, J.W. Venn, H.W.
Hassell, A.Y. Walker, J.T.
Henning, A.H. Wise, B.R.
The Hon. E. Barton (New South Wales)[5.52]:

In moving

That the Chairman do now leave the chair, report progress, and ask leave to sit again,

I desire to say a few words in reference to the observations of the hon. member, Mr. Lyne. I must say, in all good-feeling and respect for the hon. member, that I entirely dissent from his statement that the division which has just taken place was forced on. I think hon. members on each side will agree with me in what I said earlier in the afternoon—that is to say, that the debate had evoked every argument of which one had ever heard both for and against equal state representation. I merely wish to say this, in order to relieve myself of the charge of supposed complicity in the forcing on of any division. It was represented to me that there were two gentlemen beside the hon. member, Mr. Lyne, who wished to report progress and to defer the taking of a division, but on my putting the matter before both of them, they very properly withdrew their request. I mentioned that to the hon. member, Mr. Lyne, and he said that although he would like to have an adjournment of the debate until Monday, he would not actually press for it. Since the hon. member did not dissent from my statement, I presumed that he acquiesced in it. I wish to clear the hon. member's mind of the supposition that there was any desire on my part that the debate which has just taken place should be unduly forced to a conclusion. I think that what has occurred has fully justified that which I said in the afternoon—and even up to the present moment the statement remains true—that is at 4 o'clock, that every argument of which one had ever heard on one side or the other upon this question had been brought forward in such a way as to be clearly understood.
Mr. LYNE (New South Wales):
I merely wish to say that I understood from three other gentlemen that they intended to speak upon the amendment if an adjournment, of the debate took place until Monday. I certainly had no intention of making any harsh reference to the pushing of business; at the same time, I should have been glad, had an adjournment been agreed to, to speak at greater length than I did.

The Hon. E. BARTON (New South Wales):
When I said that I had made a certain statement to an hon. member, and that I had not heard any dissent from him, he having been in the Chamber a little while before he spoke to me on the subject, I was not aware that in the interim he had gone out.

Motion agreed to; progress reported.

PAPERS.
The Right Hon. Sir JOHN FORREST laid upon the table financial and statistical facts relating to the colony of Western Australia, and a report by the Government Actuary of Western Australia upon the Draft Constitution Bill.

Ordered: That the documents be printed.
Convention adjourned at 5.55 p.m.
Monday 13 September, 1897

Procedure - Commonwealth of Australia Bill.

The PRESIDENT took the chair at 10.30 a.m.

PROCEDURE.
The Right Hon. Sir G. TURNER (Victoria)[10.31]:

Before the business of the day is called on, I should like to suggest for the consideration of the leader of the Convention, now that we have practically disposed of the question of the constitution of the senate, whether it would not be in the interests of the movement and convenient to the Convention, if we were to take in hand the next difficult matter—the mode to be devised for settling deadlocks, should any arise, between the two houses. When we once know whether We are or are not to provide any such mode, and, if we are, what that mode is to be, I think it will facilitate the discussion with regard to the powers of the two houses. I think that if we could deal with that matter almost immediately, it would clear the ground of a large number of difficulties, and probably enable us to complete the business much more rapidly then if we were to discuss other matters, not knowing how we proposed to settle difficulties that might arise between the two chambers.

The PRESIDENT:

The matter can be discussed and settled in Committee.

The Hon. Sir R.C. BAKER (South Australia)[10.32]:

I would point out that when a clause has been amended, its further consideration cannot be postponed unless we pass a motion to suspend the standing orders.

The Right Hon. G.H. REID (New South Wales)[10.33]:

I am certainly not opposed to the course which has been suggested by the right hon. member, Sir George Turner. I do not know whether any difficulty would arise owing to the fact that such a proposal will, probably, take the shape of a new clause. The ordinary rules, of course, prevent us from proposing new clauses until the whole of the bill has been dealt with.

The Hon. Sir R.C. BAKER:

That is not our practice!

The Right Hon. G.H. REID:

Well, then, there is no difficulty in the way. Of course it is a matter of South Australian practice, and I am not able to say what that practice is. Perhaps the hon. member, Sir Richard Baker, or the President, might tell us
what it is?
The PRESIDENT:
What is the point?
The Right Hon. G.H. REID:
Anything in the nature of a provisio n in regard to deadlocks, I am afraid, must be in the shape of a new clause. I am not aware of any clause in the bill before us into which it could be dovetailed; and, according to our practice in this colony, and certainly according to the practice of the Convention in Adelaide, new clauses were not taken until the whole of the clauses under the bill under consideration had been dealt with, and I may mention that owing to that circumstance I was compelled to leave the Convention at Adelaide without having taken part in that discussion, which I consider was the most vital of all.
The PRESIDENT:
The rule is that new clauses cannot be considered until after the rest of the bill has been disposed of; and, if any alteration in that respect is desired, we must suspend the standing orders.
Mr. WISE (New South Wales)[10.34]:
I should like to invite the attention of the leader of the Convention to a difficulty that we may be in when we come to the deadlock clauses. Under the standing orders under which we are working it will be necessary to put each of the three proposals suggested by the various parliaments in their order. We all know what happens when three proposals for amending the same clause are put successively; generally the one put last is carried, because the supporters of the other two combine to defeat the first and then the second, and in that way a real test of the feeling of the Convention would not be obtained. I should like to suggest to the leader of the Convention whether it is not possible, either by suspending the standing orders or by modifying them in some way, to take first of all a vote as to whether there should or should not be in the bill a provision in regard to deadlocks. If that is settled in the negative, of course the matter will be finally dealt with, but if it is decided in the affirmative, then might not there be a mode devised for obtaining the opinion of the members of the Committee as to which of the proposed schemes they really prefer?
The PRESIDENT:
I think that what is desired might be secured by suspending the standing orders and passing a resolu-
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tion that new clauses maybe considered when desired by the Committee.
The Hon. Sir R.C. BAKER (South Australia)[10.35]:
In reply to the hon. and learned member, Mr. Wise, I would point out that
under the procedure that we have adopted the difficulty which he suggests could not arise because we are treating amendments as substantive propositions and any amendment brought forward can be amended in any way so as to meet the wishes of the members of the Convention. Therefore, there is no preference given to the amendment first proposed, or to the amendment last proposed.

The PRESIDENT:
That is so. I take it that an amendment would require to be pertinent to the subject-matter of the clause, and also to the suggested amendment, before the Chair. I do not understand at the present moment that there is before the Committee any clause which deals generally with the question of the solution of deadlocks.

The Hon. R.E. O'CONNOR (New South Wales)[10.36]:
In the suggested amendments that are before the Committee there are three proposals under the head of "amendments to clause 56," and putting forward three different schemes for dealing with deadlocks.

The Hon. F.W. HOLDER:
And the South Australian scheme a little later!

The Hon. R.E. O'CONNOR:
Yes.

The PRESIDENT:
Is that by way of amendment or new clause?

The Hon. R.E. O'CONNOR:
By way of a new clause.

The PRESIDENT:
An entirely new clause?

The Hon. R.E. O'CONNOR:
Yes.

The PRESIDENT:
I think that that will require to be considered after hon. members have gone through the bill!

The Hon. R.E. O'CONNOR:
No. It is inserted in that part of the bill dealing with money powers.

The PRESIDENT:
It is a new clause!

The Hon. R.E. O'CONNOR:
Undoubtedly.

The PRESIDENT:
I think the new clause ought properly to be taken after the rest of the bill has been disposed of!

The Hon. R.E. O'CONNOR:
In reference to the suggestion of the Right Hon. Sir George Turner, the only matter of importance to be dealt with under the head of the senate is the question whether the constituency shall be the whole colony or whether each colony shall be divided into different electorates. That is a very important matter, and perhaps might be dealt with at once.

The Right Hon. Sir G. TURNER:
I meant that after we had finished the question in regard to the senate we should settle the other questions!

The Hon. R.E. O'CONNOR:
And under the head of money, powers, which are also important, perhaps this question, of deadlocks might be taken.

The Hon. Sir JOSEPH ABBOTT (New South Wales)[10.37]:
The suggested amendments can hardly come within the category of the standing orders that require that new clauses shall be considered after the bill has been gone through, because by the act under which we are considering these suggested amendments, whether it is or is not a new clause, it is a suggested amendment which can and must be considered at the time when the clause in the original bill is being considered. Therefore I contend that any amendment, whether in the shape of an amendment or a particular clause, or whether by way of substituting a new clause for that clause, is equally within the consideration of the Committee.

The Hon. E. BARTON (New South Wales)[10.38]:
Perhaps some relief may be found in matters of this kind by the consideration of the directions given by the statute which overrides the standing orders. Where the business is directed by the statute to be reconsidered together with the suggested amendments, that may mean that the suggested amendments are to be considered at the same time as the clause to which they relate. Whether they are or are not new clauses they are equally suggested amendments. There will be some difficulty in considering the deadlock question at the present moment first, because this proposal comes upon us rather suddenly, and although we are able by the indulgence of the Chair to discuss the deadlock question, still we have not the deadlock proposals before us on the clause which is now before the Committee, and hon. members I think have not come here with the expectation of bringing forward and deciding today upon proposals to meet deadlocks. The consideration of the deadlock question now might therefore plunge us into a discussion we are but little prepared for, and everyone knows that that might cause some bewilderment and a little loss of time. But it is very desirable that these deadlock suggestions and any we may have to make
ourselves should be considered as early as possible. In regard to that, I am quite at one with my right hon. friend, Sir George Turner. I suggest that the proper course is this: omitting minor clauses, let us deal with the constitution of the Senate; then with the constitution of the house of representatives—because before settling deadlocks we ought to know how the two chambers are to be constituted. Indeed before dealing with that question we ought to know how this Committee is going to decide as to the manner in which the senate is to be elected, whether each representative is to represent the whole colony or a constituency in a colony. These are the points to be considered: First, the constitution of the senate; next, the constitution of the house of representatives; then the relative powers of the two houses as to money bills; and then the deadlock question, which is contingent upon the question of money powers, which arise in connection with clauses 54 and 55.

The Right Hon. Sir G. TURNER:
Before you deal with deadlocks?

The Hon. E. BARTON:
I think it will be more convenient.

The Right Hon. Sir G. TURNER:
I think the reverse?

The Hon. E. BARTON:
It seems to me to work out this way. You want to provide that is the desire of many hon members against such a difference of opinion as will lead to a stoppage of the legislative machinery. You cannot intelligently consider that question unless you first know how the two houses are to be constituted respectively and what powers they are to have in relation to money bills. It is generally conceded in endeavouring to prevent deadlocks, that the disagreements which arise are in near

An Hon. MEMBER:
You might take that tomorrow?

The Hon. E. BARTON:
We might take it immediately after we have discussed the money powers, and postpone all the clauses except those relating to the constitution of the senate, the house of

representatives, and their relative money powers. If hon members agree with that suggestion, it will ease our task considerably, and bring on the discussion on deadlocks during the present week.

The PRESIDENT:
In reference to the remarks of the hon. and learned member, Mr.
O'Connor, in reference to the various provisions in regard to deadlocks, having fully considered the matter, I may point out that the proper course is for the various amendments whether in respect of those clauses or others to be submitted for consideration to be taken in the order in which they appear on the business-paper. It is not as if in the ordinary course the clause is proposed for the first time in Committee; but we have them before us already, and further by statutory enactment they are referred to the Committee for consideration, and there is nothing to prevent their consideration in the order in which they stand.

The Right Hon. G.H. Reid (New South Wales)[10.43]:

Are we to understand that we finish the constitution of the senate, then that of the house of representatives, then take the money powers, and next the deadlocks?

The Hon. E. Barton:

That is so they would arise consecutively?

The Right Hon. G.H. Reid:

It does appear to me that the deadlock question should come after the debate on the constitution of the two houses, because deadlocks are not confined to money bills; a provision in respect to that would be a general power. I have no objection to either course as long as these matters are taken in the order which the hon. and learned member suggests.

The President:

With regard to new clauses in the ordinary sense of the word which have not been referred to the Committee and are not capable of being considered by way of amendment, the ordinary rule of procedure will apply.

COMMONWEALTH OF AUSTRALIA BILL.

In Committee:

Clause 9. The senate shall be composed of six senators for each state, and each senator shall have one vote.

Then senators 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 any elector votes more than once he shall be guilty of a misdemeanour.

The CHAIRMAN:
Amendments in the second paragraph have been suggested by the legislatures of the five colonies, with a view to omit the words "one electorate." I intend to put the widest amendment, to omit those words, because that includes all the others. That amendment can be treated as a substantive question, and be amended in any way.

Question proposed That the words (as one electorate) proposed to be omitted stand part of the clause.

The Hon. N.J. BROWN:
A similar amendment has been proposed by the Tasmanian Parliament, an amendment which has the same effect as that of the South Australian Parliament, but somewhat larger.

The CHAIRMAN:
Four or five houses have proposed practically the same amendment. The question is: That the words proposed to be struck out stand part of the paragraph.

The Hon. E. BARTON (New South Wales)[10.47]:
I do not know whether the Committee would like to go to a division on a matter of such importance

The Right Hon. Sir JOHN FORREST:
We have not got to that yet!

The Hon. E. BARTON:
That is exactly what we have come to. That is the amendment which has been put. I want to point out that this is a most serious amendment. It may indeed be the desire of the Committee to leave full authority to each state parliament to elect its own quota to the senate as it may determine, but we must have regard to the fact that that is not the proposal that found favour before. We decided before that each state should as one electorate elect the senators, and by that we decided upon one important principle, and that was that the quota of each state to the federal parliament should be elected by that state as one corporate body by the vote of the entire electorate of that state. The bill of 1891 was on the same principle, because it provided
for the election in this respect of each state legislature, and in that respect it
recognised the corporate existence of each state. It provided, therefore, that
without regard to locality within the state the senate should be elected by
that state as one whole. If we are to adopt an amendment of this kind, or
those other amendments which provide for splitting the state up into so
many electorates, we shall lose the principle of united action on the part of
the senate, and give a force to locality which, it seems to me, we ought not
to give in respect to the election of the senate. The force to be given to
locality is to be created by the proposal that the members of the house of
representatives shall be elected by districts. But, in dealing with the place
which the senate occupies in a constitution of this kind, we have drawn a
broad distinction between the two methods of election by providing in the
bill as it stands that, whilst in the one house we give due weight to the
principle of local representation, with regard to the other, which is opposed
to regarding the state in its local interests, you ignore the principle of
locality, and suggest that there should be united action on the part of the
state. That is really the matter before us. I thought it wise to point out this,
so that the subject should not be dealt with in a hurry, because it involves a
wide principle indeed.

The Right Hon. Sir JOHN FORREST (Western Australia) [10.51]:

I have no doubt the alteration suggested by the hon. member will, from a
theoretical point of view at any rate, commend itself to hon. members. If
you agree that we should have a vote of the whole of a state concentrated
upon the election of the members of the senate, it will be theoretically right
under the constitution we are trying to build up; but there are difficulties in
the way, practical difficulties which will, I think, as time goes on nullify to
a very large extent the good that the hon. member points out from a
theoretical point of view. A great change in public opinion, at any rate, a
great chance of opinion from the Convention point of view, has come
about since 1891. In 1891 we agreed by a large majority to follow the plan
which was time-honored, at any rate, which has existed for a hundred years
in the United States, that is, that the members of the senate should be
elected by the various state legislatures. I can understand well enough the
objections that have been raised to that system, especially if we had to elect
a large number of members every time, but when we recollect that the
election will only be of two or three members at a time it seems to me that
plan would have done very well for us, and that it would be more likely to
yield good results than the plan proposed in this bill. How

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will it be possible to ascertain public opinion truly with regard to a number
of candidates over an immense area with a large population? There will be
great difficulty. I think the chief reason why this plan has commended itself to many hon. members has been the result of the election of members of this Convention. They cannot but think that a system which worked so well and so wisely in returning such, able, true, and patriotic members to this Convention as they themselves are must be an excellent plan and one likely to work well in the future. I am quite prepared to admit that it has worked exceedingly well during the first election. I admit it as fully as anyone in this Convention. But I believe that as time goes on, instead of having the voice of the people represented under such a method of elections you will have a host of cliques and rings voting by ticket from one end of the country to the other. People will be called upon to vote for persons of whom they have never heard, and of whom they have no knowledge whatever, who, probably, have had little experience of public life; and the electors will be called upon to vote for a certain number of candidates by one party or another, by one clique or organisation or another throughout the length and breadth of the country. It is a great advantage in an election if you can bring the elector as close as possible to the candidate so that he may know something of the man for whom he is asked to vote. That, of course, is fully recognised in the elections for our various legislative assemblies. The candidates are men fairly well known to the electors by repute, or by intimate knowledge and association. In the case even of a colony like New South Wales, if, the whole colony is turned into one electorate, it will be a great advantage to the more prominent men—the men who are best known throughout the country. If that would be the result, probably I should not be found complaining very much. But I fear that it will not be the result. My objection to this plan is not theoretical; I think such a system would be excellent theoretically, but I object from a practical point of view. We have immense territories now which by-and-by will be thickly populated. Take Western Australia, for instance, or South Australia, with her Northern Territory, and her boundaries running right down to the southern ocean. Take Queensland, or New South Wales. How will it be possible to get a true vote from the people in those territories with regard to the candidates, who will not be able to visit all the localities, and who will not be able to travel from one end of the country to the other to address the electors unless they are millionaires and have nothing else to do. They could not afford either the time or the expense necessary to visit the various parts of one State. The system is altogether too unwieldy to be suitable. Under this plan, which we are adopting it seems to me the most that we could do would be to have three electorates in every colony. Three members go out periodically, and there must therefore be three electorates. We cannot have more than three electorates.
Mr. HIGGINS:  
Would not three electorates be huge also?

The Right Hon. Sir JOHN FORREST:  
Yes, but not so huge as a whole state would be. It will be necessary to have the electorates very large, seeing that the franchise of both houses is to be the same, the object being to have the voting power spread over an extended area rather than to establish different qualifications for the electors. I am sure that three electorates would be large enough for every colony.

The Hon. J.H. HOWE:  
Why not leave the question to be decided by each individual state?

The Right Hon. Sir JOHN FORREST:  
I would leave it to each state to say whether they would have one electorate or three; but I think we should have either one or three. The proposal submitted by the Parliament of Western Australia is that there should be one or more electorates, as each state may determine. It must be one or three electorates, because three members retire at certain periods, and there must be one member for each electorate. I have made these observations, not with any desire of dwelling on this subject too long, but in order to p

The Hon. S. FRASER (Victoria)[11]:  
I agree with my right hon. friend, Sir John Forrest. It is all very well to say that the Convention elections were very successful—I am not going to deny that; but a political election might be very different indeed from a convention election. The issues are totally different. In a convention election, the candidates are judged according to their past history, their patriotic statements, and their long standing; but in a political election men will be elected on their opinions, and no doubt their education and character will stand for a great deal: they will not stand for all. Therefore, I would support the amendment of our own Council, namely, that there shall be as many provinces as there are senators—six provinces for six senators.

The Right Hon. Sir JOHN FORREST:  
How would the hon. member do when three senators went for re-election?

The Hon. S. FRASER:  
Let them cast lots, and let three members belonging to certain electorates go for those seats.

An Hon. MEMBER:  
Only half the state would be voting?
The Hon. R.E. O'CONNOR:
You must have either one or three!

The Hon. S. FRASER:
I think that three constituencies will be better than one. It is not possible for any candidate to canvass any colony, even the smallest colony-

The Hon. Sir JOSEPH ABBOTT:
So much the better for him!

The Hon. S. FRASER:
So much the worse for his constituents, perhaps! No matter how well he may be known, unless he goes to the various centres of population and even to the minor centres, indeed, he will lose very many votes. Even though his opinions may be the best possible opinions he loses votes. I have known candidates who did not visit some places to lose many votes. It is a common saying of the people, "If it is not worth his while to come here it is not worth our while to vote for him." It is not a very high standard certainly for people to set up, but it is the usual way in which candidates are dealt with. I would like a candidate to have an opportunity to place his views fearlessly before the voters, it might be perhaps in opposition to the press. What possible chance would a candidate have, no matter how true and good his opinions were, if he were in opposition to the press? If the colony is one electorate I have no hesitation in saying that the press will have almost all power, and scarcely a single man will get elected to a convention or succeed in a political contest against the united opinion of the press. In a smaller province it would be possible for a candidate to make his views known, and even stand in opposition to a strong press or any other opposition. A man would be taken on his merits better in that case than he would if the colony were one constituency. I will support the proposal to have three or six electorates rather than one electorate.

The Hon. N.J. BROWN (Tasmania):[11.5]
I hope that the amendment suggested by the right hon. member, Sir John Forrest, will be agreed to for many reasons, but especially for this reason that the principle has been recognised in all our discussions, both in the Convention of 1891, and in the Convention at Adelaide, that as little interference as possible with the independent action of the separate states should be embodied in the bill. In the Tasmanian Parliament I opposed the suggested amendment to strike out the words "one electorate," mainly for this reason that there is a very strong desire on the part of very many persons who have taken a prominent part in public affairs in Tasmania, and I am happy to say amongst a great many who have not taken a prominent
part in public affairs, to apply to the election of senators in that colony the Hare system. We can only do that in Tasmania if we have one electorate. I pointed out that if it were inconvenient, as I have no doubt it would be, for the larger colonies to have only one electorate, it was for those colonies to suggest an alteration of the clause, and not for us to whom it would not be a matter of inconvenience. I am satisfied that if it were possible it would be far better, on the principle laid down by the hon. and learned member, Mr. Barton, that we should have only one electorate, but I recognise the fact that owing to the enormous area of the larger colonies, perhaps it is impracticable. I think the Convention would do well to leave it as proposed to the parliament of each colony to divide that colony into one or more electorates as may be found most convenient, and for that reason I shall support the amendment when it is proposed.

Mr. LYNE (New South Wales)[11.7]:

I admit that there is a great deal to be said on both sides of this question. At the same time, I think the tendency in all these colonies during the last few years has been to decrease the size of the electorates. I am speaking now of our present system of single electorates. I am speaking from the standpoint of this colony. It is only about four years since we had double electorates in the country districts, and quadruple electorates in the city and in the suburbs. Our last Electoral Act did away with that system, and we have single electorates now all through the colony in order, as the hon. member, Mr. Fraser, mentioned, that no member shall have to travel over too large a portion of the country, and that he shall come in touch as nearly as possible with the electors. Even supposing that we should divide New South Wales into six electorates, those gentlemen who know something of this colony will know the area of the electorates. I will describe one electorate, and I presume in the division we will have to take into consideration the number of people residing in a certain portion of the country, and not the area alone, If you take the summit of Kosciusko and run the backbone of the range right round to Moss Vale, or near to Moss Vale, and take a straight line from there to Bourke, all the country to the south or south-west of that will be one electorate-a principality in itself. And so also will the western and northern portions of this colony form electorates of immense area. I think a very strong reason is given by my right hon. friend, Sir John Forrest, that if we allow the country to remain as one electorate we will have a system of tickets on which the elections will take place, and one single portion of a colony-

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for instance, the city of Sydney, or the city of Melbourne-can rule the whole colony.
Mr. HIGGINS:
Apply the Hare system, or some other modification; it will correct it largely!

Mr. LYNE:
I am not sufficiently acquainted with the Hare system to say whether the objection can be overcome in that way. Possibly it may be overcome in that way; there may be a solution of the difficulty. Without some solution, I think the colony should be divided, not into one or three electorates, but into six electorates. I cannot see the virtue of having one electorate or three electorates.

An Hon. MEMBER:
The objection is that only half the state would vote on the election of three members!

Mr. LYNE:
After the first election half the number of the senate go out. There may be some argument in that; but I am firmly convinced that it would be better in the interests of all parties if the colony were divided into six electorates rather three. According to the schedule of suggested amendments which has been supplied to us from both the Legislative Council and the Legislative Assembly of New South Wales, the suggestion, I think, is to have six electorates, and from the Legislative Assembly of Victoria we get the same suggestion.

The Hon. S. FRASER:
From the Council also!

Mr. LYNE:
I did not notice the suggestion of the Council; but in each case, as far as I am aware, it was made by an overwhelming majority. Although, in the vote we gave the other night, the recommendation of some of the parliaments was not approved of, I think we should give some consideration to the suggestions made by the various parliaments on all matters where we consistently can. Here is a strong suggestion from two houses in each colony which, I think, to a large extent, should guide us. I desire, at this point, to say a word in reference to a speech made the other day on the state rights question. Mr. Wise said that in this colony no regard was had to the numbers of people in the various electorates. The hon. gentleman is absolutely wrong. In dividing the colony under the electoral act we fix the number of electors in each electorate. The numbers are the same in the town as in the country.

Mr. MCMILLAN:
They are practically the same. They vary one or two hundred!
Mr. LYNE:

Yes, they vary very slightly, and they vary simply because we cannot get, within one or two hundred, the number required in some of the country districts. At the same time, in some of the country districts, the numbers are greater than they are in some of the suburban districts. I am well acquainted with this matter, because at the time we were dealing with this provision in Parliament I opposed it on the ground that if we gave an equal number of electors to the cities which we gave to the country towns, the latter would be obliterated by the city. My friend, Mr. Copeland, who was debating the question at the time, pointed out that the country constituencies, whose members lived in Sydney, would represent the city perfectly well if it had no special representation at all.

The Hon. N.E. LEWIS:

The numbers vary now from 1,400 to 3,200. The smallest is Lismore with 1,400, and the largest Marrickville with 3,200.

Mr. LYNE:

I think the hon. member will find that the act provides for a margin of 600. It is only where circumstances will not permit of it being otherwise, that any discrepancy occurs. There are instances where, in some of the suburbs, the numbers are not equal to those in the country districts. I only wish to refer to the matter because it was debated at the time, and because it applies to present conditions. I think we should, as far as possible, limit the districts in such a way that each person standing for election can go through the whole of his electorate and make himself known to the whole of his constituents.

The Hon. Sir W.A. ZEAL:

Make his opinions known!

Mr. LYNE:

Yes; he should be able to make his opinions known, and no weak portions of the country should be obliterated by senators running on tickets.

Mr. WISE:

As a matter of personal explanation, I wish to state that I had intended myself to have made the correction to which Mr. Lyne has referred today. I was in error in stating there was anything in our law giving a different quota to one part of the country compared with another. The effect, however, is precisely the same, although the law provides that there shall be the same quota for all electorates. By the necessary use of the margin of 600, there are inequalities created in order to give adequate representation to the interests of local districts. The difference is as large as has been
pointed out by Mr. Lewis.

The Right Hon. G.H. REID (New South Wales)[11.14]:

I agree with the hon. member, Mr. Lyne, that this is a matter upon which a great deal can be said on both sides. My own opinion is strongly in favour of the clause as it stands. I feel that, unless you have a system of this kind, the power of the states will be practically frittered away, and they will bare a fractional representation instead of a states representation.

The Hon. E. BARTON:

Local interests will divide their representatives!

The Right Hon. G.H. REID:

Yes, in a number of ways. Then, unfortunately, under an arrangement which provides that half the senate shall go for election every three years, the country, under this subdivision, will never have an opportunity of expressing its views at all.

The Right Hon. Sir G. TURNER:

It will, if we have three electorates!

The Right Hon. G.H. REID:

Not necessarily; because, as the constitution stands, given the first six senators, lot decides who shall go out in three years. Therefore, lot decides how the elections will come on. It is quite possible that two or three electorates will be in one corner of the colony.

The Right Hon. Sir G. TURNER:

The hon. member, Sir John Forrest, suggests dividing the colony into three electorates!

The Right Hon. G.H. REID:

I am not dealing with Sir John Forrest's suggestion, but with the bill as it stands. Under the bill as it stands the question as to what three senators will first retire at the end of three years is to be determined by lot.

An Hon. MEMBER:

The bill refers to only one electorate at present!

The Right Hon. G.H. REID:

Yes, but, quite in harmony with that provision is another provision to the effect that three senators shall go out at the end of three years. Then ever afterwards three will go out at the end of each three years. There never will be an election of six senators for one, state after the first election. When the matter settles down there will always be an election of three senators at the same time, at intervals of three years. That is the provision in the bill as it stands. Therefore it is quite possible in fact it is more than possible that under such an arrangement the views of the colony as a colony would never be heard. With this fractional representation we shall never have any
means, of ascertaining the views of the whole community. I should imagine that the states would look at that matter rather closely.
The Hon. J.H. Howe:
Should not we leave that to the state?

The Right Hon. G.H. Reid:
I quite admit, strong as my opinion is, that this is pre-eminently a matter upon which the states have a right to be heard. If only two or perhaps three, states had suggested this alteration, I should feel so strong in my opinion upon the subject that I should certainly stand by the bill; but I find that each of the five colonies has suggested the alteration in principle that is to say, each of the five colonies has objected to the scheme contained in the bill. For instance, New South Wales says:
Omit "as one electorate," insert "such state being divided into electorates, each returning one senator."
Victoria says:
Omit "as one electorate," and insert a provision" leaving the matter to the Parliament.
South Australia says:
Omit "one electorate," insert "each state parliament shall determine."
Tasmania says:
Omit "as one electorate," insert "in such manner as the parliament of each state shall determine."
Western Australia says
Omit "as one electorate," insert, "as the parliament of each state may determine."

Therefore, in view of the fact that the five state by their parliaments unanimously object to the provision we have made, and in view further of the fact that this is a matter peculiarly for themselves to settle, I think although I would adhere to the original clause under less pressure than this that with the enormous pressure put upon us by the fact that each colony through its parliament objects to the provision, we must respect the suggestions which have been made. I feel perfectly sure if one can feel perfectly sure about anything in the future that the states themselves will very soon discover that they have made a very great mistake; that their only chance of being up to their full strength in a senate of this kind is by an election by the whole of the people at one time. That is my strong opinion, and I believe that experience will show it to be right. Still this is a point which is not vital and it is a point upon which the local legislatures have a very strong right to be heard. Under these circumstances, giving my
opinion frankly as I have done, I am prepared to let the colonies have their own way in, this one matter at any rate.

Mr. CLARKE (Tasmania)[11.21]:

I should very much like to see the colonies voting as single electorates, and in Adelaide I voted for this proposal with the intention, when we resumed our sittings, of moving an amendment providing for the election of the members of the senate upon the Hare system. Upon considering the matter further, however, I have come to the conclusion that the application of the Hare system to the election of senators is a matter for legislation by the federal parliament, and not a matter to, be inserted in the constitution. For this reason I do not intend to move the amendment of which I gave notice. In respect to this particular matter I regard the senate as the states house. It is the house in which, the various colonies will be represented as states, and it is a matter of great importance that each state should be left to decide how it should elect its representatives. For these reasons I am in favour of the amendment which has been indicated, leaving the matter to the parliament of each state. I know that in Tasmania our Parliament is likely to resolve upon the Hare system as the method of electing the senators. Another reason why I do not feel inclined to press my amendment with regard to the Hare system to a division is that I have just heard from the hon. member, Mr Lyne, that he is completely ignorant of the system. He does not know what it means. There may also be a number of other hon. members who are not acquainted with it, and who would, therefore, vote against it for that reason alone.

Mr. LYNE:

I said that we had had no practical experience of its working here!

Mr. CLARKE:

You cannot have practical experience of it until you have tried it. It has not been tried in this colony, but it has been tried in Tasmania. I should not like to see Tasmania prevented from adopting the system.

The Hon. R.E. O'CONNOR:

Under this amendment Tasmania would not be prevented from adopting it!

Mr. CLARKE:

Tasmania has a much better chance of getting the system from her own Parliament than from the federal one. In our view, for the proper working of the Hare system it is much better to have a number of seats to be filled. If half the senators are retired every two or three years, there will be only three seats to be filled at any
one election, and three, seats is the lowest number with which you can satisfactorily work the Hare system. The lowest number we have had in Tasmania is four. I think the system has worked very satisfactorily in our state elections, and we might possibly use it as a method of election to fill three vacancies in the senate. For these reasons I think the matter should be left for each legislature to decide for itself.

Mr. MCMILLAN (New South Wales)[11.25]:

With every desire to accelerate business, I think that this is a question upon which we ought to proceed with the utmost caution, when we recollect that the principle of taking a popular vote for the election of members of the senate has been more or less, so far as the general public is concerned, a very late evolution of the federation question. I think it is very difficult for us to decide at the present moment what is best in the interests of the senate and of the constitution. What I fear is that if we put a rigid direction in the constitution that there shall be one electorate in each colony; or, if we put in an equally rigid direction that each state shall have the right to determine the matter for itself, we may be doing that which it will be very difficult to alter, and which may have very far-reaching and important results. I would point out one matter which may bear directly upon the subject. According to the views of several hon. members, you have later on to decide upon the question of getting at the popular voice to avoid deadlocks and extreme cases which can only be settled by an appeal to the people. If we constitute the senate in such a way that you cannot get at the voice of the people as states, it may create a very great difficulty in the future.

The Hon. S. FRASER:

It would be the voice of the people in another way!

Mr. MCMILLAN:

We are trying to determine what we cannot possibly determine, not knowing the conditions of the future. I am speaking now as if we determined in the constitution that the voting should be by districts or by states as electorates. You might have a colony in which there would be room for only one electorate, or for two electorates. If we now crystallise it in this bill, it cannot be changed, except in a roundabout way.

The Hon. J.H. HOWE:

Will the hon. member explain how there could be two electorates when there would be three vacancies to fill?

Mr. MCMILLAN:

Well, I simply mean to say that it would be a difficult thing to decide what number of electorates there should be in each colony. If you provided for six electorates in each colony, it might be difficult in some of the
colonies under certain conditions to carry out that arrangement in the future.

Mr. LYNE:

The proposal of the New South Wales Assembly would not limit the number to six. They suggest that the electorates should be in proportion to the population, and that there should not be less than three senators to represent any state.

Mr. MCMILLAN:

I want it to be understood that I am, speaking generally, against making anything rigid with regard to the conditions of the future. For instance, supposing and it is very right to say so that it may be wise at the present moment to have one popular vote for the election of members of the senate, we do not know that in the future there may not be large cities and large districts in these colonies which will insist upon an alteration in the plan. Therefore, I shall be very much inclined and I confess it is a question which requires a great deal of light cast upon it—to leave the provision in the bill as it is, subject to alteration by parliament in the future. Now we come to the contention that this is absolutely a state question. We have decided with regard to the lower house that the franchise and everything connected with representation there shall be a matter for the federal parliament. We know, of course, that the case is not analogous, because this is a state-house. At the same time, I feel that, whatever is agreed upon, we ought to have one consistent kind of representation; that is to say, there should not be one electorate in one state and several in another. Because it seems to me that if we are to have cases in which the senate is deeply at variance with the house of representatives, and if it is necessary to know what the opinions of the states as a whole are, in these sparsely-populated colonies where some districts may contain only a handful of people it would be absolutely impossible, even if the senate were dissolved, to say that it came back with the mandate of the people. Therefore, as it is necessary for us to give definite opinions in order to accelerate business, my view at the present time is, and I express it with great timidity, that we ought to leave the provision as it stands in the bill, but make it subject to any alteration which the federal parliament may in the future devise. And then, if parliament is not in unison with the people of the country we can, of course, have that alteration of the constitution which is the last resort.

Mr. HIGGINS (Victoria)[11.31]:

I shall give my vote in favour of one electorate. I think it is a grand idea to have at least one house in this parliament which will be free from the deteriorating tendency of local interests. I think it will tend to make those
who represent the people in the senate free of the clamour of noisy coteries in their constituencies. They will be able to ignore unreasonable demands made by a thousand or two electors, who might be able under other circumstances to dictate a policy to weak candidates. At all events, whatever is done, we must not accept the suggestion of the Right Hon. the Premier of Western Australia, and leave the matter to the local parliaments, because it is really not a matter of local concern. The mode in which members of the senate are elected in Victoria affects equally the people of Western Australia, South Australia, Queensland, New South Wales, and Tasmania. They are all affected by the votes of the members who are elected. I say, therefore, that the mode in which the members of each state are elected is a matter of federal concern, and I think the right hon. gentleman can hardly have realised the extent to which gerrymandering can be carried on in a particular state if he would suggest that it should be left to the local parliaments to decide this question. If a local parliament has to decide it, then by a careful adjustment of the districts of the senate and a careful arrangement of the population in those districts, it would be competent for the local parliament to unduly colour the principles of the members of the senate. I hope, therefore, that, we shall leave to the local parliaments a matter which is purely one of federal concern. As was pointed out at the last meeting of the Convention by the hon. member, Mr. Holder, each colony in the federal parliament is interested in the mode of election to the senate of all the members for each state. In this matter I am aware, that I am opposed to the views of a number of those who are with me upon the general principles of the constitution. They say that the principle of having the whole colony as one electorate is a bad one, and that under it only rich men will be elected. I think if the question be looked into more closely it will be seen that true safety lies in either small electorates or in an electorate so huge that it cannot be influenced by rich men. I think we are all desirous that any man, no matter how poor he may be, shall be in a position to become a member of the senate, and if you adopt the huge electorate of the whole colony the result will be that those arts which are used for the purpose of getting rich men into the House will be impracticable. No candidate could cover the whole colony with his committee-rooms; no man is able to incur expenditure on account of the whole colony in the way in which and, to the extent to which he would incur it in a large district. I have no doubt that the hon. member, Mr. Lyne, is profoundly affected by the value of the reform of single electorates which has been carried in New South Wales. But the hon. member will find it quite consistent to have small electorates, for a house which is to
represent largely local interests, and to have the huge electorate of the colony in respect of the other house. Let me appeal in this matter to the experience of those who were elected to this Convention. Speaking personally, I can say that I never fought an election with less expense. We all found it absolutely impossible to meet the demands made upon us to have committee-rooms all over the colony, or to use those arts which are sometimes employed in order to reach the people.

**Mr. WISE:**
A very euphemistic expression!

**Mr. HIGGINS:**
Of course, the hon. and learned member, Mr. Wise, knows as well as does any one here how a man may be driven by the demands of supporters into this thing, that thing, and the other. If members of the senate are elected by the whole colony, you will be apt to give effect to what Sir Henry Parkes in 1891 termed the only conservatism possible in a democracy, the conservatism which arises from official position, from length of experience and weight of character. And although I do admit that there is a danger of the operation of what is called the party ticket, of only one party being represented in an election by the colony as a whole, I think that any one who looks carefully into the matter, will see that by the adoption of the Hare system, or something of that sort, it will be quite possible to avoid the whole of the members being elected upon a party ticket. I am one of those who have no fear of the due representation of minorities. I think it is our duty to see that we give voice to any substantial number of electors; but if any one has watched, as Mr. Lyne may watch, the working of the Hare system in Tasmania—where it is applied also in Denmark where it has been adopted, he will have seen that the effect of that system, or a similar system and there have been several modifications proposed—is to give a true reflex of the bulk of opinion in the country. If the country, as a whole, is as two is to one. for a particular policy, it will be found that, under some system, such as that of Mr. Hare, you will have members returned in the proportion, as two is to one. That is the theory. But one very strong argument has been used by Sir Samuel Griffith in regard to this matter: He says that, for the large colonies, such as Queensland, South Australia, and Western Australia, the machinery is too cumbersome and complicated—than you cannot, under such circumstances, have an election for the whole country. But, under the proposal of one district for each senator, or three districts returning two members each, you would still have equally cumbersome machinery. There would be the same expenditure; but, in place of having the whole country behind the man-
The Right Hon. Sir JOHN FORREST:

Have you that in the house of representatives?

Mr. HIGGINS:

I think it is of great advantage to have local interests—even small interests well voiced somewhere in Parliament, and the house of representatives, I take it, will give voice to those interests and wants. You cannot be too careful in enabling local interests to be represented; but if you have the house of representatives elected by comparatively small districts one member for each and if you have the senate representing the whole colony, I think that will do. I would cordially indorse the suggestion thrown out by my hon friend, Mr. McMillan, and I think the clause might be altered by the insertion of the words "until parliament otherwise provides." If the federal parliament should find that this method is unworkable, they will be able to alter it. But of all the schemes that have been put forward I deprecate most that scheme which will leave to the state parliaments a matter which is clearly of federal concern the kind of electorates for the federal parliament.

The Hon. Sir J.W. DOWNER (South Australia)[11.42]:

I have always preferred the bill in the form in which we passed it, from the point of view of dignifying the senate as much as possible. I admit frankly that that is the point of view from which I always spoke, and from which I have always acted. When we are asking, and when we mean later on to contend that the money powers of the senate shall be as much as possible those of the other house, we want particularly to be certain that the gentlemen who are returned by the colonies to the senate shall represent the majority of the whole colony. if the electorates are cut up, they will still be very large, as Sir John Forrest had to admit. They may be divided, and what guarantee under any system we know of at present except perhaps one in New South Wales, which, I understand, may be a little help in that way shall we have that the majority of the votes will represent the majority of the people? If we have the senators returned by the whole colony voting as one, Sir John Forrest says, the people will be voting for what they do not understand. I am not prepared to concede that to my right hon friend. I think nowadays the persons who practically run and guide elections, the active elements in elections, know perfectly well everything that is going on without the necessity of the member attending the particular place where they happen to live to make speeches to them.

The Hon. S. FRASER:

The electors want to know the views of the candidates!

The Hon. Sir J.W. DOWNER:

They may not know the men so well personally, they may miss the charm
of their speech or the fascination of their presence, but so far as the general views of the candidates are concerned the electors know these possibly a great deal better from the public press and other reports than from speeches which though they might arouse their enthusiasm might be destructive of their judgment for the moment.

The Hon. S. FRASER:
They like to see the candidates face to face!

The Hon. Sir J.W. DOWNER:
They can in a sense see them face to face.

Mr. CLARKE:
The candidates can send their photographs!

The Hon. Sir J.W. DOWNER:
You cannot possibly have more than three electorates, and how many electors will have an opportunity of seeing the candidates face to face? It is true, as Sir John Forrest said, that in America they are elected by conventions.

The Hon. W. MOORE:
They are elected by the states!

The Hon. Sir J.W. DOWNER:
They are elected by the local legislatures. But my right hon. friend thinks that if you have election by the people you will have a different kind of election from election by the local legislatures. I think not. For my own part I supported this altered system of electing the senate the deviation from the American system for the purpose of making the senate stronger so that it shall more directly represent the people. But if you cut up a colony into districts, and have persons of diametrically opposite views returned from districts which have diametrically opposite interests, the effectiveness of the representation will become weaker and weaker. There will be no wholehearted support about anything. And in the same breath in which you are doing this you are asking that equal powers should be given to the senate. Equal powers can only be given to the senate because the senate represents the states as entities, and part from the people as population. But if you go and cut up your entity and make it into a duality, or a trinity, who can say who represents who, or where you get any certainty? And another thing, I look upon it as a matter of the highest importance that you should invite to your senate the best men of Australia. However you constitute it, its ultimate dignity and usefulness will depend on the invitation it gives to the best men and the brightest intellects. In Switzerland the principle of state right is carried out to perfection, because each state is allowed to elect
its senators as it pleases. But it is not at all clear that in Switzerland the dignity of the senate is being maintained as it is in America.

An Hon. MEMBER:

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The Hon. Sir J.W. DOWNER:

Because the people would not agree to it, because we have to be practical, and we must not say we will not have federation because we cannot get it in the way that pleases ourselves. I feel also that the senate will be ever so much stronger when it is directly returned by the vote of the people than by the votes of persons elected by the people. It is because it will be stronger, because its power will be greater, that I prefer the method adopted in the bill. But I want the senate, in addition, to be a body that will invite the best men in Australia to become members of it. Out of that will not come trouble and confusion or difficulty with the other branch of the legislature. Out of that, on the contrary, will come good understanding, wisdom, and content. It is from the point of view of preserving the high dignity of this body by making it secure reasonable uniformity of views amongst the members returned by one colony, and also preserve both its utility to its colony and its dignity to itself, that I hope no alteration will be made.

The Right Hon. Sir JOHN FORREST:

Then why not elect the house of representatives in the same way?

The Hon. Sir J.W. DOWNER:

The house of representatives represents the people as individuals. From his smile, the hon. member seems to think that he has made a point against me by that remark, but he really has not. He forgets that it is a federation that we are making, and that we are not going in for amalgamation; and on consideration the hon. gentleman will see that we do not disagree with each other so much as he thought. I do not think this is a time to make long speeches on this or any other subject. I only hope that hon. members who come from different colonies and who see the manifest convenience, as pointed out by the Right Hon. Sir John Forrest with his usual clearness, of conducting these elections in districts instead of throughout the whole colony, will also observe that the very foundation of the constitution of the senate will be shaken by this method of conducting the elections, and that the very importance we wish to establish and preserve will be destroyed by a consideration for the personal convenience of certain electors.

The Hon. E. BARTON:
Not the people, but the candidates really!

**The Right Hon. Sir JOHN FORREST:**

Would not the system advocated by the hon. and learned gentleman give an undue advantage to the crowded centres of population?

**The Hon. Sir J.W. DOWNER:**

I think not. The right hon. gentleman put with great eloquence the excellencies of particular candidates returned to this Convention on popular representation, and we frankly admit that. But the right hon. gentleman said that we must not be deceived by that, and that the same thing might not happen again. That is just where I disagree with my right hon. friend. I think that on great questions like this parties cease to exist. There is no tory, there is no liberal. Every man in his own colony is to a great extent a tory if you like. Internal politics have nothing to do with the principles which actuate

**The CHAIRMAN:**

I wish to state to the Committee that if the words are left in, Mr. McMillan will move to add at the end of the paragraph the following words: "until parliament otherwise provides."

**Mr. LEAKE (Western Australia)[11.52]:**

If we are to view this question merely from the standpoint of convenience, I think we may at once see that the division of the colonies into different electorates would meet with approval; but I should like to direct the attention of hon. members to the wording of this paragraph:

The senators shall be directly chosen by the people of the state as one electorate.

If the senators are to be directly chosen by the people of the state, can they be so chosen unless as one electorate? That is one difficulty that presents itself to my mind. And, again, suppose the different states are cut up into different electorates, it must necessarily follow that those electorates will return one or two members, as the case may be. How, then, in the event of death or resignation, would those states find themselves placed? It might possibly be that one division of the colony would have an opportunity of returning senators two or three times, and that that particular division of the colony would be taken to be expressing the views of the whole state, whereas, really and in fact, it would be expressing only local sentiment. That occurs to me to be a point well worthy of consideration. I admit that when this question was before our own local Parliament I supported the proposition that the matter should be left to the states to determine, actuated as I was by the question of convenience. But, in considering this question, I take it that we should not be guided merely by
local interests, and view it from that narrow standpoint, but should remember that we are attempting to build up a constitution, and that state interests must give way to federal interests. I point out these little difficulties more in the spirit of argument than of assertion, and hope that other hon. members will refute what I have said if refutation is necessary. So far as the question of voting on a ticket is concerned, I cannot say that is a disadvantage, because we hear so often that it is measures and not men we require when we send men forward to represent us in public institutions. Whatever we do, we should safeguard ourselves against returning the roads and bridges politicians who are, perhaps, known to some of us in our different colonies. In politics a local man is not always the best man, and, as has been pointed out by other hon. members, we require the best representative men of the various states. I am impressed with the arguments which have been advanced in favour of the state returning senators by one electorate, and I am disposed to support this paragraph of the clause as it stands. If we adopted this course our senate would undoubtedly be a more popular and representative chamber than if the states are practically divided into separate and distinct municipalities.

The Right Hon. C.C. KINGSTON (South Australia)[11.55]:

I am prepared to vote for the clause as it is. I think, however, that it might be of importance to give the federal parliament power to work out the federal salvation from time to time, as necessity arose, by appropriate legislation, and I will support any amendment in that direction. At the same time, I suggest to my hon. friend, Mr. McMillan, that the amendment he has proposed goes a great deal too far. I understand that what he proposes is an addition to the clause, so that he can make it read as follows:—

The senators shall be directly chosen by the people of the state as one electorate, and, until otherwise determined by the federal parliament.

The result of making that addition to the clause would be that you would give power to the federal parliament not only to declare that there should be several electorates, but also, if they were so minded, to deprive the people of the states of their direct choice, by providing some other franchise. That of course is not the desire of my hon. friend, and I think that we might meet it by making the paragraph read as follows:—

The senators shall be directly chosen by the people of the state, and, until the parliament otherwise determines, as one electorate.

Mr. McMILLAN:

If my hon. friend will draft the necessary alteration I will accept it!

The Right Hon. C.C. KINGSTON:
I am sure that the desire of hon. members is that whilst giving to the federal parliament the right to deal with the question of electorates, we should at the same time retain as a fundamental principle of the constitution-unalterable except in the mode provided for the alteration of the constitution-the right of the senators to be elected by the direct choice of the people of the state. I know perfectly well that in connection with large electorates there are inconveniences. There is the difficulty of canvassing the whole electorate, and there is the increased expense. On the other hand there are great advantages which it seems to me we ought undoubtedly to retain. I am prepared to do what I can in this connection for the purpose of establishing a senate which shall be representative of the state. I do not see how it is possible to constitute a senate in which each member can rightly claim to represent the state from which he has come, unless he is returned by the voice of the state itself, not by any portion of it. Not only is it desirable that this right should be given to each member in order that he should be able to exercise his proper influence as a member of the senate; but at the same time if he speaks on behalf of the state, and not in the interest of any particular locality, there is less chance of clashing and of deadlocks, which we are all so desirous of avoiding. The hon. member, Mr. Lyne, has put it that in the large districts the interests of the populous centres and he referred to Melbourne and Sydney may be found to be predominant. It occurs to me that wherever these populous areas are the greater is their influence likely to be according to the limit which is imposed on the constituencies. Sydney or Melbourne is more likely to exercise a powerful sway within a limited area, it seems to me, than in districts constituted of an entire colony.

The Right Hon. Sir G. TURNER: It gives country districts a better opportunity of being represented!

The Right Hon. C.C. KINGSTON: As the right hon. member says it gives country districts a better opportunity of being represented. It raises this intense probability that, instead of a member being there who is justified in claiming to speak on behalf of the state from which he comes, he can only speak on behalf of the particular electorate. I do not understand that a senate is intended to be called into existence for such purposes, and it would be a mischievous thing if it were. Under the guise of a body designed for the protection of state interests, consisting of representatives of the states, speaking on behalf of the states, we should have a number of men representing diverse local and parochial interests-a sort of thing which ought not to be
encouraged.
The Right Hon. Sir G. TURNER:
    On the other hand, they might be elected only by one or two leading cities!

The Hon. E. BARTON:
    Such men would he sacrificing the interests of the state to local interests!

The Right Hon. C.C. KINGSTON:
    The contest then would not be for the preservation of the interests of the state on national questions; but the furtherance of local interests in opposition or in contradistinction to the wishes of the entire people.

The Right Hon. Sir JOHN FORREST:
    Would that not also apply to the representative house as well?

The Right Hon. C.C. KINGSTON:
    I think not. That house is intended to represent the various interests of the people irrespective of their state boundaries. The senate is brought into existence to represent the states as states, which no man can do unless he is sent there by the voice of the state.

The Hon. Sir W.A. ZEAL (Victoria)[12.4]:
    I trust that hon members will not vote for this proposal to constitute a state one huge electorate. It seems to me that so far from giving greater representation to the state it will confine the representation to very few men. Only well known men will be returned. It is idle to say that a man, if he had ever so much talent, but who is not known, would be able to get returned. Outside the district where he was known he would have no chance. His claims would be set aside. With what bad effect has the present system worked? We have a senate in our province returned by districts, and I have not heard the charge made against the members of that body of being intensely parochial. It has been rather the contrary. Members of our Council represent the province as a whole. They have an electoral body consisting of 185,000 electors. I can speak for my brother members when I say that matters are dealt with in the Legislative Council of Victoria from a national, not from a local, standpoint.

Mr. HIGGINS:
    So expensive are the elections to the Council. that only few men can become candidates!

The Hon. Sir W.A. ZEAL:
    The hon. member is altogether wrong; he cannot see anything good in connection with the Legislative Council of Victoria. If we had the inestimable advantage of that hon. member's presence for a month or two he might alter his opinion. The hon. member speaks entirely from
It seems to me that this question is one of great importance. Our House has taken a great liking to the system of voting by post. It does so on this ground: that where we have elections in districts principally populated by farmers and pastoralists great difficulty is experienced in getting the voters to come to the poll. A farmer will not leave his business to come in and record his vote. If we had a system of voting by post, it seems to me that in the majority of cases we might get a large number of voters to record their votes, and thus take part in the elections. With regard to the argument used by the hon. member, Mr. Leake, as to the members of this Convention being opposed to having roads and bridges members in the senate, I would point out that the states house would have nothing to do with votes for roads and bridges with money votes. That will be confined entirely to the house of representatives.

Mr. LEAKE:
I used that as a metaphor!

The Hon. Sir W.A. ZEAL:

It has no value whatever. The initiation and discussion of these votes will rest entirely with the house of representatives. With regard to the size of the electorates, I would ask how would it be possible for the candidates to travel around any of the huge proposed electorates? Take the case of New South Wales. It would take two years of a man's life to go all round the province of New South Wales alone. As for the province of Western Australia a man's lifetime would not be sufficient for such a work. If a candidate is to obtain personal knowledge of the electorates we must make the electorates of much smaller area than is proposed. There is another question which, I think, hon. members, especially those from the country, should well consider. Take the two cases of Melbourne and Sydney. A large number of votes cast in Melbourne and Sydney would overwhelm the votes of the country districts, and it would be altogether impossible for a local candidate to obtain any recognition whatever if the votes of those large centres were cast in favour of other candidates. I therefore appeal to hon. members to remember that in dealing with this question they have to deal with all kinds and conditions of electorates. It is true that in some of the provinces, notably Tasmania, there are not these large centres of population but when it is borne in mind that Melbourne itself contains more than one-third of the whole voting power of Victoria, you will see how necessary it is to have some counterbalance so as to prevent Melbourne from outvoting the rest of the colony. The hon. member, Mr. Lyne, has pointed out that the same argument applies to Sydney. I am sure the best interests of the colonies will be consulted only by leaving this local question to be dealt with by local legislatures. It is purely a matter which
concerns them. Without detracting from representations made by hon. members who will hereafter be members of the house of representatives, I would point out that the area and population represented by a member of the states house would, in the majority of cases, be five or six times as large as those represented by a member of the house of representatives. Therefore I fail to see where this parochialism comes in. It would be rather a question of too large an electorate, even with the subdivision of each colony into six electorates, and even then it would be very hard for a member to become personally acquainted with and to do justice to his constituents. I shall strongly support the subdivision of the colonies into several electorates.

Dr. QUICK (Victoria)[12.10]:

I entirely disagree with the hon. member, Sir William Zeal, that this is a local question. I consider it is one of the most important of the federal questions contained in this bill. I must also express my surprise at hearing such a large number of representatives of the smaller states supporting this proposal. I believe that if they carry the amendment suggested by the legislatures, and destroy this principle of state representation, they will to some extent injure the cause of equal state representation, for this reason: One of the strongest arguments in favour of equal state representation is that the state is to be represented in the states house as a state entity, and in its corporate capacity. If you destroy the proposed system of state representation through one state electorate you, to a very large extent, play into the hands of the opponents of the principle of equal state representation. I can understand my hon. friend, Mr. Lyne, strongly supporting this amendment, but I cannot understand the right hon. member, Sir John Forrest. There can be no doubt that the recommendations of the various provincial legislatures are entitled to very great weight indeed, and it is a remarkable circumstance that this is a suggested amendment, in which the whole of the legislatures unanimously concur.

The Hon. E. BARTON:

They do not concur in this!

Dr. QUICK:

They are not unanimous as to the substituted proposal, but they are unanimous in striking out the principle of a single electorate. I, therefore, utter a word of warning to my friends from the smaller states who want to retain equal state representation. They should regard this question very seriously indeed, in the manner suggested by the hon. member, Mr. McMillan. No doubt, as suggested by the Premier of New South Wales, we
might make a concession in this case. We might yield to the state legislatures in their recommendation, but by so yielding I believe we should inflict a most serious blow on the principle of equal state representation. Certainly one of the strongest arguments in the late debate was that the senate is to represent states as states in their corporate capacity and corporate entity.

The Right Hon. G.H. Reid:

Until parliament otherwise provides!

Dr. Quick:

I admit that is a safeguard which may to some extent protect the principle, but if you amend this bill now by providing that the various colonies are to be represented in this states house, not as wholes but as sections, you play into the hands of those who desire to destroy this constitution by attacking the principle of equal state rights. For these reasons I hope the bill will be kept in its present position, or be in some way guarded as suggested by the Premier of New South Wales.

The Hon. E. Barton (New South Wales):

I do not want to detain the Committee, but after having listened to the arguments, I still think we ought to retain the provision in the bill. I attach the greatest weight to the fact that the parliaments of five colonies have suggested alterations in this part of the bill, but I do not find that these parliaments concur, because two are in favour of division—those are the New South Wales and Victorian parliaments. The Legislative Assembly at any rate is in favour of division. The Legislative Council of New South Wales is not in favour of any alteration of this portion, but it is in favour of proportional representation in the senate, while it is not in favour of splitting the colony up into electorates. With reference to the argument that the parliaments concur, they only do so in the form of words. It is not in all cases an agreement, and we must remember that in two of those cases the division of the state into electorates has been suggested, while in the other three the choice of the whole matter has been left to the decision of the state parliament, so that it is impossible to say that the two legislatures first mentioned concur with the other three. It has been suggested that the desire of several colonies is represented in these suggestions, and, therefore, that we ought to follow them. These suggestions represent the desire of several houses of legislature; they do not necessarily represent the desire of several colonies. Hon. members who were elected here by popular choice were probably elected with some reference to the views which they held themselves, and I think that the majority of those who were elected hold the view which was implanted in
this bill in our last session. They represent the people quite as effectually as any persons who were ever elected in any of the colonies could represent the people. More than that, they were chosen to deal with a particular subject, with reference to which the members of the various houses of legislature were not chosen. Without disparaging the standard of the hon. members of the various legislatures, and certainly with not the least desire to detract from the effect or weight of their suggestions, I say we were elected to perform a specific duty, and that duty remains with us. We may fairly be described at this stage as a court of review, taking into consideration all that has been urged or suggested by the various parliaments, as a matter of reason, and still exercising that choice which our reason dictates as being the best means to effect the desire of those who sent us here. I cannot concur in any argument that because several houses of legislature have concurred on this subject, therefore we are bound to accept what they suggest. That is not so. If we did so, we should simply forget the mandate which we received when we were sent here. Therefore, I put by the argument that we should go any further with regard to the suggestions, than give them every, weight to which their reasonableness may entitle them. I would urge hon. members not to depart from the bill, for the purpose of having something which may result in a piebald senate. I would rather see the matter left as each state parliament shall determine than see the state split up into several electorates. Still, there is this difficulty: If you leave the senate to be chosen as the parliament of each state may determine, you are likely to have a piebald senate, you are likely to have one method of election possibly in one state, and another method of election possibly in another state. That would lead to a kind of senate which, being diverse in its origin, diverse in its method of election, would not in the same way represent consistently the views of the states as the other house would consistently represent the views of the districts. That, I think, will be a calamity, and those who hold somewhat strongly the opinion that the senate should have, at any rate, some semblance of power with regard to money bills, I would ask to consider whether it is likely that any important power with regard to money bills can be conceded to a senate of which it is impossible to forecast the composition. On the other hand, if you know that there is some consistent way of electing the senate; if you know exactly how it is to be composed, you can then judge for yourself at this stage whether it is a body to which you would intrust any degree of money power or not? If you are going to have the colonies split up into half a dozen electorates, you first will have the inconveniences of that course of action which have been pointed out, and next you may say goodbye to any idea of having your senate
characterised as a body which represents the states. There will not be a states house at all, and in proportion as there is not a states house, it will lose its claim to be a strong important factor in this constitution. For all these reasons, therefore, I suggest that the splitting up of the state into districts is not a good thing for the elector, because the general good of his state must be the best thing for the elector. It may be a good thing for the candidate in saving him a more extended canvass; but we are not here to cater for the predilections or wishes of candidates; we are here to see how we can arrange that which is best for the interests of the states in the federation. It is said that there will be great difficulty in regard to this question of canvassing. We had no great difficulty of that kind in the recent federal election. I had to make a few trips into the country, but at no great distance.

An Hon. MEMBER:
Because the hon. member was so well known!

The Hon. E. BARTON:
I had to deliver a good many addresses in various forms very often the public requested one to deliver an address but I did not find that there was attached to this system of election all the expense which has been suggested, and I am fortified in what I say by the experience of nearly every one I know who has been elected. There were some who went to inordinate expense, but a great many of those who went to much expense were rejected. On the other hand, the hon. member, Mr. Trenwith, has stated in this Convention that his election by the entire population of Victoria cost him £3 3s. or thereabouts. My election cost me £100 less than any election for a separate constituency ever cost me, and I think the experience of other members was the same. Let us leave that aside, because we are here to decide not on the convenience of candidates but on the good which is to be conferred on the states in the federation. We, therefore, have to consider this matter really on the effect which the different methods of election will produce. I submit that if you leave the matter to the several states to determine you will have a piebald senate, the composition of which cannot be forecast, and as to which there will be a difficulty in saying what powers you will trust to it. If you split the colonies up into various electorates then you will have the result that your senate does not represent state entities as such.

The Hon. Dr. COCKBURN (South Australia)[12.22]:
A great deal has been said on both sides of this subject, and no doubt there is a great deal to be advanced for and against each side. The people of
a state can best be trusted to know what is best for their own requirements, and this matter I think we can very well leave to the determination of each state. Each state will find out what is best adapted for its requirements; each state will adopt that mode which it thinks is the very best for itself. I think the greater diversity we allow the greater our freedom from bondage will be. I shall vote to give the greatest possible liberty to the states to exercise their own discretion in this matter.

Mr. MCMILLAN (New South Wales)[12.23]:

I find that there is a difficulty in putting the amendment exactly as I moved it. I would now ask leave to withdraw the amendment, so that the paragraph may read in this form:

The senators shall be directly chosen by the people of the state, and until the parliament otherwise determines as one electorate.

That would prevent the amendment from referring to anything except the question of one electorate.

The CHAIRMAN:

I will lay aside the amendment for a moment, and put the amendment of the hon. member, Mr. McMillan, which comes in first. Question-That the words "and until the parliament otherwise determines," be inserted after the word "state," line 5-proposed.

The Hon. R.E. O'CONNOR (New South Wales)[12.24]:

I hope the Committee will leave the clause as it is. Many strong reasons have been given why this matter should be left in the hands of the state.

An Hon. MEMBER:

Yet it is a state matter!

The Hon. R.E. O'CONNOR:

What we want is to create a body the composition of which will be certain, which will be strong, which will be fit to be entrusted with the powers we are going to give to it, and inasmuch as we are fixing in the constitution the powers which are to be given to the senate, I think we ought equally to fix in a general way the constitution of the senate itself. The constitution of the house of representatives is fixed. The constitution of the house to which we will give powers which are to be used in origination should also be fixed. My strong reason for advocating this view to the House is this: In the different parliaments the tendency has been to suggest the cutting up of the representation of the senate into divisions, and the tendency will be always so in the parliaments, and none the less so in a
federal parliament, for this reason: That the method in which the election in
the senate is to be carried out will be very largely regulated by the views of
the house of representatives. The views of the house of representatives are
generally in favour of the representation of local interests, and as the
representations of local interest would, it appears to me, not only be not
desirable to be secured, but would aim a blow at the very constitution of
the senate itself, I think we ought to be very careful, not only that we do
not constitute the senate in that way now, but that we do not leave it in the
power of parliament in the future to take any step which may derogate
from the position of the senate, as we constitute it, and the senate which we
are willing to invest with such large powers.

Mr. HIGGINS:
An alteration of that kind can be vetoed by the senate!

The Hon. R.E. O’CONNOR:
Of course an alteration of that sort can be vetoed by the senate; but is
there any reason why a question of that sort should be left to be settled in
that way? If it is an essential part of the constitution of the senate that it
would consist of representation of the whole state only, would it not be a
wise thing to leave that as a fixed part of the constitution, in the same way
as we leave other parts of the constitution?

Mr. HIGGINS:
It is an experiment, and we ought to have a loophole!

The Hon. R.E. O’CONNOR:
The hon. member will see that it is not an experiment. Of course, if it is
only an experiment if it is only a matter of convenience I quite assent that it
would be as well to leave it to the senate, to develop opinion in the future
in the commonwealth But I say it is not a matter of convenience; it is a
matter of principle, that the whole of the state, as a state, should be
represented, and that local interests should not be represented. I would
point out, as an illustration, the danger of an alteration of the constitution
of the senate There are many cases in which the expenditure of money will
have to be dealt with by the parliament expenditure in cities expenditure in
guard to postal and telegraphic arrangements, and expenditure in many
other ways. There maybe very strong pressure brought to bear on the
federal parliament to have money expended in a particular locality. No
doubt we admit now that that is a strong reason why there should not be
local representation in the senate; but that strong pressure which wishes to
carry out its desires in regard to expenditure in a particular locality will
very soon find that the obstacle standing in the way is the representation of
the whole of the community in the senate; and, if that is to be over come by
a local representation, the same forces will very easily initiate an agitation
for the purpose of having an alteration made -that is to say, that the same forces which are always at work in order to endeavour to make the senate a body representative of local interest will be at work in the federal parliament itself, and will probably sooner or later bring about an amendment or an attempt at an amendment which will introduce the evils we are now struggling to avoid. I hope the clause will be left as it is, because it appears to me that it is a principle of the constitution of the senate with which we are dealing, and one which ought to be as firmly fixed in the constitution as any other portion of the constitution of the senate.

The Hon. J.H. Howe (South Australia):[12.30]:

I think this is one of the questions which we should take a little time to consider before we arrive at a conclusion. It is a remarkable fact, from which I, like the Premier of New South Wales, cannot get away, that no less than five colonies are unanimous in claiming this right. So far as I am individually concerned although I was once imbued with the same ideas as those I have heard expressed by numbers who profess to walk in the van of democracy I can view this movement now as a thoroughly tory one a conservative movement of the most rigid nature. I remember, in connection with the franchise of the little colony which I represent because in this Convention South Australian is always alluded to as a small colony the time when we returned to the upper chamber members elected by the whole colony as one constituency. It was the boast of most of the electioneering agents of those days that so long as they had the command of money they could always elect a man, no matter whom he might be, as a member of the upper house. As soon as we saw the evil of that system we altered it, and South Australia is now divided into four districts on the basis of population. I must certainly say that under that system the whole of the people and the whole of the interests of the colony are now represented in the upper house. I should not like to say that previous to that the representation was the representation of the whole of the people, or the whole of the interests of the colony. The arguments produced by various speakers seem to me to lead up to this: that we, as a convention, are afraid to trust the very states that have sent us here. I say that this is purely and essentially a state matter, and it does not follow if it is relegated to the states, that they will take a different view from that which we have taken. They may say that, in their own interests, it may be advisable to have only one electorate. I hold, however, that it is a state matter, and I am wholly in accord with Sir John Forrest when he says it will be far better to leave it to the states to say whether we shall have one or three electorates. I know the
unwieldiness of large constituencies. I know it is impossible for a man, even if he has leisure, to travel over the length and breadth of one of these colonies to expound his views; and I know that, under any rigid system which you may endeavour to impose on a candidate, you must still allow him a certain amount of money wherewith to contest an electorate. Under the system of one colony one electorate, you will still place a certain power in the hands of men in possession of capital. If a division is called for, I shall be found voting for the amendments which have been passed by the legislatures of the various colonies interested.

The Hon. I.A. ISAACS (Victoria)[12.34]:

As the bill stands at present, it is provided that the senators shall be chosen by the people of the state as one electorate. That is rigid. There is no power in a state parliament to alter it; there is no power in the federal parliament to alter it. I think that rigidity should at all events be got rid of. Then we have to consider, as has been said more than once, that the five colonies, by their legislatures, have condemned the bill in this respect; and when we also reflect that these parliaments represent as I believe they do a very strong body of public opinion behind them, we must consider what would be the effect of such a provision upon the people when they come to vote. It seems to me that, with one exception, the amendment suggested by the Victorian Assembly pretty well meets the case. The exception to which I refer has occurred to me in consequence of what I think was a very admirable point made by the Right Hon. Sir John Forrest today. The Victorian suggestion is that until the federal parliament otherwise provides the electoral divisions of the several states for the purpose of returning senators shall be determined from time to time by the parliaments of the several states. It goes on to say:

each division returning one member to the senate

I think that is wrong, for the reason given by the Right Hon. Sir John Forrest. If it is desired, as I presume it is, that upon the election of half the senators every three years the whole of the people shall have the right to express their views, that desire will not be effected by having only half of the electors pronouncing upon the election of the senators to be returned. Speaking for myself, I should have no fear about making the whole colony one electorate; but I recognise that very strong arguments have been advanced by those who consider that under such an arrangement large centres of population might override less densely populated districts. Whether that contention is absolutely right in the end, the argument is a powerful one, and weight must be given to it. But if we provide that the
colonies shall be divided into three divisions until it is otherwise provided by the parliaments of the states or by the federal parliament, we secure, in the first instance, at all events, that proper means will be adopted for the counterbalancing of the larger populations in the principal centres, and getting for country interests their due proportion of influence in the senate. For this reason I am strongly of opinion that the suggestion of the Right Hon. Sir John Forrest is one which reconciles a great many differences. If we adopt his suggestion, and provide that the parliament of a state may make provisions for these elections, but that paramount to that the federal parliament may make provision, we get away from the rigidity of the constitution which, if it is retained, no matter how faulty the constitution may be found in the future, will prevent us from altering it without an expensive and roundabout process of amendment Therefore I shall support the amendment as it stands with a view to adopting the suggestion of the Right Hon. Sir John Forrest. I do not think that the amendment of the hon. member, Mr. McMillan, goes far enough. So far as I perceive he proposes that there shall be one electorate in each colony, unless the federal parliament determines otherwise. That gives the state parliaments no voice whatever in determining this matter even in the first, instance.

Mr. MCMILLAN:
That is the intention!

Mr. GLYNN (South Australia)[12.38]:
I think it would be inadvisable to strike out the words "one electorate."

The CHAIRMAN:
The amendment is to insert the words "and until parliament otherwise determines."

Mr. GLYNN:
I think the hon. member is willing to strike out the words "in one electorate." The Victorian amendment makes provision for the division of the states into six electorates, but in clause 29 we have provided that the first election shall be on the one electorate system.

The Hon. I.A. ISAACS:
No, not necessarily!

Mr. GLYNN:
We must look at possibilities. The election is to take place within six months of the coming into force of the constitution, and one of the most difficult and contentious things that a parliament could have to deal with is the division of a country for the purposes of an election. We do not want to
have the first six months prior to the election of this parliament taken up with a hot fight in regard to what provisions shall be made for electoral boundaries.

The Hon. I.A. ISAACS:

The parliaments will agree!

Mr. GLYNN:

I think there is an exceedingly small chance of that. The regulation of the electoral districts is one of the most contentious things that can come before Parliament. As an additional reason for agreeing to the amendment of the hon. member, Mr. McMillan, I would point out that although the Victorian legislature has provided what shall take place until the federal parliament makes some other arrangement, the legislatures of Tasmania, South Australia, Western Australia, and, I think, of New South Wales, propose to Strike out the words "in one electorate," but make no provision for the first election under the constitution. That leaves it to the states parliament to make provision. But I say you ought not to leave to the state parliaments the exceedingly difficult task of deciding what shall be the divisions of the electorates.

An Hon. MEMBER:

They will know that if they do not make provision they will not be represented!

Mr. GLYNN:

It may take ten or twelve months to decide contending claims in regard to boundaries of electorates. I am speaking of the experience of South Australia, and I think this matter is rather the result of an oversight than of deliberate intention.

The Right Hon. Sir E. BRADDON (Tasmania)[12.42]:

Whatever we may do with regard to the amendments carried by the various legislatures, amendments which are, no doubt, fully entitled to our best consideration, I hope we shall not accept that suggested by the hon. member, Mr. McMillan. As I understand it, if we accepted it we should transfer to the federal parliament the right to interfere in local and states elections. It would be very undesirable from the states point of view, because it would be a power which, I think, would very possibly give reason for such differences between the senate and the house of representatives as might have most deplorable results. We do not want to increase the number of causes of disagreement between the two houses, and the more we avoid difficulties of this sort the better. I hope that the Right Hon. Sir John Forrest will give full consideration to what has fallen from the hon. and learned member, Mr. Barton, as to the effect of his
amendment in regard to weakening the states, and in providing the enemy of the smaller states with an argument for withholding power from them.

Mr. SYMON (South Australia)[12.44]:

The difficulty on this point seems to me to be as to whether we are to leave a loophole through the medium of the states parliaments or through the medium of the federal parliament. If we are to leave a loophole, there are three courses open to us. One, which is strongly advocated by the hon. and learned member, Mr. O'Connor, is that we should irrevocably fix it in the constitution that each state shall elect representatives as one electorate. I would like to point out, however, that if we are to leave any loophole at all, it should be in the direction of leaving it to the state parliaments to determine the mode under which the senators are to be elected. A great deal too much weight seems to have been given to the argument that each state as a whole should be represented. It is true that that is so, but that principle is not in any way infringed by the suggestions which have been made. The point is, how are you to ascertain what persons should represent the states as states? That appears to me not to be a matter for the federal parliament at all. Each state if it is to send these persons as ambassadors or representatives should settle for itself how it will choose them. Establish one electorate in the constitution in the first instance, and you will have the senators coming from the different states holding in the eyes of the people the position of representing each state as a corporate body. That position cannot be taken away. The choice will be by the people by direct popular vote; but in such divisions as shall be ascertained to be most convenient both for the candidates and for the people, and as the parliament of the state may determine. Now, the difficulty, it is true, is one which affects both candidates and people, but I should have thought myself that, upon the principle underlying all our representative government, the main question was, bow we can best give the people the means of determining upon their particular choice. Now, I can see great difficulty in the way of enabling all the people to determine upon their particular choice with the larger cities as one constituency. It was a difficulty which was felt at the time of our election to this Convention, and it is a difficulty which may be increased as the people spread more and more over these large extents of territory. If you are to give the people the choice of representatives for any particular purpose the great object is to accompany it by providing them with the best available means of forming an opinion and of selecting the best men. Now, what we are accustomed to under the British Constitution and all our constitutions are modelled upon that constitution is the bringing of the candidates face to face with the people to enable the people to form
their opinion as to the candidate they ought to select with the best information which is available, and which is obtainable at first hand from the candidates who offer themselves. Now, it is impossible to accomplish that by having the states as one electorate. I have no particular objection to having the states as one electorate, except that I foresee a great difficulty in enabling the people in the remote parts of a large colony to form an opinion on the merits of individuals who otherwise would be dependent upon what might be their general reputation. There may be men who would make excellent senators who are comparatively unknown in the more outlying districts, and it appears to me that, on the whole, if you are to give effect to the principle that you are to provide a means by which the people may select the best men, you will accomplish that in the most effectual way by dividing your colonies into districts. I see this difficulty in the way of accomplishing it, that if you introduce that principle into the constitution, you will also have to provide in the constitution for electoral districts, or to leave them to the federal parliament. If you leave them, as suggested, to the local parliament, you might just as well leave the whole question to the federal parliament, which, as circumstances in the future may require, can determine whether or not the system of one electorate shall continue.

Mr. LYNE (New South Wales):

I should like first to know what effect the amendment of which notice has been given will have upon our dealing with other portions of the clause?

The CHAIRMAN:

The amendment is to insert the words, "and until parliament otherwise determines." That will not prevent any other amendment being put.

The Hon. I.A. ISAACS (Victoria):

If those words stand, words will be added giving the states powers subject to the paramount authority of the federal parliament.

The CHAIRMAN:

It will be competent to insert any words which are not inconsistent with the clause.
Mr. LYNE:

I understand that if this amendment be carried any words can be inserted, leaving the matter to the state parliaments?

The CHAIRMAN:

If the amendment be not carried I shall put the amendment, striking out the words "in one electorate."

Mr. LYNE (New South Wales) [12.51]:

I wish in a few words to direct the attention of hon. members to the fact that it is all very well to talk of one electorate as being conducive to giving power to the people as an entity of the state; but I would ask the hon. member, Sir John Downer, whether in his own colony of South Australia it has not been found that the whole colony as one electorate for members of the Legislative Council was a mistake whether the system was not found to work badly, and whether it is not a fact that the parliament altered that provision in the constitution, and that at the present time South Australia is cut up, if not into single electorates, certainly into a number of electorates for the return of members to the Legislative Council?

The Hon. Sir J.W. DOWNER:

Quite so; but the cases are not analogous!

Mr. LYNE:

I should like to know why they are not analogous? In the one case you have the Legislative Council, and in this case you have the senate. In the case of the Legislative Council of South Australia you had the whole colony as one electorate, and it was found that under that condition of things certain well-known gentlemen obtained seats in the Legislative Council, and that it was utterly impossible to oust them from those positions to make way for more able, younger, and rising men who were not so well known to the whole colony.

The Hon. Sir J.W. DOWNER:

I do not think there was any special grievance!

Mr. LYNE:

I happen to know that a large number of those who held seats in the South Australian Legislative Council held those seats for many years, and we have been told repeatedly that it was be, cause the younger men were not so well known to the entire colony that they experienced a difficulty in getting votes.

The Hon. Sir J.W. DOWNER:

I think it was a question of the expense to members rather than of the convenience of electors!

Mr. LYNE:
We have the statement of the leader of the Convention that when the colony is one electorate there is not so much expense incidental to a candidature as when the colony is divided into districts.

The Hon. E. BARTON:
That is my recent experience!

Mr. LYNE:
Because the hon. gentleman was in the fortunate position of being well known. I will put to the Convention the case of several of the candidates in this colony. I do not wish to make any invidious distinctions, but I will take the cases of Mr. Bruce Smith, and of Mr. Ashton. I will refer especially to the case of Mr. Ashton. I undertake to say that had it not been for the fact of a number of the candidates being better known he would have been returned to this Convention, and would have done good work here.

The Hon. E. BARTON:
He travelled a good bit more than did most of the candidates!

Mr. LYNE:
But he had the misfortune of not being so well known as is the hon. gentleman and others who were elected.

Mr. WALKER:
He did not believe in equal representation!

Mr. LYNE:
I announced my opposition to equal representation whenever I had the opportunity to do so, and I was fortunate enough to be returned. But I was calling attention to what had taken place in South Australia, and I wish before resuming my seat to put another phase of the question before hon. members, and it is this: Take, for example, the colony of New South Wales at the present time, where there is a strong feeling upon one particular question the fiscal question. Suppose there happened to be in this colony 10,000 electors in a centre of population either on the side of protection or of free-trade. Under the provisions of this bill, with the whole colony as one electorate, there might not be one protectionist returned, or, on the other hand, one free. trader. Now, is it desired that the senate should be composed of those who do not represent the minority at all?

Mr. MCMILLAN:
Does the hon. member think that only six candidates would go up?

Mr. LYNE:
I think that perhaps sixty would go up. But when there is a "ticket" a free-trade ticket, a protection ticket, or any other ticket the result is that you get six men returned on the one "ticket," representing the one view, and the
minority are disfranchised altogether.

The Hon. E. BARTON:

The hon. gentleman said he did not think it would be that way the other day!

Mr. LYNE:

The question I refer to was not before the electors, and the hon. and learned gentleman altogether misstates the result of the election which took place the other day. It cannot be compared with the future elections for the senate. The election the other day took place on the selection of gentlemen to frame a constitution to be afterwards referred to the electors. The electors did not take a strong view on any party question in returning those gentlemen. I think I am correct in saying that you would not find such a state of things to prevail in the election of members to the senate. You would find a state of things absolutely different. We will suppose, for the sake of argument, that in the federal parliament the fiscal question a uniform customs tariff is the first matter to be dealt with; and that the leader of the Government in New South Wales and myself go up for election to the Senate. Will there not be a "ticket " attached to my right hon. friend, the Premier, and will there not be a "ticket " attached to myself; and if there happen to be a few more free-traders than protectionists in the colony, I shall be rejected as well as all the others on the same ticket. Or if it should turn out that we have a small majority my right hon. friend and his "ticket" will be rejected and only protectionists elected. That is the position you will be in if you allow each state to remain as one constituency. Without wishing to detain hon. members, I desire to say that I am opposed to leaving the question indefinite, and I think the amendment of my hon. friend, Mr. McMillan, would leave it indefinite. I should like to see it fixed in the bill that there should be one representative of each division in each state, and I should like to leave it to the federal parliament to frame the necessary machinery to divide the various electorates; or, if we do not do that, we should leave it to the state parliaments to do it. But, it being a federal matter hereafter, I think it would be preferable to leave it to the state parliaments to devise the machinery on the basis of one representative for each electorate in each state. I shall therefore vote against the proposal of the hon. member; but I hope that afterwards some hon. member will submit a proposal which will meet more nearly the views I hold.

[The Chairman left the chair at 1 o'clock. The Committee resumed at 2 o'clock.]

The Hon. Dr. COCKBURN (South Australia)[2]:
You, Sir Richard Baker, said, before the adjournment, and very properly, that, if these words were added, it would be competent for an hon. member to move any other amendment; but I should like to point out that the addition of these words will take away much of the meaning of the amendments proposed by the parliaments of New South Wales, Western Australia, and South Australia. The intention of those amendments is that this matter of the election of the senate by one district, or by several districts, should be left to the state parliaments; but the addition of these words will frustrate that intention, and will give the state parliaments a very limited amount of liberty in this respect. Therefore, those who wish to give effect to the amendments I have named, will be only able to effect their object by voting, in the first instance, against the addition of these words, and then in favour of inserting their amendments; for, if these words be added as proposed, the states will have but a brief autonomy.

Mr. GLYNN (South Australia)[2.1]:

I think that, according to grammatical construction, the meaning of the amendment proposed by the hon. member, Mr. McMillan, will be that the senators will be chosen as one electorate not that the people, as one electorate, will choose the senate. Grammatically, it is incorrect; therefore I would suggest to the hon. member that the words should be put in after the word "as" in the second line of the sub-clause. Then it will read as follows:

The senators shall be directly chosen by the states as, until parliament otherwise determines, one electorate.

The CHAIRMAN:

The word "and" is in.

Mr. GLYNN:

It can be struck out. If you put the words in as suggested by the hon. member, Mr. McMillan "and until parliament otherwise determines" after the word "states" you can test the grammatical construction of the clause by trying it disjunctively. For instance, joining the end of the clause with the first part of it, "The senate shall be directly chosen by the people of the states, and the senators shall be chosen as one electorate." That is what the effect of the grammatical construction would be.

The Right Hon. C.C. KINGSTON:

It is a matter for the Drafting Committee!

Mr. GLYNN:

Where is the necessity for sending this matter to the Drafting Committee? It can be decided at once. I believe that where clearly a grammatical error is being made in putting an amendment in a particular way, the better plan is to correct it at once, and there can be no doubt that
the sense of the amendment would be achieved by putting the words "until parliament otherwise determines" after the word "as."

Mr. MCMILLAN:
Will the hon. member make himself responsible for the grammar?

Mr. GLYNN:
I will, if the hon. member will adopt my suggestion.

The Right Hon. C.C. KINGSTON (South Australia)[2.4]:
This is a matter of drafting which I think we might very well leave to the Drafting Committee. There may be something in the suggestion of my hon. colleague.

The Hon. F.W. HOLDER (South Australia)[2.5]:
I hope that the Committee will decide to keep the clause as it stands in the bill. It is interesting I think, to see how the clause found its way as it is. In the first place, we were led very much by the American precedent, which leaves no doubt about the representation of the state entity. The election of the representatives of each state by the governing body of that state ensured the representation of

the state entity as such; and when the bill of 1891 was framed the same idea was taken up the state entity was to be represented in the senate through the election of senators by the parliament of each state, so that then, as in the case of America, each senator would be able to say that be represented such and such a state as a whole. Now we in Adelaide followed the same path by providing that still the state entity shall be recognised by the election, by the electors of each state in one electorate, of the senators of that state. What is now proposed is an entire reversal of the course we have hitherto followed an entire change of policy and practice and I earnestly hope that we shall adhere to the course we have hitherto followed, and shall determine that the senators for each state shall represent, not only a portion of the state, but the whole of it. Reference has been made to some past experience in South Australia, and I desire to point out that what is now proposed in this bill is much more nearly like the present practice in South Australia than it is like the old now disused practice in South Australia. What is proposed here is that each state shall be a district, and that each district shall, in one electorate, return its own representative to the senate. The present plan in South Australia is that the colony is divided into four districts, each of which returns an equal number of members to the Legislative Council. The old plan that the whole colony should be one electoral district, and should return members as one electoral district would only be paralleled by our providing now that the whole of the states shall be put together and form one electorate. Such a proposal
would not be made, or would obtain no support if made. We are not proposing to follow that old plan which broke down in South Australia, but are proposing to follow the present system of election in South Australia which now works with very excellent results. I urge that we not forget the purpose for which the senate is to be called into existence. If it is to be simply a body representing the people in the various electorates, without reference to the states at all, we do not want it. I would be quite prepared to give a vote with those who contend that one house is quite enough, unless we are going to set up a senate representative of states as states, and it seems to me that, the only way we can secure the representation of states as such is to make each state one whole electorate.

**Mr. TRENWITH (Victoria)[2.8]:**

This question, like most of the others we have discussed, is one which, it seems to me, we must approach from two points of view. We must consider, first, what is absolutely best in our judgment to make, supposing it can be adopted; we must consider, secondly, what is most likely to be accepted by the people, and if ultimately what in our judgment is the best provision is less likely to be accepted, and another provision, which, while not being the best, is not very objectionable, will probably be accepted, it seems to me that we are bound to adopt that which will probably be accepted. On this question I am in the awkward position of considering to be the better proposal that which I think is less likely to be accepted by the people. My view is now, and has been all along that the best way to elect a senate in order to secure a house worthy to be a house of revision would be to select it by the states as one constituency. But the discussion upon the question in my own colony and in New South Wales appears to have indicated that the people prefer the election of the senate by districts. Now, whilst I consider that that is the least effective and the worse of the two proposals, I do not consider it is so objectionable as to justify me in insisting upon a condition which I believe to be unpopular, though in my judgment the better; and having these two aspects in view, it seems to me now that it would be better to adopt the proposal to elect the Senate by six separate districts.

**An Hon. MEMBER:**

Three!

**Mr. TRENWITH:**

Six or three—at any rate by separate districts. A point has been presented by the right hon. member, Sir John Forrest a point which seems to me to have great weight. That is, that as the senate is to be elected half at a time
after the first election, if we have six single electorates we shall never be able to appeal in a senatorial election to more than half the electors. Therefore, it seems desirable, in view of the desire of the people, to have districts, that there should be three double seat electorates rather than six single seat electorates.

An Hon. MEMBER:

They will be single seats after the first election!

Mr. TRENWITH:

Yes; but they will be over the whole colony instead of over half the colony, which, as an indication of public feeling, is altogether inadequate I am afraid. But at any rate the indication of public feeling will be better in districts than by appealing to one-half, or three out of six electorates. I should not have spoken on the question were it not for my altered opinion upon the point. At the election for seats in the Convention, at the late sitting of the Convention, and in our own Parliament in Victoria, I urged the adoption of the principle of election by the whole State as one constituency. I still think that that is the better course to pursue, but I have evidence enough to induce me, to doubt very seriously whether a large section of the Victorian people are in favour of that course. It has been urged vigorously and with considerable reason on its side, although not sufficient to my mind, that if we have one electorate for the election of senators the towns the large centres of population will dominate the country districts, where facilities for recording the votes are not so great. I do not agree with that myself; but I believe that a very large number of electors are afraid of that possibility, and if we go to those electors to ask them to adopt a bill with a principle in it of which they are afraid, we are giving them a strong incentive to vote against the bill. I am so anxious for federation; I believe federation to be so desirable, that, personally, I am willing to waive a conviction of my own upon a point which does not seem to be essential. There are some points in connection with this question so important, that I would say, "Better no federation than federation under such conditions." There are some other questions of a comparatively minor character. This, in my opinion, is one of them, and whilst I consider the adoption of districts for the election of the senate will be less useful ultimately than the election of the senators by one electorate, as I believe it to be more likely of acceptance I have resolved to vote for it.

Mr. HIGGINS:

Does the hon. member think that the question of one electorate will cause the rejection of the bill?

Mr. TRENWITH:
I think that, whenever we present the bill, there will be a great many points in it that will be more or less objectionable to some persons; and the more objectionable points there are in it, the less prospect will there be of its being adopted; and, if we put in it one provision that we feel is objectionable to a large number of persons

An Hon. MEMBER:
Why assume that?

Mr. TRENWITH:
Well, I am afraid of it.

The Right Hon. Sir E. BRADDON:
The hon. member should not be afraid of too many things!

Mr. TRENWITH:
I quite agree with my hon. friend. It is not my character-istic to be afraid; but I am afraid in the interests of the cause, of things that personally I should care nothing at all about. In our House of Assembly, at any rate, those who profess to represent the country districts and in our colony, as indeed, I suppose, in all the colonies, the majority of the people live in what are called country districts in the Victorian Parliament the persons who profess to represent the country districts declare that they themselves and the people whom they represent fear the domination of their interests by the interests of those in the cities. I do not think there is any justification for that; but, if it exists, we have to consider whether the prospect of jeopardising the bill for this principle is warranted by the importance of the principle. Personally, I do not think it is. I do not think that the election of the senate by districts will make it so much inferior, or will be so much less beneficial than electing it by one constituency as to justify us in putting in the bill a provision that may startle, that may frighten, a large number of electors from voting for the bill. I felt it due to myself and due to the attitude that I propose to take, that I should say these few words. I may say that if, in every other respect, the bill commends itself to my judgment, I shall feel it my duty to endeavour to induce the people to adopt the bill, whichever of these two provisions is adopted. I shall feel that the better thing is done in the interests of securing a good constitution if the bill is carried in its present form; but I shall think that the better thing is done, having in view the ready passage of the bill by the popular vote if the course which I suggest is adopted.

Question That the words "and until the parliament otherwise determines" be inserted put. The Committee divided:
Ayes, 29; noes, 19; majority, 10.
AYES.
Abbott, Sir Joseph Kingston, C.C.
Barton, E. Leake, G.
Berry, Sir G. Lewis, N.E.
Brunker, J.N. Lyne, W.J.
Carruthers, J.H. Moore, W.
Douglas, A. Peacock, A.J.
Glynn, P.M. Quick, Dr. J.
Gordon, J.H. Reid, G.H.
Hackett, J.W. Solomon, V.L.
Henning, A.H. Symon, J.H.
Henry, J. Trenwith, W.A.
Higgins, H.B. Turner, Sir G.
Holder, F.W. Walker, J.T.
Isaccs, I.A. Teller,
James, W.H. McMillan, W.

NOES
Braddon, Sir E.N.C. Grant, C.H.
Briggs, H. Hassell, A.Y.
Brown, J.N. Howe, J.H.
Clarke, M.J. Lee-Steere, Sir J.C.
Cockburn, Dr. J.A. O'Connor, R.E.
Crowder, F.T. Venn, H.W.
Dobson, H. Wise, B.R.
Forrest, Sir J. Zeal, Sir W.A.
Fraser, S. Teller,
Fysh, Sir P.O. Downer, Sir J.W.

Question so resolved in the affirmative.
Question that the words "as one electorate" stand part of the clause proposed.

Mr. LYNE:
How will the clause read now that the amendment has been made?

The CHAIRMAN:
It will read as follows:"The senators shall be directly chosen by the people of the state and until the parliament otherwise determines, as one electorate."

Mr. LYNE:
Is that the parliament of the federation? The CHAIRMAN: Yes, the federal parliament!

Mr. LYNE (New South Wales)[2.26]:

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I certainly voted as I did under the impression that the final decision was to be left to the states and not to the federal parliament. I am afraid that others voted in the same way. I certainly understood that it was to leave the elections to the states. I understand the amendment now is to strike out the words "as one electorate," and that after that is dealt with other amendments can be moved.

Question-That the words "as one electorate," stand part of the clause put. The Committee divided:
Ayes, 29; noes, 18; majority, 11
AYES.
Abbott, Sir Joseph Higgins, H.B.
Berry, Sir G. Holder, F.W.
Braddon, Sir E.N.C. Kingston, C.C.
Brown, N.J. Leake, G.
Brunker, J.N. Lewis, N.E.
Clarke, M.J. McMillan, W.
Dobson, A. Moore, W.
Douglas, A. O'Connor, R.E.
Downer, Sir J.W. Quick, Dr. J.
Fysh, Sir P.O. Solomon, V.L.
Glynn, P.M. Symon, J.H.
Gordon, J.H. Walker, J.T.
Grant, O.H. Wise, B.R.
Henning, A.H. Teller,
Henry, J. Barton, E.
NOES.
Briggs, H. Lee-Steere, Sir J.G.
Carruthers, J.H. Lyne, W.J.
Cockburn, Dr. J.A. Reid, G.H.
Crowder, F.T. Trenwith, W.A.
Forrest, Sir J. Turner, Sir G.
Fraser, S. Venn, H.W.
Hackett, J.H. Zeal, Sir W.A.
Hassell, A.Y.
Howe, J.H. Teller,
Isaacs, I.A. Peacock, A.J.
Question so resolved in the affirmative.
Paragraph 2, as amended, agreed to.
Clause 9, paragraph 3. 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.

Amendment suggested by the Legislative Assembly of Victoria:
Omit all the words after the words "six years."

The Hon. I.A. ISAACS (Victoria)[2.32]:

The Legislative assembly of Victoria suggests the omission of the words: And the names of the senators chosen by each state shall be certified by the governor to the governor-general.

That must be read in conjunction with clause 12, which the Legislative Assembly of Victoria also suggests should be struck out, and which reads as follows:-

For the purpose of holding elections of members to represent any state in the senate the governor of the senate may cause writs to be issued by such persons, in such form and addressed to such returning officers as he thinks fit.

The object undoubtedly is, as far as I can discover, to keep the election of the senate entirely in the hands of the states, and to leave the election of the house of representatives entirely in the hands of the officials of the federal parliament. That means that there will be two separate sets of elections, two separate sets of returning officers, with a double expense to the federation; the times may be different, the places of election may be different, all the arrangements made be different; and no doubt they will, if left in the hands of different persons. Why the federation should be saddled for the mere sake of an idea, with all this terrible double expenditure, is more than we can understand. It seems to me that, for the mere sake of an idea, it would be a terrible argument against federation that this double expense should occur every time there is to be an election.

The Hon. E. BARTON:
The same expense must be incurred one way or the other!

The Hon. I.A. ISAACS:

No; if the governor-general issues the writs for the election of the house of representatives and the writs for the election of the senate, it is a mere matter of adding a few names to the voting papers.

The Hon. E. BARTON:
The argument is that that would be so if the election of the house of representatives and of the Senate were held at the same time!

The Hon. I.A. ISAACS:

Yes; unless a dissolution throws the thing out of gear; I am drawing attention to what will happen, in the first instance, if this suggestion is not carried out. The governor-general will issue the writs for the election of the house of representatives, and appoint his own returning officers, who will
make all arrangements for the polling all through the country. The central government will fix the times and hold their elections if there is no such thing as a senate to be elected. The governor of each state will issue his writs, appoint his own returning officers, and fix his own polling booths, times, and places, so that there will be two sets of elections going on with a double expense. It seems to me it is an unfair expenditure to impose on the states. They have to hold all the elections.

The Hon. E. BARTON:

It will not saddle the federation with any expense!

The Hon. I.A. ISAACS:

It will saddle the people of the federation with a double expense; for they will have to pay one way or the other. It seems to me, unless hon. members are wedded very strongly to the idea that there is some virtue in the governor certifying to the governor-general that the senate is elected, we ought not to lose the substance for the sake of the shadow. Therefore, I support the suggestion made by the Legislative Assembly of Victoria.

The Hon. E. BARTON (New South Wales)[2.38]:

I do not by any means wish to have a long debate on minor points. I am not quite satisfied by the explanation of my hon. and learned friend that there is going to be any great inconvenience or expense caused by this provision. If the elections for the senate and for the house of representatives are held at the same time, as they will be on the very first occasion, but, if the bill stands as it is, very likely will not be at any other time, what will be the result? The expense will have to be incurred except in the first instance, in which case there might be some saving. The expense in all the remaining cases will have to be incurred, because the elections will be held at different times.

The Hon. I.A. ISAACS:

No!

The Hon. E. BARTON:

The members of the senate are to hold their office for six years, and one-half of the senators will go out every three years, if the bill stands as it is. Every member of the senate will hold office for six years, although half of them may go out every three years. There is to be an election every three years, but the members of the senate are to hold their office up to the time specified to the day. Now we know well, as a matter of common occurrence, that, where there has been nothing to cause a dissolution of the lower chamber, before the effluxion of time, the case is extremely rare, nevertheless, in which the members hold their seats until that time has actually arrived. In this colony the practice is to dissolve one, two, or three
months before the time expires. Even in that case it would be probable that there would be a coincidence in point of time. Whilst the senate is not dissoluble, except by three, yearly periods, and the house of representatives is dissoluble, we know that in the majority of cases the house of representatives meets with some question which causes its dissolution irrespective of the question of effluxion of time. Therefore, instead of there being coincidence between these times, the immense probability is that, unless some curious accident happens, these elections will be at different times. If they be at different times, whether the federation conducts both or one, and the state conducts the other, the total expense will be the same, and it will have to be incurred. Therefore, I do not think we shall gain anything. Of course something further may be pointed out to cause one to alter that opinion. The clause stands in this position: that it is more in accordance with the separation of functions between the two houses, and the admission that the one is a proportional representative chamber, disregarding state limits, while the other regards state limits, that separate authorities should take charge of the elections. I admit there is not much in the point one way or the other. I do not see any reason for change. If I could see that any expense would be saved I might waver in my opinion.

The Right Hon. C.C. KINGSTON (South Australia)[2.42]:

I am inclined to think the balance of convenience is in favour of giving the federal authority complete control in connection with the matter. It seems to me highly objectionable that in any matter affecting federal affairs the carrying out of the necessary provisions for securing the representation of the states should be left to the local executive, which might be altogether hostile to federation. I am inclined to think and I put it for the consideration of Mr. Barton that we ought to make federal authority, within the scope of federal jurisdiction, certainly to the extent of constituting the federal parliament, supreme in itself, and not in any degree dependent upon the will of the local executive, which, if given any right of interference, might exercise a powerful influence for ill on federal affairs.

The Hon. N.E. LEWIS (Tasmania)[2.44]:

It appears to me that the words proposed to be omitted would properly find a place in an electoral act rather than in a constitution act. When the federal parliament is constituted, and frames its provisions for carrying out the elections for the senate, and also for the house of representatives, no doubt some provision for the certifying of the names of the senate will be made. It seems to me undesirable to hamper the constitution with minor provisions for certifying the names of the senators. That had better be left
to another measure. The elections, I take it, will be carried out under the authority of the federal parliament and the federal executive.

**The Right Hon. G.H. Reid:**

The first election, cannot be. There will be no federal parliament then!

**The Hon. N.E. Lewis:**

There will be a federal executive to carry it out, and someone to issue the writs and make provisions. We have provided later on that until Parliament otherwise provides the laws in the several states for the time being relating to certain matters shall be applicable to the first election. I am inclined to support the suggestion made by the Victorian legislature.

**Mr. Wise (New South Wales)**[2.46]:

I shall support the amendment, because I hope that, after federation, the office of state governor will become unnecessary. Therefore, I shall vote against the insertion of any words in the constitution which by implication assume the continuance of that office.

**The Hon. Sir J.W. Downer (South Australia)**[2.47]:

I hope the amendment will not be made. In a number of incidental amendments there is frequently a big principle involved, and there is one in this. Whom do the senators represent? They represent the states. Who is to certify that they are elected? The states.

**The Right Hon. Sir G. Turner:**

There will be a returning officer; why should he not certify?

**The Hon. Sir J.W. Downer:**

Who should more properly certify as to the persons elected than the governor of a state. It is preserving the essence of the state unity to keep the provision as it is at present. With regard to the question of expense, with our internal parliaments, would we ever agree to make a law compelling the elections of the Legislative Council and Legislative Assembly to be coincident in time? If we did, it would bring about most serious inconvenience to one or the other, and the result would be that one body would be insufficiently representative whilst the other would be fully representative. I think the argument of Mr. Barton is unanswerable. To make the amendment which my hon. friend proposes with a view of saving expense might produce an inconvenience which will be greater than the expense.

**The Hon. I.A. Isaacs:**

I cannot see any inconvenience!

**The Hon. Sir J.W. Downer:**

First of all, my hon. friend only proposes to strike out a reference to the
certifying of the election of the senate. What is the object? Whom does my hon friend want to certify who are the senators? Surely if the senators Fire to represent the state, the head of the state is the proper person to say who has been elected.

The Hon. I.A. ISAACS:

As long as the people elect, and the right men are elected, what matter who certifies?

The Hon. Sir J.W. DOWNER:

If there is nothing in it, why waste time?

An Hon. MEMBER:

It does not matter who issues the writ!

The Hon. Sir J.W. DOWNER:

It does not. Some certificates must be handed in to certify that the members of the senate are properly elected, and who should do that but the governor?

An Hon. MEMBER:

Would not the returning officer do?

Mr. HIGGINS:

The returning-officer to the governor-general!

An Hon. MEMBER:

Why not leave it to the governor?

The Hon. Sir JOSEPH ABBOTT:

Why waste time?

The Hon. Sir J.W. DOWNER:

Yes, I would ask, why waste time?

Mr. MCMILLAN (New South Wales)[2.49]:

I want to know whether this is to come in again? If we destroy clause 12, does the hon. member intend to insert anything in clause 41, or to propose a new clause?

An Hon. MEMBER:

Follow the same practice!

Mr. MCMILLAN:

The principle then is that underlying this proposal the parliament or the state as a state should have nothing to do with the modus operandi of the elections.

The Hon. I.A. ISAACS:

They should have all the power in substance, but the mere machinery
should be in the hands of the federal authorities!

Mr. MCMILLAN:

That is what I wanted to understand!

Amendment negatived; paragraph 3 agreed to.

Clause 9, paragraph 4: 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.

Amendment suggested by the Legislative Assembly of Victoria:

That after the word "but" the following words be inserted: "except in the case of new states which after the establishment of the commonwealth are admitted thereto or established thereby upon other terms and conditions.

Question-That the words proposed to be inserted be so inserted proposed.

The Hon. E. BARTON:

I might mention that an amendment which I suggested a day or two ago provides for this case. The definition of the word "original," which I propose to insert in an earlier clause will provide for it in a shorter form. If the hon. and learned member, Mr. Isaacs, will be satisfied with that amendment I will propose it at a later stage.

The Hon. J.H. GORDON:

Whether now or hereafter I shall oppose any alteration affecting the principle of the equal representation of states in the senate.

The CHAIRMAN:

There will be some difficulty about following the course suggested by the leader of the Convention, inasmuch as it has been decided that amendments suggested by the various legislatures shall be put to the Convention, and of course if an amendment is negatived the principle with which it deals cannot be afterwards affirmed except upon the recommittal of the bill.

The Hon. E. BARTON:

What I have suggested is, that after we have gone through the bill in Committee, a day or two should be allowed to the Drafting Committee to make amendments which are purely drafting amendments, to more clearly express the intention of the Committee, and that the bill should be recommitted for the formal consideration of these amendments. I have not the smallest objection to the amendment now before us being carried, so long as it is understood that this is a mere matter of agreement.
The CHAIRMAN:
Perhaps it would be the best way to discuss the principle underlying the amendment now.

The Hon. J.H. GORDON (South Australia)[2.54]:
I will state in half a dozen words why I oppose the amendment. To put a concrete case, if Queensland does not come into the federation at once it will be left open to the federal parliament to make it a condition of Queensland coming in that she shall not have equal representation in the senate. Therefore, in agreeing to the amendment, we are cutting at what I conceive to be an essential principle of federation, namely, the equal representation of the states. If I spoke for a week, I could not put my views upon this subject more clearly, and I think I have stated the proposition in terms which convey my objection to it.

The Hon. Dr. COCKBURN (South Australia)[2.55]:
Clause 114, as it was passed in Adelaide, allows a principle to creep in which upsets views that I hold upon this subject, namely, that in every case the states should have equal representation in the senate. I think that the best way would be to negative the amendment, and to modify clause 114 afterwards. We should leave it to the commonwealth to say whether or not it would admit a state, whether or not a state is of sufficient importance to be admitted; but, once a state is admitted, it should have its proper representation in the senate.

The Hon. I.A. ISAACS (Victoria)[2.56]:
I hope the Convention will agree to the amendment. The substance of the amendment was inserted in the bill in Adelaide on the motion of the Right Hon, Sir George Turner, and I would point out to the representatives of South Australia that so far from its being an obstacle to federation it is actually an advantage. If we do not have such a provision in the bill, what will be the result? The result will be that when any state or colony desires to enter the commonwealth, not having done so on its establishment, it will either have to accept equal representation, or not come into the commonwealth. It might be perfectly willing to come in on lesser terms, and the commonwealth might be willing to admit it on lesser terms; but it might be thought altogether unfair that a state which had chosen to remain outside the commonwealth until the whole problem had been solved by the federation should necessarily come in on equal terms. I would point out again to these hon. gentlemen that there is nothing to prevent the commonwealth from conceding equal representation to the states. If Queensland, or any subdivision of Queensland, desired to come into the commonwealth at some future date, it might urge its claim to equal representation, and the commonwealth might say, "Rather than keep you
out, we will give you equal representation." The power to do that is retained, even if we allow the amendment. The amendment does what hon. members opposite have so often urged us to do. It trusts the federal parliament and allows it to make the bargain as close as it and the state entering the federation choose to make it.

The Hon. H. DOBSON:
Ought not the bargain to apply to financial terms, and not to constitutional terms?

The Hon. I.A. ISAACS:
It ought to apply to any terms. A month, or six months, or a year after the establishment, Queensland might say, "We are perfectly willing to come in. It is true that, by reason of circumstances not wholly under the control of our people, nor of our Parliament, we did not come in at the beginning; but we are desirous of having equal representation." If they were then told: "You have not contributed to the financial calls of the commonwealth," they might reply, "We are willing to give you compensation for that."

The Hon. H. DOBSON:
But not by taking away the constitutional privileges which the original states have?

The Hon. I.A. ISAACS:
Nothing would be taken away from the federated states. Every privilege equal representation in the senate, full proportional representation in the house of representatives will be conserved to the original states.

Mr. GLYNN:
The hon. member would not sell a vital principle for cash? That is what it amounts to!

The Hon. I.A. ISAACS:
Suppose that Queensland sees that there is a risk hereafter of not getting all she would get if she came in now, will not that be an incentive to her to put forward her best efforts to join us? I think, Sir, that so far from being a drag on federation, it will be one of the most important elements in securing, at the earliest possible moment, a complete federation of Australia. And when we consider the risk that the colonies who first form the federation will run, and are willing to run, in order to create Australian unity, we ought not to put an inducement in the hands of fearsome colonies to stand aloof until the problem has been solved, until risk has been converted into certainty, until they can come in and have all the advantages without having had any of the disadvantages. I do earnestly hope that the proposal of the Right Hon. Sir George Turner, which was carried without, I
think, any dissent at all in Adelaide, will be adhered to, and that my hon. friends who have just spoken will not just to concede that, why should it not be trusted to do that which it considers just?

**Mr. GLYNN:**

Why reopen the principle upon the admission of a new state?

**The Hon. I.A. ISAACS:**

There is such a thing as driving a principle to death, and I think my hon. friends are casting away a great deal of substance for a very insubstantial shadow if they do not adhere to this amendment, which is merely putting into drafting form the principle affirmed in the 114th clause that we should give that which is proper, that which is calculated to make this bill much more acceptable to the colonies who desire to join the federation in the first instance, and, as I said before, and now take leave to repeat, that which would be of great assistance in furthering Australian unity in a complete form.

**The Hon. J.H. GORDON (South Australia)[3.3]:**

I am surprised to find the leader of the Convention if we may judge his meaning from his cheers actually supporting a provision which cuts at the root of the principle which, time after time, both in the Convention of 1891 and in this Convention, he has advocated with so much impressiveness and strength. If the hon. gentleman has impressed this Convention and the colonies generally with the necessity of any one of the principles contained in this bill it has been the necessity for the principle of equal representation in the senate.

An. Hon. MEMBER: Among existing states!

**The Hon. J.H. GORDON:**

Among all states. The hon. gentleman has never, and I think I have heard all the speeches

which he has delivered on the subject, qualified his adhesion to this principle at all. It is an integral principle in the advocacy of which we have so often admired and followed the hon. gentleman. I am surprised, if the hon. gentleman's meaning is to be gathered from his cheers, that he should now depart from the principle; but I am more surprised, if possible, to find such an eminent legal authority as the hon. member, Mr. Isaacs, actually commending this proposition to the Convention on what ground? upon the ground that we are—if I might put it in mining parlance—first robbers, that any state coming in and not being on the bed-rock—to revert once more to mining parlance—must adopt our terms. In other words, that we are to punish a state such as Queensland, which, owing to a combination of circumstances, over which possibly her people may have had no control—
The Hon. J.H. HOWE:  
We may give them all we take ourselves!

The Hon. J.H. GORDON:  
We may; but I maintain that we should leave the door open to any state to come in on an equality with ourselves after the federation has been initiated.

Mr. SOLOMON:  
Within some reasonable time!

The Hon. J.H. GORDON:  
It is open to the federal parliament to receive them; and if it receives them, it should receive them as full brothers, with all the privileges and rights of brothers.

The Hon. I.A. ISAACS:  
We want to admit them at the beginning!

The Hon. J.H. GORDON:  
It would be a travesty to call what the hon. member, Mr. Isaacs, puts forward a principle. It is no principle. He puts forward the argument that because at the commencement of this contract, Queensland, owing to circumstances over which her people may have had no control, is not able to be represented here, she shall be at a disadvantage compared with those colonies who happen to be lucky enough to first come into the contract, who really are the first robbers.

The Hon. I.A. ISAACS:  
That is too thin!

The Hon. J.H. GORDON:  
That is the proposition I am endeavouring to put before the Convention.

The Hon. E. BARTON:  
That would be all very well for a syndicate; but it has nothing to do with this Convention!

The Hon. J.H. GORDON:  
If we receive the states, we should receive them as brethren, with all the rights of brethren. It is argued that the colonies which do not come in at the outset may take all the advantage whereas we take the risk, and that, therefore, if they choose to hang back, we should exact from them terms favourable to ourselves and not favourable to them.

The Hon. J.H. HOWE:  
That does not follow at all!

The Hon. J.H. GORDON:  
It is the basic argument, and the words in which it has been put before us have been these: "We are taking the risk and trouble. If the other states like to hang back, why should we allow them to come in upon the same terms
with ourselves?"

The Hon. I.A. ISAACS:

Why should they force us to allow them to come in?

The Hon. J.H. GORDON:

They cannot do so. The hon. and learned member does himself an injustice when he imagines that any state can force the federal authority to allow it to come in. Does he seriously mean this convention to accept the proposition that any state which is riot represented in this Convention can force the federation to take it in? Does the hon. and learned member say that?

An Hon. MEMBER:

He does not mean it!

The Hon. I.A. ISAACS:

I say that the federal authority must be prepared to admit them on these terms, or leave them out altogether!

The Hon. J.H. GORDON:

On the terms of a full and free partnership, on the conditions we ourselves insist upon, on the terms for which we contend. The hon. and learned member says that because the other colonies are not represented here now, because we take some risk which they do not take, we should penalise them, and exact of them certain terms because we were the original federators. The hon. and learned member does not say definitely that we should do so, but he says that we should put ourselves in the position of being able to do so. Nothing is further from my intentions than to do any injustice to the hon. and learned member's arguments, but, as far as I can gather, he wishes to put us in the position of penalising any new state which may come in after the federation, and I say that that is a principle which might animate a private syndicate or a number of co-partners seeking some personal gain, endeavouring to line their own pockets, but which certainly should not animate this Convention if it desires to bring about a federation. I am astonished that the hon. and learned member, Mr. Barton, of all men, should be the man to lead us from those paths of principle into which he has so eloquently and so frequently guided us.

The Hon. R.E. O'CONNOR (New South Wales)[3.8]:

I do not know whether or not to take the hon. member who has just resumed his seat seriously; but if he is to be taken seriously he utterly misapprehends the nature of the amendment. Nothing new is done by it. It
merely carries out a principle already agreed to after full discussion in clause 114. It is simply an amendment for the purpose of carrying out more fully the meaning of that clause. I do not say for one moment that that is an answer to any argument which the hon. member may put forward. But, as a matter of fact, the clause merely carries out a decision already arrived at. The hon. member is quite mistaken in supposing that this amendment or that clause 114 as it stands will in any way necessitate Queensland being put in a position of unequal representation.

The Hon. J.H. GORDON:

But it may!

The Hon. R.E. O'CONNOR:

It gives to the commonwealth the power to arrange the terms upon which Queensland or any other colony may come in. I am sure the hon. gentleman will not say that we are to leave practical questions out of consideration altogether, that we are not to look at the question from a practical point of view. The colony of Queensland is the only colony to which this amendment can apply. And it is in this position: An agitation has been going on there, as we all know, for a division of the colony into three colonies. If that agitation for separation ever had any point or meaning, surely it would be achieved if the success of the agitation were to secure three times the representation in the federation to which Queensland would otherwise be entitled. The only practical side of this question the only case to which it can apply is the case of Queensland; and if we allowed this basis of equal representation to remain as a right to any colony that came in, it would be a premium to Queensland to divide herself before entering the federation. You may ride a principle too far, and it would be carrying this principle of equal representation to the point of fatuity if the commonwealth were to place itself in such a position as to be at the mercy of any colony that chose to stand outside for any reason-I do not care what- and then when the commonwealth was formed to come in and take advantage of it, The hon. and learned member, Mr. Isaacs, has pointed out that a colony might stand by and watch the struggles and the failures, and when success has been achieved, come in and take advantage of it.

The Hon. J.H. GORDON:

Why, not?

If the terms to be allowed are only to be terms of money compensation, I say that it does not meet the case in any way. You have to regard the matter from a practical point of view. From a practical point of view, it would be
nothing less than folly to leave this matter in such a position that Queensland or any other colony, as a matter of right, could come into the federation upon whatever terms she might think fit. On the other hand, supposing that Queensland does not choose to divide, but comes in as one of the other states, would any one suppose for a moment that she would be accorded any other position than that of equal representation? This amendment and clause 114 simply enable us to deal with the position as it is. If Queensland will enter the federation as she is, she will undoubtedly have a right to be accorded equal representation. If she wishes to impose any other terms, or to alter her condition before she enters the federation, than we have a right to impose such terms as we think fit.

The Hon. J.H. Howe (South Australia)[3.12]:

This matter does not require any debate. If we carry this amendment, we make the commonwealth of Australia subservient to a state.

The Right Hon. Sir John Forrest:

(Western Australia)[3.13]: I feel myself in some difficulty in dealing with this question after the statement made by my hon. and learned friend, Mr. O'Connor; but I must add that I do not read clause 5, taken together with clause 114, in the way he does. It seems to me that there is a very great distinction made in both these clauses between existing states and new states. The existing states are clearly defined-they are the colonies as they exist at the present time-and clause 114 refers to those states which do not join at the present time. That means those states that exist now. I take it that the argument of the hon. and learned member, that it would be possible for Queensland to divide herself into three and claim equal representation with three other states, cannot be maintained under clause 114 read in conjunction with clause 5. I admit at once that my hon. and learned friend is an able luminary of the law, therefore I do not wish to cross swords with him in this respect; but I must say it does not seem to me that under this bill it would be possible for Queensland or any other state to divide itself into three and claim equal representation. There are no words in the bill, so far as I have read it, which could give that right to any existing state. My objection to these words is that they are unnecessary. The desire of the states that do federate, I should say, would certainly not be in the direction of repelling the other states, but rather that of gathering them into the fold. I think we may depend upon it that there will be no desire on the part of any states that federate to do other than everything in their power to draw into the federation those states which have not been able from various causes to come in at the beginning. It seems to me that to do anything which would drive away these states - which would show that if they come in they are to make terms, they are to commence fresh negotiations - would
be to cause an irritation which would do a good deal to alienate these states from the federation rather than what we all I am sure desire, namely, that every means should be taken to attract into the federation as soon as possible those states that are not able to come in at the beginning. There would seem to be a desire - and I think that the publication of this debate will go some way in that direction; there would seem to be a desire on the part of the people of the larger states of Australia - those that are most likely to federate in the first instance, for without Victoria and New South Wales

I take it there can be no federation of Australia to try to coerce and force into the federation those states which are not ready or for various reasons are unable to join the federation at the present time. They say to those states: "If you do not come in now, look out; you will not get in on such good terms again. In fact, you will never get into the happy family which we shall have established." I think that that is altogether foreign to our ideas of federation what we have always spoken about our great desire that Australia should be one federated dominion or commonwealth.

The Hon. J.H. GORDON:

This will make Queensland an absolute suppliant for terms!

The Right Hon. Sir JOHN FORREST:

I take it that if it is a good thing to federate at the present time, it will always be a good thing. I cannot understand what circumstance could possibly arise by which the larger states, having federated, would desire to impose on the smaller or any other states joining them afterwards any worse terms than the term is that are offered in the bill. I cannot imagine that that should be the case; and, if that is so, why put in this provision? Unless it is of some importance-unless you mean it to have a certain significance why put it in, unless it is with the desire to coerce? I say at once that any idea of the larger states trying to coerce the smaller will fall very far away from the mark, and you will find that you will raise up a feeling of distrust, and a feeling altogether opposed to what we desire that is, to federate. I say that this proposal also cuts both ways, and would have a damaging effect in every way, both from the position taken up by the hon. and learned member, Mr. Isaacs, and those who follow him, and also from the position of those who are opposing him. If it goes forth that new states are to be admitted only on fresh terms, will it not be an incentive to new states to ask for better terms? They way not be content to come in on the terms upon which the original states federated. It will give an incentive to colonies desiring to gain admission into the commonwealth to say, "The Commonwealth Bill gives us an opportunity to come in on
other terms. We desire that the terms shall be more favourable than those on which the original states federated." It seems to me that we shall encourage the idea in those colonies that will not enter into the federation now that, if they stand out long enough, they will be able to obtain better terms for admission than the original states obtained. It cuts both ways. It seems to me that it will be better to establish a commonwealth which is not easily altered better to form it on such a basis that all the existing colonies at present will know, if they do not come in now, exactly the terms upon which they can come in. The terms should be no better and no worse than those of the original states. They should know exactly the terms upon which they can join the commonwealth. I cannot see a particle of good in the proposal of my hon. and learned friend, Mr. Isaacs, but I can see a great deal of harm; and looking at it from both points of view it seems to me a proposal which is altogether unnecessary.

The Right Hon. G.H. Reid (New South Wales)[3.22]:

I should like to point out to the hon. and learned member, Mr. Isaacs, that the very important question which he raises now is raised at a very inconvenient time, and that it will come up on clause 114. The present clause 9 is one which should not be encumbered by any reference to circumstances which may arise on the admission of what are called new states.

The Hon. I.A. Isaacs:

I do not know whether the hon. and learned member was in the Chamber at the time; but the question whether this was an opportune time to raise the point was discussed, and it was suggested by the Chairman that this was the proper time.

The Right Hon. G.H. Reid:

I suggest, even to the Chair, that this clause is one which points to the general laws which are equally applicable to the whole of the states. Clause 114 deals in a very few words with everything that is necessary with reference to the admission of those states, because it proposes:

The parliament may from time to time admit to the commonwealth any existing colonies.

I will stop there. Surely no hon. member of this Convention would wish to make terms with any of the existing colonies? Suppose, for instance, through the misfortune of the people of a colony in not being properly governed or managed at a particular time, it is left out of the original federation, but loses no time whatever, when it gets a constitutional opportunity to do so, to be so managed that it comes into the federation. Would any one wish to put that state into a different category from that of
the colonies already federated?
The Hon. I.A. ISAACS:
    The commonwealth would not do it in that case!
The Right Hon. G.H. REID:
    Then if there is no idea of the commonwealth doing it in that case, there
is not the slightest necessity to cast a slur upon those colonies, which
infallibly would be the case if in case of a colony, I will not say
Queensland, but any others, Tasmania or Western Australia-
Mr. WALKER:
    Fiji!
The Right Hon. G.H. REID:
    I hope the hon. member will forget his financial refinements. If we come
down to territories I can quite understand that the whole question of terms
must be opened.

An Hon. MEMBER:
    Suppose Queensland were divided into three colonies, how then?
The Right Hon. G.H. REID:
    That would not be the existing colony of Queensland. Surely the hon.
member can see that. The bill speaks of existing colonies. I say that if an
existing colony I will not mention any colony is delayed through some
unfortunate state of things, but is ready to come in when it is properly
governed, and has an opportunity of expressing its own view, no one
would wish to call that a new state upon which special terms should be
imposed. It would be called an existing colony which has come into the
federation as we did, only a little later in point of time. But I quite agree
with any power taken to stipulate as to any territory not forming one of the
existing colonies, and the bill itself does so. Even if the amendment is
passed I do not object to it. I only object to it as raising this general
discussion now, because I would advise hon. members who think with me,
that there is a proper time and place to put that in, not to waste time on that
point about the existing colonies at present, because it is quite right that
new states should be dealt with in the way suggested by the amendment.
As the bill stands at present, existing colonies will not be new states. They
are saved from that definition by clause 114, which says:
    The parliament may from time to time admit to the commonwealth any
of the existing colonies.
    Then it goes on to say:
    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.
Well, we can make it clear when the time comes that if any existing colony applies for admission there will be no terms about extent of representation; but if any territories which are not existing colonies, such as Queensland, divided into three, come in then, they would come under the head of new states. I think we can safely pass these words here, reserving the discussion which is going on at present for the other clauses, because we must remember that clause 5, the interpretation clause, has been postponed, and that clause 114 will give us a full opportunity of preventing anything being done affecting existing colonies.

Mr. HIGGINS (Victoria)[3.27]:

I think a good deal of time in discussion would have been saved if the original proposal of the hon. and learned member, Mr. Barton, to amend the wording of clause 5 had been adopted. He wanted to distinguish between original states and new states, but some objection was raised, and, in consequence, hon. members have become confused as to the present proposal. The present proposal is confined to new states. Looking at clause 114, there is a distinct difference, as the Premier of New South Wales says, between new states and existing colonies, and the amendment of the Victorian Assembly has nothing to do with existing colonies. All that the Attorney-General of Victoria wants is that in the case of new states this clause making equal representation essential shall not apply. It is a mere question under clause 9 as to whether or not we shall adopt Mr. Gordon's suggestion, and make equal representation an absolute essential for all new states, no matter how small. This proposal of the Victorian Assembly will not apply to the existing colony of Queensland at all. We can deal with that when we come to clause 114.

An Hon. MEMBER:

You may deal with it when you reach clause 5!

Mr. HIGGINS:

Yes. The hon. and learned member, Mr. Barton, wished to deal with clause 5; but at the instance of several members it was postponed. I want to deal now with clause 9 as it stands. The only effect of the Victorian Assembly's alteration is as to new states. New states are not necessarily to have equal representation; but it does not affect Queensland, because clause 114 says, the existing colonies" of Queensland, and so forth.

An Hon. MEMBER:

It goes further than that!

Mr. HIGGINS:
I feel that I ought not to take up time; but there is one point of substance which the hon. member, Mr. O'Connor, referred to a point which I think is most material as applicable to the question of the admission of new states. He alluded, amid the cheers of the Convention, to the possibility of Queensland dividing into three parts. If the proposal of the hon. member, Mr. Gordon, be accepted, it will mean a grievous interference with the normal development and subdivision of this Australian continent.

Mr. SYMON:
No, because the commonwealth would not admit Queensland!

Mr. HIGGINS:
The hon. member interjects before I conclude my sentence. I was going to add because the position is that Queensland, for instance, wants to divide into three colonies.

An Hon. MEMBER:
No, she does not!

Mr. HIGGINS:
Perhaps I should qualify my statement by saying that there is a petition before this Convention from central Queensland asking to be treated as a separate colony or state, although she has only 56,000 people. There is also a well-known standing request from North Queensland to be treated as a separate colony. I hope I will not be interrupted again on mere matters of detail. There is an agitation in Queensland for subdivision into three colonies. What is the effect? Suppose the commonwealth has no option, but must admit any new state on the basis of six senators to each state, the members in the federal parliament for New South Wales, Victoria, and the other colonies will be bound to throw their full weight against the subdivision of Queensland into two or three states if they find it necessarily means six senators to each part of Queensland.

Mr. LYNE:
Why should they not have six senators?

Mr. HIGGINS:
The hon. member sees the injustice of equal representation as clearly as any one does. It would mean then that New South Wales not subdivided will have six senators as against eighteen for Queensland.

Mr. LYNE:
The same anomaly exists now under the decision given at last sitting!

Mr. HIGGINS:
I will not go back on what we decided the other night. The point is this:
Suppose equal representation be carried, the members in the federal parliament representing New South Wales will be face to face with this position: That if an application be made by Queensland to be divided into three colonies under the constitution, each of these three colonies must have six senators. Then the New South Wales members would feel if we admit these three colonies, it will be Queensland eighteen as against New South Wales six.

Mr. LYNE:

But each of those colonies will have a larger population than Tasmania!

Mr. HIGGINS:

I will not enter into that. I think hon. members will agree with me that the whole weight of influence of the Victorian and New South Wales members, and even the South Australian members of the federal parliament will be thrown against the subdivision of Queensland. For present purposes, I am assuming that the subdivision of Queensland is a desirable thing in the interests of Queensland. There is no doubt that in the course of time the subdivision of some of these large colonies will be desirable; but I do not want to have a subdivision which is a normal and proper one interfered with by any rigid clause in this constitution.

Mr. GLYNN:

The hon. member's argument would have stopped the addition of thirty-one states in America to the original thirteen!

Mr. HIGGINS:

It was very different to add two senators to each state where you had a huge number of states, and to add six senators for each state where there are only a few. An hon. member suggests there is also the further consideration that at first the new states in America were only admitted as territories. I alluded to this subject at the Adelaide Convention. What I want to urge is this: whether we accept equal representation or not, still if we do accept it we shall not use it as a lover to maintain the division of Australia into these huge aggregations of land.

Mr. TRENWITH (Victoria)[3.36]:

The point of importance seems to me to be this: We are passing a constitution for all the colonies that we hope will federate under it. We recognise that it will be extremely wrong to make conditions for some of the other colonies which had no voice in the matter. Hence it is that all the colonies have been invited to this Convention. If we place in this constitution rigid conditions as to the introduction of further states, we shall entail upon the commonwealth of the future conditions in the making of which it has had no voice.
An Hon. MEMBER:

They are not rigid!

Mr. TRENWITH:

Everything that is put into this constitution is necessarily rigid. The proposal of the Attorney-General of Victoria is not to place any colony in an undignified position, but to give the commonwealth which is to spring out of our efforts the power to say at the time it happens what conditions it will impose in admitting other states.

The Hon. E. BARTON:

So that it may preserve the interests of the commonwealth!

Mr. TRENWITH:

Yes; and so that the colonies which come in subsequently may have a voice in securing, if there are reasons for it, different terms to those originally adopted. The Premier of New South Wales supposed the case of a colony, which from some cause or another was just now unable to express its opinion with regard to federation, but which immediately after the adoption of this constitution by some of the colonies would be able to make its choice. He assumed that such a colony would be placed in an undignified position if it could not come in on exactly the same conditions as those colonies which joined at first. There is no warrant for the assumption that the commonwealth formed under this bill would for a moment think of dictating any such terms to any colony that sought to come in immediately afterwards under the conditions of this bill, but we may suppose a case which is equally probable: Suppose the case of a colony that exercised an influence possibly in a decision upon this Commonwealth Bill, but still did not come in, and had no desire to come in at the time that the colonies generally federated. That colony might go on for a number of years without joining the federation, during which time, we might reasonably assume, the circumstances both of that colony and of the commonwealth would have materially changed. If we make this Commonwealth Bill as rigid as desired, we shall entail upon the people of the commonwealth in the future the necessity of going through all the cumbrous machinery of changing the constitution before they could make conditions or arrangements different to those which are suitable now. and which might not be suitable at the time I contemplate; but if we adopt the hon. member's amendment we shall make the Commonwealth Bill as perfect as we can make it for the circumstances of our time. We shall leave sufficient flexibility in it to enable the commonwealth parliament to make such conditions with the colonies which desire to come in in future as are, under their circumstances, desirable. I strongly urge that upon hon.
members. We shall not be imposing any indignity or disability either on the commonwealth or the province we shall simply be providing that flexibility which is necessary, by allowing the parliament of the future to do what will be best in the interests of the commonwealth of the future.

Mr. GLYNN (South Australia)[3.39]:

I would just add to the arguments which were urged by the hon. member, Mr. Barton, and others, that this addition that we made to the 114th clause, and with which this amendment will read, seems to me to be a most exceptional one. So far from greater power on the admission of new states being given to those states, the very reverse has been done in the case of other constitutions. In the case of the Canadian Constitution it was provided that on the addition of those colonies which were to stand out, their representation in the senate, when certain other colonies came in, was to be diminished rather than increased. For instance, it was provided, in the case of Prince Edward Island, that when it came in subsequently the representation in the senate of that colony should be deducted from the maritime provinces; so that the numerical proportion in the senate of the new states would be diminished as new colonies were admitted. New Brunswick's share of representation would come down, because the twenty-four representatives given to the three maritime provinces would have to be divided with New Brunswick and Prince Edward Island. There is no similar provision in the Canadian Constitution except to the extent I have mentioned. There is a provision in another clause that terms may be arranged on the admission of new colonies. But the provision to which I have referred as regards the representation tells in the very opposite direction to that which is proposed to be inserted in our constitution. The argument of the hon. member, Mr. Higgins, is completely answered in the case of America. His fears amount to this: If you allow the new states to enter on equal terms with the existing states, then the whole force of New South Wales and Victoria will be thrown against the proposed subdivision of Queensland, because by allowing Queensland to come in as three states instead of one you will probably diminish the power of Victoria and New South Wales.

Mr. HIGGINS:

There was no subdivision in America; there is to be a subdivision here!

Mr. GLYNN:

In America they started with thirteen states, and they made a provision that new states should have equal representation. The constitution practically fixed in itself the terms on which new states were to be admitted that there was to be equal representation.
Mr. HIGGINS:
The point is, that in the United States the new states were increased in number by aggregation, and not by subdivision!

Mr. GLYNN:
The principle is exactly the same. It rested with Congress to say whether an addition should or should not be made. There was a very big fight made about the admission of Texas. The fight was not as to the admission on certain terms as to the representation in the senate, but whether the admission should or should not take place. My hon. friend's arguments are perfectly answered by the case of America.

Mr. MCMILLAN (New South Wales)[3.43]:
It seems to me that the public are likely to be rather muddled over this discussion. As far as I have understood the question, it is purely a matter of drafting. It is a matter of inconsistency between this clause and clause 114, and it never intended that that inconsistency should be remedied by passing any slight on Queensland, or by intending for a moment, if Queensland should desire to come in, that she should not come in on the basis of equal representation. It was intended to meet the difficulty of the division or reconstruction of some of these colonies which have large sparsely populated districts. The effect of not introducing some kind of amendment like this would be to prevent the subdivision of those colonies in the near future. It might be absolutely necessary for some portions of Queensland, the northern territory of South Australia, and the northern portion of Western Australia to be divided up into probational territories, at any rate, in order that the local government could be more effectively managed. If we do not include in our constitution a provision to meet that emergency, we should continue the large and unwieldly character of these colonies, which is one of the greatest drawbacks to the cause of federation.

Mr. LYNE (New South Wales)[3.45]:
I think it is to be regretted that this question has arisen at the present time. I should have much preferred that we should have determined it on clause 114. But now that it has been raised it must be settled. I am going to vote with the hon. and learned member, Mr. Isaacs, perhaps for different reasons from those which influence other hon. members. Every one knows that I have been opposed to equal representation in the senate, as has been decided on. I think the action of the hon. and learned member, and the character of his amendments, will emphasise the absurdity of what has been done. I can understand giving power in the bill to allow territories to enter the federation with unequal state rights, or equal territorial rights of representation in the senate; but I cannot understand all these gentlemen who voted for equal state rights, trying to take those equal state rights away
from any states which might hereafter come into the federation. Supposing the southern portion of Queensland, containing the larger proportion of her population, at some not very distant date, should separate and desire to come into the federation, why should that portion of that state with a population as large as, or larger than, that of Tasmania, with possibilities ten times as great as hers, not come in on an equality? I point this out to show the absurdity of what has been done.

The CHAIRMAN:

The hon. member is not in order in characterising what the Committee has done as absurd.

Mr. LYNE:

I may be permitted, sir, from my point of view, to refer to what I consider the absurdity of equal representation in the senate.

The CHAIRMAN:

The hon. member will be quite in order in characterising anything which the Committee proposes to do as absurd; but after the Committee has arrived at a conclusion, he is not in order in characterising that as absurd, unless he is in the position of seeking to rescind the resolution.

Mr. LYNE:

Your decision, sir, would be perhaps somewhat different if it were given under our standing orders. I wish to point out that what the Committee is proposing to do is an absurdity. I am right in saying that I hope, sir. It is an absurdity in contradistinction to what the Committee has done. In the past the Committee may not have been guilty of an absurdity; but if the Committee does what is now proposed it will certainly be guilty of an absurdity. I am going to vote for the amendment. It will emphasise the absurd position we are in in making this proposition. I can understand a proposal to allow the introduction into the federation of inferior states or territories, and it may be the grouping of them together, and to give each one of them a similar representation in the senate, but together not a larger representation than any state, but I cannot see the logic of proposing to allow new states to come in, no matter whether they are at present existing states, or whether they may be a subdivision of existing states, on any other principle than that which has been determined. As I said there are certain portions of Queensland which, if it is subdivided, may come in, and which should Mr Lyne come in, if you are to have equal state rights, on perfect equality with the existing states. We should not put the existing states which would form the federation, as the hon. member, Mr. Gordon, says,
in the position of a syndicate wishing to be the first robbers because that is really the logical position which we will occupy in this matter but we should place every state which comes into the federation with its population and with its possibilities on an equality if you are going to have equal state rights at all. I only rose to show why I am

The Hon. E. BARTON (New South Wales)[3.51]:

I think the hon. member who has just spoken has fallen into the pit which he dug for himself. There is no absurdity about the passage of the amendment, notwithstanding the decision which has been come to about equal state rights. The decision about equal state representation in one house alone was come to as part of that process of compromise and negotiation which must take place in the framing of any federation. If the hon. member would see that, then he would perhaps be more consistent in thinking that it would be impossible for five sets of people to come here with different and conflicting views not compromising upon any one of them, and yet be under the delusion that they could agree upon something. It is only by compromise that a federation can be formed. The very form of a federal government is in its essence compromise, and you have to compromise in a federal government between the extreme federal idea which characterises what may be called a confederation with equal representation in the, two houses and in one if there be only one-and that which characterises the extreme in national matters of insistence on proportionate repre-

sentation in two houses, or one if there be only one. If there be a bi-cameral legislature, what has been decided amounts to this: that the just line of compromise is to give proportional representation in one chamber and equal representation in another. A compromise is based not only upon fair lines between those two opposing systems of government, but is based also on reason and justice. Mr. Lyne is mistaken if he thinks there is anything in this proposition which conflicts with that principle. In the same way that we are here to reason with each other, and to negotiate about the basis of the constitution we are to form, as regards those who at the opening enter the commonwealth, so we wish to take in this amendment a power for the commonwealth to enter into negotiations, and deal on fair terms with those who afterwards wish to come into the commonwealth, and the process is the same. But this difficulty arises: This amendment is not proposed for the purpose of taking away from any state its right to equal representation, even if it be a new state being one of those we were originally dealing with. Take Queensland, for instance. If Queensland proposed to come into the constitution before it is actually framed, or if she proposed to come in
as an undivided colony after the framing of the constitution, it is inconceivable that there would be any objection to her having the same senate representation; but the case may arise of a colony like Queensland dividing herself, perhaps, for the purpose of securing greater representation in one house it may not necessarily be for that purpose but because of other political exigencies. It could, however, be done either for that purpose, or under the pressure of circumstances. What would follow? That one colony coming in, which, if she came in now would be entitled to the same representation in the senate as this or any other colony which is now a contracting party, would be able to come in with the representation of three of the Colonies as they stand at present with representation in the senate equal to New South Wales, Victoria, and South Australia, or Western Australia, Tasmania, and South Australia. It naturally occurs that the alteration of conditions of that sort is a thing we may reasonably provide for in the constitution. We are not dealing adversely with the question of equal representation in the senate. We are simply providing for a case in which that equal state representation, arising under such circumstances, would be applied unjustly, and might possibly be applied with designed injustice. It is not a case of the larger states coercing the smaller, as Sir John Forrest seemed to fear, but the case of the commonwealth taking means to protect itself in the future. There is no desire to injure any state, but to keep the matter of representation so in the hands of the commonwealth to which it will belong that the terms upon which a state will be represented cannot be so dictated by that state that she may, by a subdivision, grasp a representation in the commonwealth which will be three times what she would have under present conditions.

An Hon. MEMBER:
No one argues that!
The Hon. E. BARTON:
No one does; but, unless we make a provision of that kind, the argument must prevail whether the hon. member likes it or not. The Premier of New South Wales has argued that clause 9 must not be encumbered with provisions as to new states. That would be very well if there were not some qualification inserted in the clause. Necessarily, there would be some conflict between this clause and clause 114. It has been rightly said by Mr. McMillan that this matter is, to a large extent, one of drafting. Still, there is imported into it a question of substance, because we are discussing the same question which arises in clause 114. I put this broadly: that those who are in favour of clause 114...
will be in favour of the amendment, because it is simply an effectuation of that clause. Clause 114 itself may require modification; because, whilst it deals with the admission of any colonies which have not adopted the constitution, and also with the establishment of new states, it, perhaps, does not sufficiently express that it is intended to cover the case where a colony—now an existing colony does not come into the federation until afterwards, and has in the meantime subdivided itself.

Mr. MCMILLAN:
It applies to both!

The Hon. E. BARTON:

It may be that clause 114 covers every one of those cases; but, in any case, the intention of the Convention, as disclosed at Adelaide, if made clear, would be an amendment largely in the direction of drafting. A word was said by Mr. Glynn about the state of affairs in Canada. I would like to put myself right about that. Section 22 of the British North America Act—that is to say, applying to the four colonies which then entered, stated that there were to be three divisions. The two Canadas—Upper and Lower—were to be divided into Ontario and Quebec. There were to be twenty-four senators for Quebec, and twenty-four for Ontario. That is to say, there was equal state representation in the Senate, notwithstanding the disparities in their population; but there were only twenty-four provided for the third division, which consisted of the maritime provinces. At that time, the only maritime provinces which had joined the Dominion were Nova Scotia and New Brunswick. What provision was made afterwards? Under the head of "admission of other colonies," it was provided that it might be lawful for the Queen-in-Council, on address from the Houses of Parliament in Canada, and the legislatures of Newfoundland, Prince Edward Island, and British Columbia to admit those colonies or provinces, or any of them, into the union—

on such terms and conditions in each case as are in the addresses expressed and as the Queen may think fit to approve, subject to the provisions of this act;-

that is to say, taking the full power to make terms and conditions—and the provisions of any Order-in-Council on that behalf shall have effect as if they had been enacted by the Parliament of the United Kingdom. There is only one qualification imposed upon that, and it is this: It is not a qualification in favour of the equal state representation of the remaining colonies—Prince Edward Island and Newfoundland—but that each of them shall be entitled to a representation in the senate, of how many members? Four. Quebec being entitled to 24; Ontario to 24; and Nova Scotia and New Brunswick between them to 24. Either of the other
colonies if they enter are to be entitled to 4; but there is a provision in the case of Prince Edward Island for a reduction in the number of senators for the two provinces of Canada that is, the original provinces of Ontario and Quebec whose number in the Senate was to drop then from 12 to 10, so that they shall each have 10, making 20 for the two. But that division was still to have 24 members, because Prince Edward Island was to be counted a part of that division of the Dominion, and her 4 would be added to the 10 each of Upper and Lower Canada, so that the number of 24 for the division would be maintained. It is clear from these provisions that what was intended there was, first, that there should be a full right to negotiate with the various provinces; but that something must be conserved to Prince Edward Island and Newfoundland, and that was that they should have, not equal representation, but four representatives each in the senate. The proposed amendment, however, together with clause 114, does not make any such rigid or arbitrary distinction, because it is quite competent for the commonwealth to grant equal representation to Queensland, or to subdivide Queensland, or to any other new state that may be carved out. It remains a question for the commonwealth. There is no destruction of the principle of state right, and it is competent for the commonwealth to apply that principle to any newly admitted state. All that is provided for is that the commonwealth shall have the right, before admitting any new state, to enter into negotiations with it, and to decide with it upon the terms which may seem just. That is all that is intended by the amendment and clause 114. Having made this plain statement, I hope there will be no objection to the acceptance of the amendment.

Mr. SYMON (South Australia)[4.2]:

I sincerely hope that the Committee will not accept the amendment. We have been drawn away a good deal from what really underlies it by a number of analogies and illustrations which have no application to it. During a couple of days last week we fought out the great principle of equal representation in the senate. I know that some hon. members believe that that principle was agreed to as a concession to the smaller states. I do not regard it as a concession, and I utterly dissent from any suggestion that we who represent the smaller states have accepted it in that spirit. We claimed it, and insisted upon it as a right, and I was sorry to notice and I take this opportunity of correcting the impression that the hon. and learned member, Mr. Isaacs, judging from a report which I read in a Sunday newspaper, seems to believe that the representatives of the smaller and less popular states are now inclined to regard this as a concession and not as a
right. I tell the Convention, and I tell the hon. and learned gentleman, that that is an entire misapprehension. We claim this as an absolute right, and as an invulnerable principle of federation.

An Hon. MEMBER:
At any rate, it will answer the hon. member's purpose!

Mr. SYMON:
Never mind my purpose. I want to deal with this matter as briefly as I can. I think that a great deal has been introduced into the discussion that has no bearing whatever upon the principle. Either we have been wasting our time altogether, or we have embodied in the constitution the principle of the equal representation of states in the senate.

The Hon. S. FRASER:
We have conceded that fully!

Mr. SYMON:
I am not talking about the original concession. I am willing to accept it from my hon. friend, who is friendly to the less populous states in the interests of federation, for the sake of what I am going to say now. Whether it is treated as a concession or as a right, it is here in the constitution; and the proposed amendment is an entire abandonment of the principle. Of course the amendment is a matter of substance; it is not a mere matter of drafting. It anticipates the discussion we might otherwise have upon clause 114; and I presume that if an amendment upon clause 114 were suggested, you, Mr. Chairman, would rule it out of order if it reopened this matter? Treating the amendment as a matter of substance, what does it amount to? It asks us to empower the federal parliament to abrogate one of the fundamental principles of the constitution. The alternative is to enable the federal parliament to do what it can do now refuse to admit a state. The alternatives are: to introduce an amendment and entirely destroy the principle for which we have contended, and which underlies any federal system of government, or simply to give the federal parliament the power of refusing to admit a particular state a power it already possesses under the constitution. Queensland has been referred to as an illustration. Hon. members have been terrified by the bogy that Queensland may divide herself into three parts.

An Hon. MEMBER:
No!

Mr. SYMON:
Not intentionally, perhaps; but as the result of some agitation.

Mr. MCMILLAN:

No. It is a question of what might happen after she came in; not of what she might do before. It is a question of the future subdivision of these large territories!

Mr. SYMON:

Well, I will take it either way. Take Queensland as an illustration. I quite recognise that Queensland, influenced by the agitation which is proceeding, may subdivide into three; but the remedy for that, if she seeks to enter the federation as a three-fold state, is to refuse to admit her.

An Hon. MEMBER:

We do not want to do that!

Mr. SYMON:

[missing]en you admit part of Australia into the commonwealth as a state, you must give it all the rights of a state, and place it upon the same footing as the other states.

Mr. MCMILLAN:

That is all that is meant!

Mr. SYMON:

Not at all; and it is because of this misapprehension that I have ventured to rise, to clear away the confusion.

Mr. MCMILLAN:

It is the understanding of most Hon. members!

Mr. SYMON:

The remedy is, that a clause should be introduced, if clause 115 is not ample, to provide for territories being taken under the control of the commonwealth, upon any system of representation or no representation, as you please.

The Hon. S. FRASER:

How about clause 114?

Mr. SYMON:

We have not come to that yet; that is another source of misapprehension. The hon. and learned member, Mr. Barton, has just said, and it has been said by others, that we are dealing with this as a mere matter of drafting, because it is necessary to bring clause 9 into harmony with clause 114. I quite agree with that, if you are going to leave clause 114 as it stands. But I and other hon. members do not intend to leave clause 114 as it stands, if we can alter it. It was one of the provisions introduced into the bill at the close of our proceedings in Adelaide, when, owing to circumstances which from one point of view might be considered as fortunate, and from another point
of view as unfortunate, we were not able to have that exhaustive consideration which otherwise we should have bestowed upon it. But we shall be playing fast and loose with the principle of equal state representation in the senate which was embodied in the bill if we agree to the amendment. If we admit any part of this great continent into the commonwealth as a state, it must have equal representation in the senate. If it is not admitted as a state, if it is not in a political condition to warrant its admission as a state, let it be called a territory; but to hand over to the federal parliament the right of amending the constitution in this essential particular is to abandon everything we have been fighting for.

Mr. MCMILLAN:
Had we not better define what a state is, and what a territory is?

Mr. SYMON:
I should like some such definition to be embodied in the bill. What I want hon. members to remember is that this is not a matter of drafting. This is a serious matter of principle. I like the suggestion, as I gather it, of the right hon. the Premier of New South Wales; that if we want to deal with this question exhaustively we should postpone it until we come to clause 114. But do not let us now, by a division upon what some hon. members think a mere question of drafting, decide what is an essential and vital point in the constitution. While, on the one hand, we are inserting in the bill equal representation for every state, we are taking it away with the other hand. It will be a ring-streaked and spotted constitution. The question involved is one which we are here to vindicate; it is a principle we are here to rest upon, and I, for one, am not going to give it away. As to the mere illustration which has been taken from Queensland in the matter, I do not suppose the slightest difficulty will arise in connection with that colony. Certainly Queensland will not divide herself into three for the sake of getting increased representation in the senate.

Mr. MCMILLAN:
Why does not the hon. member move the postponement of the clause?

The Hon. I.A. ISAACS:
If the hon. member does that, we shall not be here to deal with it!

Mr. SYMON:
The reason why I think it would be well to postpone the clause is that we should deal with it in connection with clause 114. There seems to be some apprehension as to whether or not this is a necessary amendment to make the clause in harmony with clause 114. But the amendment is nothing of the kind. In the first place, it is an amendment of the gravest substance.
Secondly, we are reopening the whole question of equal representation in the senate, which some of us regard as a vital principle of this constitution; and thirdly, we are doing violence to what is provided in another part of the bill, namely, the method of altering the constitution by handing over the alteration of it in one particular and vital phase to the federal parliament absolutely. We have the power to prevent all the difficulties which have been pointed out by refusing to admit portions of the colonies as states, and by dealing with them as territories I hope that every care will be exercised in coming to a conclusion on the matter, having regard to the important and far-reaching consequences which may flow from the clause.

The Hon. S. FRASER (Victoria)[4.13]:

It was my intention to vote for the amendment of the hon. The Attorney-General for Victoria; but I think, on further consideration, that it would be better to leave to Queensland the right to say "We will come in under the bill as it stands." There will then be no haggling over the conditions. I think that it would be safer to leave the bill as it is than to make this alteration. Queensland will then come in on the bedrock, as it were, and there will be no trouble, no doubt, and no haggling. If the proposed alteration were made, Queensland might have, to some extent, to approach the federal parliament cap in hand, and the federal executive might have the power to coerce the colony, by exacting better terms than she was willing to give. I shall, therefore, vote for the clause as it stands.

Mr. CLARKE (Tasmania)[4.15]:

I am very glad to observe that the hon. member who has just resumed his seat and who interrupted the hon. member, Mr. Symon, with cries of "divide" and "question," has thought fit to change his mind and give the Committee the benefit of his opinion. It gives me some confidence in rising to say a word or two on the subject. While I hold just as strongly as does my hon. friend, Mr. Symon, to the great principle of equal representation, I wish to point out to him that I think he has made a mistake. The principle we affirmed on Friday last was the right of each existing state to equal representation in the senate, and not the right of different parts of each state to that equal representation. I should like to call the attention of my hon. friend to this point: that the reason why different parts of the proposed commonwealth obtained equal representation in the senate was on account of their being existing colonies exercising, rights of self-government. I repeat that while I hold as strongly as does my hon. friend the principle of equal state representation in the senate, I differ from him altogether when he use an argument to the effect that if Queensland be subdivided into three colonies each of such different
colonies should be entitled to equal representation at any time it might please them to enter the federation.

Mr. SYMON:
I did not say that!

Mr. CLARKE:
That was the effect of the hon member's argument.

Mr. SYMON:
No; not unless they are admitted as states!

Mr. CLARKE:
Their admission as states should rest with the federal authorities. I believe in giving the federal parliament power in reference to this matter. I have not the slightest doubt that if Queensland chooses to come in in five or ten years hence, the federal parliament will let her come in with equal representation. My hon. friend, Mr. Gordon, referred to the colonies who first join in the federation as first robbers, and he used some other mining phraseology with which he seemed to be pretty familiar. Now, I should like to point out to him, and to any other hon. member who agrees with him, that the question at issue is not a question of money at all. It is not a question of the financial terms upon which each state shall come in; it is a question of the voice which any particular state, shall have when it does come in. That is a very different thing from any question of finance. I should like also to say this, in reply to my hon. friend, Mr. Howe, who said that if we carried this amendment we should make the commonwealth of Australia subservient to a state. In my, humble opinion, the effect of the amendment will be exactly the reverse.

Mr. LEAKE (Western Australia)
It is my intention to vote against the amendment, because I think it is proposed in the wrong place; this question should, be dealt with when we are considering clause 114, and not now.

The Hon. I.A. ISAACS:
If we retain the provision in clause 114, there must be some, amendment of the kind here!

Mr. LEAKE:
But we do not like clause 114, and I would point out the distinction between the two clauses. This paragraph of clause 9 affects only the senate, whereas clause 114 affects both the house of representatives and the senate. Those of us who, like my hon. friend, Mr. Symon, are in favour of the maintenance of state rights, wish to emphasise our position by the retention of these words. If these words stand, then the senate is, from our point of view, soundly established upon a proper foundation, and we, shall not have deprived the commonwealth of the advantage of it may be so
termed of placing new states upon a different basis with regard to their representation in the house of representatives. We may abandon that point; but we must have equal representation in the senate, and we say, further, that we will not have the number of senators for each state fixed at less than six. If this amendment be carried, not only is unequal representation in the senate assured for some states, but by it also the representation may be less than six. I think hon. members have hardly regarded the effect of the amendment from that point of view. We may give way, I say again, on this question of representation in the house of representatives; or the admission of new states may be put upon terms other than those of equal representation in the senate. We do not mind terms being imposed, in fact new terms are contemplated I understand. I do not go to the extent of assuming that the terms which will or may be imposed will be stringent. They may of course be liberal, and I am inclined to the conclusion that the commonwealth in dealing with new states would be liberal rather than stringent as to conditions. We who represent Western Australia have always been assured that owing to the peculiar circumstances of our colony special terms must be or probably will be made for us, and I am inclined to think that in those circumstances the terms would be liberal that nothing would be done which would be likely to keep us out of the federation. I say, then, that if it is a question of terms, we are prepared perhaps, to be placed upon terms, but those terms must not be any less representation, or any less power in the senate, than paragraph 4 provides for. We will accept other terms liberal or perhaps stringent but we must have equal representation as states in the senate.

The Hon. I.A. ISAACS:

Why not join us at once?

Mr. LEAKE:

I am perfectly willing to join you at once I admit that; but we must consider the views of other persons. I agree with the hon. and learned member, Mr. Symon, who says that this is a vital question, and you are attempting to give the federal parliament power to amend the constitution in an indirect manner. I do not approve of it. We shall abandon one of the first principles of this federation if we agree to the amendment, and we shall block the way of further discussion and of that liberal trust which we anticipate, when we come to clause 114. If we pass the proposed amendment to this paragraph we shall find that we cannot do what we are promised, and which I believe hon. members desire when we come to clause 114, because, as I said before, this paragraph of clause 9 deals with the representation in the senate alone, whereas clause 114 deals with both
houses of the proposed federation.

The Hon. J.H. HOWE (South Australia)[4.23]:

I am very much indebted to my hon. friend, Mr. Clarke, for quoting, I believe, exactly the words that I used. I am sure that the Attorney-General of Victoria understood my interjection perfectly I was cheering nearly everything he said. What I meant to say was that if the Convention did not carry the hon. and learned member's amendment we should be making the commonwealth subservient to any particular state that wishes to stand out. A great deal has been said about equal representation. My hon. and learned friend, Mr. Symon, is not a stronger advocate of equal representation than I am; b

Mr. SYMON:

What danger?

The Hon. J.H. HOWE:

Because we shall be simply giving states a premium to isolate themselves from the commonwealth until they see how it works.

Mr. SYMON:

Not a bit of it!

The Hon. J.H. HOWE:

I do not wish to misinterpret the action of my hon. friend, Sir John Forrest be and I were boys together into meaning that Western Australia does not wish to be part and parcel of the commonwealth at the present time. Is not Queensland playing fast and loose with the matter at the present time? Will Tasmania join us if we do not agree to the amendment? I say no. She will stand aloof and see how the other colonies get along. In fact, I think that there will be no commonwealth at all, for I question if Victoria will consent to join in any commonwealth unless that amendment is carried. Consequently, I say that if we do not carry the amendment of the Legislative Assembly of Victoria we are jeopardising the cause we have so much at heart. I shall heartily support the amendment;

Dr. QUICK (Victoria)[4.26]:

I was rather disappointed at hearing the tone adopted by my learned friend, Mr. Symon, and I venture to say that the attitude which he has assumed, and also that of my hon. friend, Mr. Gordon, is calculated to embarrass the representatives of the large states who have up to the present Supported the principle of equal representation. We have done our best in our colonies to prepare the people for equal representation in its application to existing states. To that extent we have gone as far as we possibly can-as far as we dare to go; but it is now proposed to extend that principle of
equal representation to the future states.

The Hon. J.H. Howe:
We do not refuse to extend it!

Dr. Quick:
The hon. and learned member, Mr. Symon, proposes to lay open the extension of this principle absolutely, as a cast-iron principle, to future states which may be carved out of existing colonies.

Mr. Symon:
If you admit them as states!

Dr. Quick:
If he wishes to have such a principle as that added to the granting of equal representation to the existing states he will increase the difficulties and burdens of those hon. members of the Convention who represent large colonies. I do not believe that the hon. gentleman wishes to do that. His attitude is no doubt consistent; but I wish to point out to him, and to other hon. gentlemen, that if they make it obligatory for all future new states, as well as existing states, to have equal representation, then they will overburden this constitution, and it will probably break down.

The Hon. Dr. Cockburn (South Australia)[4.29]:

A serious matter has been advanced, that if this amendment be not carried the small states are likely to stand out. I think it is quite the other way. I can see a great danger in this amendment being carried. It is very easy to imagine a case in which a new state may be admitted with a larger population than, say, Tasmania, and admitted on the terms contemplated by the amendment, with less than the same amount of representation in the senate that Tasmania and the original states have. I say that this state of things would give rise to a perpetual ferment. You would have a large element of the federation which had less representation in the senate than the smaller element. It would be a continual sore point. The whole question of the representation of the small states would be raised and their representation would be endangered. I say that to carry this amendment would be more likely to give dissatisfaction to the small states, seeing that their representation would be placed in jeopardy, and a great principle having by this means been set on one side.

An Hon Member:-

The Hon. Dr. Cockburn:
I say there is no analogy between the case of Canada and the case of these colonies. Several of the federated provinces of Canada had never known what autonomy was. They had never been in the position of these colonies. In the case of Upper and Lower Canada the analogy is still more imperfect, because they had one legislature between them. The conditions
of Canada being so utterly dissimilar from the conditions of Australia, I hope we shall not have precedents quoted from Canada, either in speeches or by interjections.

The Hon. Sir J.W. DOWNER (South Australia) [4.31):

I intend to vote for the amendment, but not on the speech of the hon. member who introduced it, because I think his speech went far beyond what he proposed. The amendment says, "Except in the case of new states, which, after the establishment of the commonwealth, are admitted thereto, or established thereby, upon other terms and conditions." The hon. member introduces this to explain clause 114. Let us refer to clause 114. It says:

The parliament may from time to time admit to the commonwealth any of the existing colonies. That is one thing.

The Hon. I.A. ISAACS:

What are the colonies when once admitted?

The Hon. Sir J.W. DOWNER:

If the hon. member will wait, I will explain it to his perfect satisfaction. The clause says, "and may from time to time establish new states." They can do two things. They may admit existing colonies and they may establish new states. Now, go to the first part of the bill. There it says "states," not "new states"; there is no such term. We have one definition of states, and these are the existing colonies of New South Wales, Queensland, Victoria, New Zealand, Western Australia, and the province of South Australia. Then we have got the provisions in clause 114.

An Hon. MEMBER:

The hon. and learned member is not correct!

The Hon. Sir J.W. DOWNER:

I quite agree that they are not states until they adopt the constitution, but directly they adopt the constitution they are states but not new states. You have the positions put in apposition in clause 114. They can admit existing colonies and establish new states. My hon. and learned friend's drafting is better than be dreamed of. I agree with him as he has put it, but I do not agree with him at all as he intends it. I am so delighted to come to an agreement with any hon. member of my own profession even though on opposite grounds, that I cheerfully welcome the amendment.

Question-That, after the word "but," the following words be inserted: "except in the case of new states which after the establishment of the commonwealth are admitted thereto or established thereby upon other terms and conditions put. The Committee divided:
Ayes, 25; noes, 20; majority, 5.

AYES.
Abbott, Sir Joseph Kingston, C.C.
Barton, E. Lewis, N.E.
Berry, Sir G. Lyne, W.J.
Brown, N.J. McMillan, W.
Brunker, J.N. O'Connor, R.E.
Carruthers, J.H. Peacock, A.J.
Clarke, M.J. Quick, Dr. J.
Downer, Sir J.W. Reid, G.H.
Fysh, Sir P.O. Turner, Sir G.
Henry, J. Walker, J.T.
Higgins, H.B. Zeal, Sir W.A.
Holder, F.W. Teller,
Howe, J.H. Isaacs, I.A.

NOES.
Braddon, Sir E.N.C. Henning, A.H.
Briggs, H. James, W.H.
Cockburn, Dr. J.A. Leake, G.
Crowder, F.T. Lee-Steere, Sir J.G.
Dobson, H. Solomon, V.L.
Douglas, A. Symon, J.H.
Forrest, Sir J. Venn, H.W.
Glynn, P.M. Wise, B.R.
Grant, C.H.
Hackett, J.W. Teller,
Hassell, A.Y. Gordon, J.H.

Question so resolved in the affirmative.
Clause further amended by the omission of the words "so that."

The CHAIRMAN:

The next amendment is an amendment by the Legislative Council of New South Wales, to strike out the word "equal," and insert the word "proportionate." Inasmuch as that would conflict with a decision arrived at by the Committee, I shall not put it. The next amendment is one proposed by the Legislative Council of New South Wales, to strike out the word "six" before "senators" and insert the word "three." Inasmuch as that would conflict with a decision already arrived at by the Committee, I shall not put it.

Paragraph, as amended, agreed to.
Clause 9, paragraph 5. 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 any elector votes more than once, he shall be guilty of a misdemeanour.

Amendment suggested by the Legislative Assembly of South Australia: Omit "qualification of electors of."

The CHAIRMAN:
The first amendment is an amendment by the Assembly of South Australia. That House proposes to leave out the words "the qualification of electors of," and then to leave out all the words after "shall be," in the first line, with the view of inserting the following words:--"elected in all the federated states on the basis of one adult one vote." I shall put the first amendment first to leave out the words "qualification of electors of." The question is, that the words proposed to be left out stand part of the paragraph.

The Hon. E. BARTON (New South Wales)[4.41]:
This is an endeavour to enact in the constitution that no matter what has been the law of the several states, they shall all, with regard to this question of adult suffrage, conform to the law as it is in South Australia. I may be quite prepared to admit that in some colonies there is a tendency to approve of adult suffrage-female suffrage. I am not going to discuss the question as to whether there is an actual tendency to approve of it, or whether there is a majority for it, in my own colony or in any other colony. But I take it that until a uniform suffrage law is passed by the federal parliament, under the general provisions in the clause dealing with qualifications, the various states will reserve to themselves the right to deal with their own electoral laws in their own way; and holding that opinion I do not wish to argue the matter at any length I think it would be unwise; I do not think it would be a wise dictation to the other states, that South Australia should succeed in carrying this amendment.

The CHAIRMAN:
I understand that this amendment will be put to test the whole of the amendments of South Australia in favour of the adoption of adult suffrage as the franchise of the federation.

The Hon. F.W. HOLDER (South Australia)[4.43]:
I should have been content for one to have simply taken a vote on this question without speech, seeing that its purport is well understood. But as some argument has been used, I am bound, as shortly as I can, to put the
other side. It is said that each state should be free to deal with its own representation as it pleases. Now, I do not think that is fair. The question is not the representation of each state as a matter concerning only itself. The truth is, the representation of another state may affect a state even more than its own representation may affect it. Take, for instance, the position of South Australia. I have put it before, and I put it again shortly, that the representation to which the colony of New South Wales is entitled in the house of representatives is a much more vital matter to South Australia than is its own representation, because in this colony there would be twenty-six representatives, while in the colony of South Australia there would be only seven. It matters, therefore, much more to South Australia what the basis is upon which the twenty-six are elected in New South Wales than what the basis is on which the seven are elected there. We protest, then, that it is not a matter in which each colony is concerned only as to its own representation. It is a matter in which each colony is concerned as to the whole of the representa-

Hon. MEMBERS:
Divide!
Question-That the words "qualification of electors of" proposed to be left out stand part of the paragraph put. The Committee divided:
Ayes, 32; noes, 13; majority, 19.
AYES.
Abbott, Sir Joseph Henning, A.H.
Braddon, Sir E.N. Henry, J.
Briggs, H. Howe, J.H.
Brown, N.J. Leake, G.
Brunker, J.N. Lee-Steere, Sir J.G.
Carruthers, J.H. Lewis, N.E.

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I take it that it will be in accordance with the understanding arrived at this morning that we should take in their order the constitution of the senate and the constitution of the house of representatives, and the relative money powers, and then proceed to the question of the deadlock provisions.

An Hon. MEMBER:
There are some more amendments in this clause!

The Hon. E. BARTON:
I was not aware of that. I was going on to say that, in accordance with the understanding mentioned, I would move the postponement of clauses from 10 to 23 inclusive, so that we should reach the first clause dealing with the constitution of the house of representatives.

Amendment suggested by the Legislative Council and Assembly of Tasmania:
Omit the words, line 7, "and if any elector votes more than once he shall be guilty of a misdemeanour."

The Hon. Sir P.O. FYSH (Tasmania):
It was pointed out at the Adelaide Convention that the bill should not embrace anything except what was necessary for the framing of the
constitution, and that any matters which belong to the criminal law or the electoral laws of the states had better be left as they are. As far as the criminal law is concerned, it should not be part of the constitution. I would, in view of the suggestions made by the Tasmanian Parliament, draw the attention of the leader of the Convention to this desirable amendment.

The Hon. E. Barton (New South Wales)[4.52]:

There seemed to be a considerable number of members at Adelaide who wished to have this provision about a misdemeanour inserted, and it was inserted in accordance with the wish of the majority. I am myself of opinion that so far as you can you should leave the constitution to deal simply with matters of necessary machinery. I am not myself strongly in favour of a provision of this kind; and I think it can be otherwise provided for; but I am entirely in the hands of the Committee. If there is such a desire on the part of the Committee, I shall not object to the retention of these words, although I admit the force of the argument that the constitution act is not the place for making offences against the criminal law, or for prescribing penalties. That is perfectly true; but the object in the first instance seemed to be to obtain a statement of this kind in the constitution. The object seemed to be to make it plain on the face of the constitution that whosoever offended against the law of one man vote should be in danger of the police. I think I pointed out in Adelaide, and hon. members mostly agreed with me; that where a man does wilfully said deliberately what is against the express provisions of an act it is a misdemeanour, and there is no necessity to place that in an act of parliament.

Dr. Quick (Victoria)[4.54]:

I think this is one of the principles which must be kept in the bill if we want to obtain substantial support for it in Victoria. I, for one, strongly advocate that the principle of single voting should be firmly embedded in the constitution., and, not left to the discretion of the state parliaments. Whilst we were not able to secure a uniform federal franchise, I agreed to accept it as a sort of, compromise that the principle, of single voting should be put; in the constitution. I strongly urged that on the leader of the Convention, and it was then put in the constitution. But having put the provision in the constitution without any machinery for giving effect, to it, what was the good of it? There was no sanction for giving effect to the principle of single voting. Any federal voter might vote a hundred times. It was merely an, assertion of an abstract principle in the constitution, and, there was no penalty provided for violating it. Therefore, the hon. member, Mr, Barton, and the hon. member, Mr. O'Connor, agreed to put this
provision in; the bill.

The Hon. E. BARTON:

We also pointed out that it would be a misdemeanour without stating so in this bill.

Dr. QUICK:

No doubt; but by retaining these words we. shall, make it plain, in the constitution that this is not a mere abstract principle, but one that can be enforced by the federal courts. Unless a penalty is mentioned there, it will be a matter of doubt, As a question of law, it is generally understood that the violation of any statute carries with it the penalty of a misdemeanour. If so, why not place it in the Constitution, so as to make the matter plain and, beyond all doubt? I therefore strongly urge the Convention to retain, this provision!

Mr. WISE (New South Wales)[4.56]:

It seems to me that whether the provision is retained or not it will be precisely the same. The words, in my opinion, are mere surplusage. Everyone knows that when a statute prescribes anything the breach of it is a misdemeanour at common law. There will be this difficulty about retaining the words, and I draw the attention of the hon member, Dr. Quick, to it: If we keep the words in, there may arise a difficulty as to the jurisdiction under which an offer should be tried, whether it should be by federal or by the local courts.

Dr. QUICK:

No more than if it were an implied misdemeanour!

Mr. WISE:

I am not sure; possibly not; and that maybe an answer to the argument. But it does seem to me that if you put in this provision you cannot say by what court au offender should be tried. If we retain the words, it will be a blot on the drafting.

The Hon. Sir J.W. DOWNER (South Australia)[4.58]:

I do not want to take up any time in, debating this question;

but I would point out that this will be a restriction on the federal parliament. They might want to make this offence more than a misdemeanour; they might want to inflict some other punishment. It seems to me an unnecessary interference with the rights of the federal parliament.

The Hon. N.E. LEWIS (Tasmania)[4.50]:

The principle for which the hon. member, Dr. Quick, is contending is embedded in the constitution without the words proposed to be omitted. We provide that each elector shall vote only once. It is not proposed to leave out those words, so that the principle of one man one vote is
embedded in the constitution,

The Right Hon. Sir G. TURNER:
A layman reading that would say, "There is no penalty I shall, vote as often as I like!"

The Hon. N.E. LEWIS:
Surely we can leave it to the federal parliament to make provision.

Dr. QUICK:
How can you, do that in the case of the first election?

The Hon. N.E. LEWIS:
As far as the first election is concerned, it will be a misdemeanour at common law, and there is the usual penalty for any misdemeanour, for which a punishment is not otherwise provided. Surely it will be a blot on this constitution if we embody in it something which should be dealt with by the criminal law.

Question-That the words "and if any elector votes more than once he shall be guilty of a misdemeanour," stand part of the paragraph put. The Committee divided:

Ayes, 16; noes, 28; majority, 12.

AYES.
Abbott, Sir Joseph Isaacs, I.A.
Barton, E. Kingston, C.C.
Berry, Sir G. Lyne, W.J.
Cockburn, Dr. J.A. Quick,. Dr. J.
Fraser, S. Solomon, V.L.
Gordon, J.H. Turner, Sir G.
Higgins, H.B.
Holder, F.W. Teller,
Howe, J.H Peacock, A.J.

NOES.
Braddon, Sir E.N. Henning, A.H.
Briggs, H. Henry, J.
Brown, N.J. James, W.H.
Brunker, J.N. Leake, G.
Clarke, M.J. Lee-Steere, Sir J.G.
Crowder, F.T. Lewis, N.E.
Dobson, H. McMillan, W.
Douglas, A. Reid, G.H.
Downer, Sir J.W. Symons, J.H.
Forrest, Sir J. Venn, H.W.
Fysh, Sir P.O. Walker, J.T.
Glynn, P.M. Zeal, Sir W.A.
Grant, C.H.
Hackett, J.W. Teller,
Hassell, A.Y. Wise, B.R.
Question so resolved in the negative.

Amendment suggested by the Legislative Assembly of Victoria: At end of clause add the following paragraph:-"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 right continues, be prevented by any law of the commonwealth from voting at elections for senators."

The Hon. I.A. Isaacs (Victoria)[5.3]:
This suggestion concerns South Australia more than it concerns Victoria. It is, perhaps, a suggestion for the Drafting Committee to deal with. It is made in order to preserve, in regard to the senate, the right of women in South Australia to vote, just as that right is preserved in the case of the house of representatives. The wording of, the amendment is only, I think, to carry out the intention of the Convention. In clause 30 certain, election qualifications are fixed for electors; but there is a Prevision. that women are not to be prevented; by the federal parliament from voting at elections for the house of representatives. It is restricted to that.

The Hon. E. Barton:
We can meet the, difficulty, I think, by making the last part of clause 30 to apply to the senate, by putting it under the provisions relating to both houses!

The Hon. I.A. Isaacs:
That, I think, will meet the case. It merely draw attention to the matter, leaving the framing of the amendment to the Drafting Committee.

The Hon. E. Barton (New South Wales)[5.4]:
I would suggest that we should formally negative this amendment, and the Drafting Committee will frame an amendment by which on the recommittal of the bill, which must take place, the provision at the end of clause 30, will be made to apply both to the senate and to the house of representatives.

Amendment negatived; paragraph 5, as amended, agreed to.

Clause 9, as amended, agreed to.

The Hon. E. Barton (New South Wales)[5.5]:
The understanding was that we should simply take those clauses which refer absolutely and inherently to the very constitution of the senate and house of representatives in older that we might the earlier get to the
question of money powers and the question of deadlocks. I take it that we will go back to those things. If we can save half an hour in that way it will be better to do so. Therefore, in order that we may reach clause 24, I move: That clauses 10 to 23 inclusive be postponed.

Motion agreed to.

Part III The House of Representatives.

Clause 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 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 five representatives at the least.

The CHAIRMAN:

The first suggestion is a suggestion by the Legislative Council and Legislative Assembly of Western Australia to insert after the word "numbers," in the first paragraph, the words "subject to the provisions of sub-section 3."

Amendment negatived.

The CHAIRMAN:

The next suggestion is to leave out all the words in the first paragraph after the word "numbers." The Legislative Assembly of Victoria and the Legislative Assembly of New South Wales each desire that these words be left out, and wish other words to be put in. The suggestions are substantially the same.

Amendment suggested by the Legislative, Assembly of New South Wales:

Lines 4 to 21, omit after "numbers" to the end of the next paragraph, in line 21, insert "and, until the Parliament of the commonwealth otherwise provides, each state shall have one representative for every thirty thousand of its people."
This is an important clause, inasmuch as it forms the basis for the election of the house of representatives, and if I recollect aright, the scheme was devised by my hon. and learned friend, Mr. O’Connor, at the Adelaide Convention. In the bill of 1891 we followed out the principle that, so far as the house of representatives was concerned, we should have one member for each 30,000 of the population in the state, and the only reason I could ever ascertain for this peculiar provision was that it might form the basis of the two houses meeting together afterwards to settle difficulties under what is termed the Norwegian system. This proposal is that as nearly as practicable there shall be two members of the house of representatives for every one member of the senate. There is no power to alter the fundamental principle which is laid down that at all times, as nearly as practicable, the number of members in the house of representatives shall be twice the number of the senators. I object to that, and I think there are many reasons why. First, I think where there is a house of representatives of the people, the people should have representation according to the numbers in the various states. I know of no reason why there should be any limit upon that, unless it be for the purpose of preventing the house of representatives becoming altogether unwieldy. The proposal in the first instance was that the numbers should be one for every 30,000. I, myself, suggested it should be one for 40,000 or 50,000; and I am perfectly satisfied that it should be one for 50,000; but, under the proposal, as it now stands, if we have a certain number say we have six states coming in—we then would have thirty-six members in the senate, and if we had a double number we should have seventy-two in the house of representatives. As certain states would not be entitled to the full number according to the population, and as the minimum for the existing states is defined for each, the number would be slightly over the seventy-two—I think seventy-six. Hon. members will see that the numbers of people in the various states will probably go on increasing in some colonies more rapidly than in others, and eventually it will happen that in Western Australia, and no doubt in Tasmania, they will arrive at a certain population which will entitle them to the minimum, and as soon as that happens the number will have to be reduced from the seventy-eight to seventy-two. As each colony comes to the minimum that will have to occur. The result of that will be that there will have to be a reduction in the number of members of some of the other colonies. We must not forget that the colonies have to be divided into electorates for the purpose of electing the representatives of this particular house; and experience, I think, will lead us to the conclusion that
those electorates will be single electorates. Thus, whenever that event 
occurr, and the numbers of the people in either of the colonies increase so 
as to entitle them to their five members, then a redistribution will have to 
take place in all the other colonies. Some of them must lose a certain 
number of their members. Then, if we have Queensland with us, and if 
Queensland is divided at any time, or if by any other means the number of 
the senators be increased, that will necessitate a redistribution over the 
whole of Australia. I should like to hear from those who favour this 
peculiar provision, reasons which ought to induce us to accept it. I fail to 
see any. I think it is contrary to the principle on which the house of 
representatives should be based that is, that it is the house which, as 
contradistinguished from the senate, will represent the people in the 
various states as individuals. All I think we ought to do is to see that that 
house is so chosen as not to become unwieldy. If we limit the number to 
the fifty, each particular state, according to its population, will get its 
proper number, and as the statistics are taken, I suppose every ten years, 
the necessary variations will be made. But I think it will be very hard on 
any state which had been sending to the house of representatives, say, 
twenty members, to find that because some other states are entitled to an 
extra number they must reduce their number from twenty to seventeen or 
eighteen. That will create a great deal of dissatisfaction. Whilst the states 
will be perfectly satisfied to say "We will remain with the existing 
number," I fear they will not be satisfied if they find the number has to be 
reduced. In addition to that there will always be the trouble of 
redistributing the seats and the extra expense.

The Hon. F.W. HOLDER:
If we have relatively smaller populations there must be relatively smaller 
representation too!

The Right Hon. Sir G. TURNER:
If there is relatively smaller population, of course there will be relatively 
smaller representation. I have read the debates which have taken place on 
the matter, and I fail to see any justification whatever for adopting this very 
peculiar principle. I trust my hon. friend will be able to explain the reason 
of it, and then I, or some other representative who holds a view similar to 
my own, will be able to controvert them. At present, however, there is no 
justification that I know of for following any other practice than to say that 
in the house of the people the people shall be represented from the various 
colonies according to the number of people in those colonies.

The Hon. E. BARTON (New South Wales)[5.17]:
I hope the Committee will not adopt any such provision as would give the house of representatives for all time unless with an amendment in the constitution accompanied by the referendum a representation of one member to every 30,000 people. If population increase in anything like the same ratio as that which has been exhibited in recent years, such a provision would lead to an enormous and unwieldy house of representatives a house of representatives altogether too large for the requirements of the people. A table, upon which I cannot lay my hands at present, was prepared at the Adelaide Convention, which showed what rate of increase in population might be expected every decade for the next five decades and what would then be the numbers of the house of representatives. The result of that table was, I am quite sure, to open anybody's eyes to the fact that to fix a rigid number as the proportion by which the number of members of the house of representatives was to be gauged would lead to very serious consequences. We have two proposals before us from the parliaments of Victoria and New South Wales, and each of these proposals provides for 30,000 people until parliament otherwise provides. That was the provision in the bill of 1891, and it was deemed wise to prevent any possible danger arising from it by framing the clause in the way the hon. member, Mr. R.E. O'Connor, drafted it by providing for some automatic means of adjusting the quota, that is, the number of people to choose a representative. The clause, as it stands at present, does not by any means prevent legislation on the part of the commonwealth. As hon. members will see, the clause, after stating that the house of representatives should be composed of members directly chosen by the people of the states, according to the respective numbers, and that as nearly as practicable there should be two members of the house of representatives for every one

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 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.

That also is only a provision that the quota principle shall be valid until parliament otherwise provides. But, inasmuch as parliament may not make any provision for a considerable number of years, there would, in the meantime, under the quota system, be a means of preventing any undue increase in the number of the members of either house. The provision
would act automatically, and if parliament afterwards chose to make a fresh provision its hands would not be tied.

An Hon. MEMBER:

It could not alter the proportion of two to one!

The Hon. E. BARTON:

No. So far as that proportion is concerned, I have always regarded it as a very salutary one. The object of it is to provide, as I think it should be provided, that, on the one hand, any increase in the number of states, which might occur upon a particular contingency, should not take place without a corresponding alteration in the number of the house of representatives, and that, on the other hand, the disparity in numbers between the house of representatives and the senate should not at any time be too large. It was considered that there should be two members of the house of representatives to every member of the senate, and I think that this arrangement would prevent the house of representatives from being too nearly approached in numbers by the senate, and would prevent the senate from being confined to some small number, with the result of seriously diminishing its importance and its consequence in the eyes of the federation.

Mr. HIGGINS:

Why should the number in the house of representatives depend in any way upon the number of the states?

The Hon. E. BARTON:

That question was asked in Adelaide, and was dealt with there. The number in the house of representatives must depend upon the number of states, for two reasons: First, there must be an equal number of representatives from the states which originally contract, and the whole number is increased every time a state is added to the commonwealth. I take it that it is a fair thing to provide that there should be concurrent action in these questions as far as possible. If you do not make this provision, as I have just pointed out, you might have the senate approaching too nearly in numbers to the house of representatives and overshadowing it; while, on the other hand, you would have a provision whereby the senate would be kept at some such number as would enable its importance and dignity in the eyes of the community to be maintained. I take it that we do not wish to diminish the importance or dignity of either house of parliament, but to keep them in some relative proportion in every respect. The provision in the first part of the clause that the numbers of the two houses should be as two to one seems to me reasonable. As to the
remaining part of the clause, I have now the figures I was just referring to. Taking the population at the end of 1895, upon the average rates of increase in the past, the result would be that with a member for every 50,000 of the population, you would start in 1897 with 71 members in the house of representatives; in 1901, four years later, there would be 98 members; in 1911, fourteen years later, 129 members; in 1921, twenty-four years later, 190 members; thirty-four years later, 283 members; and forty-four years later, 446 members.

The Right Hon. Sir G. TURNER:

Are those the figures which were used in Adelaide?

The Hon. E. BARTON:

I do not think they are. They are the figures which were subsequently laid on the table by the hon. and learned member, Mr. O'Connor. They seem rather familiar to me in one respect, and strange in another. They do not seem to hear out certain contentions of my hon. friend, Mr. Isaacs, about the dwindling importance of Victoria under the operation of this table.

The Right Hon. Sir G. TURNER:

Will not clause 28 get over the difficulty?

The Hon. E. BARTON:

It may do so to a certain extent; but if you have a representation of one to every 50,000, you will have a house of nearly 450 members a little over forty years hence. I think it is desirable that, until Parliament takes this matter in hand, there should be some automatic provision which would regulate it. I believe that it would be a bad thing to start with an iron provision that there should be a representative to every 30,000 or to every 50,000 of the population. While I am perfectly content to trust the federal parliament in every matter, so far as it can possibly be done, we must acknowledge the contingency of the federal parliament preferring not to legislate; and we must therefore make a provision which will work automatically, as the quota provision will, in the absence of any provisions being made by the federal parliament, or in the event of the federal parliament being satisfied with it. This arrangement will always keep the number of the two houses from reaching an extent which, under the ordinary increase of population, would be disastrous and extravagant.

The Hon. F.W. HOLDER (South Australia)[5.27]:

I do not think there is any great principle involved in the fixing of the number of the house of representatives at twice the number of the senate. At the same time, it appears to me a very convenient plan for maintaining some balance between the two houses, and I can see no objection to it. The question that I understood the Right Hon. Sir George Turner to raise was:
Why should there not be representation in proportion to population right throughout the commonwealth? It seems to me that that is secured by the wording, of the bill as it stands. One proposal is that there shall be a representative for every 30,000 of the population, another that there shall be a representative for every 50,000 of the population. What the bill says is that there shall be a representative for every seventy-second part of the population.

An Hon. MEMBER:
A member sent from Victoria to the house of representatives will represent a larger number than a member sent from South Australia.

The Right Hon. Sir G. TURNER:
No matter how the population increases, you cannot increase the number of representatives, unless you increase the number of the senate.

The Hon. F.W. HOLDER:
As the clause stands, the exact proportion of members is maintained precisely as it would be under the one in 30,000 or the one in 50,000 plan. It is a very ingenious arrangement that there shall be one member for every seventy-second part of the population.

The Right Hon. Sir G. TURNER:
I object to the arrangement altogether, because it is based upon the Norwegian plan!

The Hon. F.W. HOLDER:
That is immaterial. I am not contending for this scheme because it provides that the number of the house of representatives shall be double the number of the senate. Whether you keep or give up that principle, the idea of a quota is a good one, because it provides an automatic arrangement which adjusts itself from time to time, and will work on for a hundred years without the slightest difficulty, maintaining an equal proportion of representation throughout the commonwealth. There should be one member to every 30,000 of population say some; there should be one member to every 50,000 of the population say others; but the fairest arrangement is that there should be one member to every seventy-second part of the population. Does the hon. member see that?

The Right Hon. Sir G. TURNER:
I agree that that is so. But no matter how the population increases the number of members in the house of representatives cannot be increased unless you increase the number of members in the senate. I object to that!

The Hon. F.W. HOLDER:
There is no object in increasing the number of members. Suppose the population of all the states were increased at once, there would be no
object in doubling the representation, so long as the proportion is maintained, and it is maintained by adopting a quota. If 60,000 people have a representative in one state, 60,000 people will have a representative in another state. If 40,000 people have a representative in one state, 40,000 people will have a representative in another state.

The Right Hon. Sir G. TURNER:
I admit that!

The Hon. F.W. HOLDER:
Well, is not that a fair arrangement. I think it is a very ingenious arrangement for an automatic adjustment of what it would otherwise be very difficult to adjust.

The Hon. I.A. ISAACS (Victoria)[5.30]:
I take it that what we have settled in this Convention is that the states are to be represented as states, independently of the number of people they contain, so far as the senate is concerned. That is the arrangement that has been arrived at by this Convention as a whole, and it is certainly claimed as a principle, if not as a right, by my hon. friends from the less populous states. Now, when we come to deal with the house of representatives, it is our turn to claim and insist, as I take it, that we shall have representation in that house on the basis of population, uninterfered with by the number of people in the states, and absolutely independent of the constitution of the senate. I object strongly to be tied up in the number of the house of representatives by whatever may be the number in the senate, and I think you can do no better than follow the American Constitution in this respect. That Constitution provides for all possible cases; and I will show this Convention, as I endeavoured to show in Adelaide, by most reliable authorities, as to the number of the American House of Representatives, that the constitution embraces all the necessary and proper provisions for keeping down the number of the House of Representatives to whatever number the people think right. When the American Constitution was framed the number of people under it was somewhat approximate to the present population of Australia.

Mr. GLYNN:
Two-thirds of our population!

The Hon. I.A. ISAACS:
I said approximate. The constitution provided that, in the first place, there should be one member of the house of representatives for about 30,000 of inhabitants.

The Hon. S. FRASER:
It was not to exceed that!
The Hon. I.A. ISAACS:

It was not to exceed that. What they did was this: They had one member for 33,000; then they increased the quota until, as the population increased, instead of there being one member for 33,000, there was one member for 173,000; so that, as the population increases, the number of the members of the house of representatives relatively decreases. What was done was this: The first House of Representatives consisted of 65 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 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.

The Hon. R.E. O'CONNOR:

It required an act of Congress in each case

The Hon. I.A. ISAACS:

In each case. As I said before, and now wish to repeat, the people will take very good care that the number of the house of representatives is not unduly increased.

The Hon. S. FRASER:

That is not our experience!

The Hon. I.A. ISAACS:

It is a question of increasing the number, and what I say is that the people will take care that

the number is not increased. I will read hon. members a passage and the matter is one of vital importance to Victoria, and no doubt also to New South Wales from the work of Dr. Woodrow Wilson, called "The State." He says:

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.

Therefore, it is perfectly plain that every ten years the American people, through their congress, do constantly and regularly reduce the proportion of the number of their representatives in their legislature, and it is for public opinion to decide what the quota shall be in each particular instance. But if you are going to say that the house of representatives shall be always in the proportion of two to one in the senate, what will be the result? Unless you have an amendment of the constitution there will be this result: that no matter how the population grows in the future we shall have no more than seventy-two members in the house of representatives, because I take it that in a few years the minimum in the house of representatives for some of the less populous states would disappear. Even if there be subdivision you will have a fixed quota, and a good thing too. If you have the same proportion of members amid a growing population that is, two members to one member in the senate-you would have such immense constituencies that we should have great difficulty indeed in the future in inducing any but the most wealthy men to contest an election, and that is a very serious matter. Why should not the federal parliament in this and other respects be trusted? There is now a good opportunity for many of my hon. friends who have been loud in their adjurations that we should trust the federal parliament, to put into definite practice the precepts they seek to enforce. The American Constitution leaves the matter in the hands of Congress, and I would point out how important the matter is to the larger colonies. If you want to increase the number of representatives under the bill, as it stands, you must get the consent of the senate, and the senate may say, "We are not inclined, even if we were increased in number, to increase the number of the house of representatives." Thus you have an instant block. If, on the other hand, you say to the senate, "We want to reduce the proportional number of members of the house of representatives, and we want you as a senate to consent to that," the senate naturally would never refuse. It has never refused to do so in America, and that is how it is there is never any difficulty there. When there is any change in the proportion of representation in America, the request of the House of Representatives to the Senate is to reduce the number the House of Representatives would otherwise contain, and naturally the Senate will always agree to that. Now,
I do not know whether I ought to use the figures which have been produced today. I hardly think the leader of the Convention really intended to put them forward as reliable figures; but I have worked out some results from them which are rather startling.

Having done so I was told that I could not rely upon them, and when I was told that I thought the hon. member had dropped them.

The Hon. E. BARTON:

I do not suppose you could rely upon the relative proportions, but they afford a fair index of what the gross population of Australia will be!

The Hon. I.A. ISAACS:

The gross population of Australia is put down in decennial periods, and it is only arrived at by an estimate in each colony.

The Hon. E. BARTON:

No one can forecast the way in which the Australian population will increase!

The Hon. I.A. ISAACS:

If the figures are to be taken even approximately they lead to most surprising results. It is quite true, as the hon. members, Mr. Barton and Mr. Holder, put it, that, in one respect, the proportionate distribution of members amongst all the colonies, when once the total is arrived at, will be fair as between the colonies. But that is not the question. How will it affect the larger colonies? It means this: Victoria, in forty years from now—even if this table is only approximately correct—instead of having about 1,200,000, as she has now, will have about 4,000,000 people; and although she will have twenty-four members at the present time, she will only have thirty members in 1941.

The Hon. E. BARTON:

The other colonies will have in proportion!

The Hon. I.A. ISAACS:

Quite so. But, according to this expected result, New South Wales will have just about the same number as she will have at the present time twenty-six or twenty-seven. What I should like to ask, as a matter of practical politics, is this: will Victoria stand being told "No matter if your population should increase by millions, in proportion your number of members must decrease"?

The Hon. R.E. O’CONNOR:

The same thing has taken place in America, according to the figures that the hon. and learned gentleman quoted!

The Hon. I.A. ISAACS:

No. Every state in America has grown in population; but they take very
good care that the number of the members of the House of Representatives increases with very few exceptions, increases in accordance with the growth of the population, but they reduce the ratio; they reduce the quota; they take very good care that no state ever gets fewer members in the House of Representatives than it had before; some may get more, and I suppose that they nearly all get more, but not more inexact proportion to the growth of population, because the quota, is diminished. Therefore, that does not apply. What I think is that we should take this stand as a matter of principle in regard to the house of representatives. It is a house which, admittedly, is to be based on population.

The Hon. F.W. HOLDER:
With or without a limit would the hon. and learned member put any limit at all?

The Hon. I.A. ISAACS:
The federal parliament will determine the limit. We say not more than 1 for 50,000; the federal parliament can make it 1 for 60,000, and at the next increase of population 1 for 70,000, and at length, when the population of Australia is many millions, it may say 1 for 100,000 or 1 for 200,000.

The Hon. E. BARTON:
The great trouble is that the universal tendency of popular chambers is to increase the number of their members, instead of diminishing it to do so by express provision!

The Hon. I.A. ISAACS:
I again return to the standing example of America. I say that there is a living proof that the quotas are increased and the numbers are kept within proper limits. I would simply repeat that to tie up the house of representatives a house literally based on population-to tie it up by a fixed and practically unalterable rule—a rule absolutely unalterable except by a process amending the constitution of the senate after we have had the principle of equal representation claimed on one side as a right, and given on the other side not as a right, but as a concession-after that conclusion has been arrived at, I say that it would be very bad policy indeed to say to the larger colonies, "We will tie your house of representatives hand and foot to the senate; although on the one hand we provide that the one house shall be independent of the other as far as equal representation is concerned, we shall insist on your house of representatives being limited in its number according to the number of members of the senate." I say that it would be bad policy on the part of the representatives of the smaller states, and I do ask that the house of representatives shall consist in numbers in proportion to the population of
the commonwealth, and that that proportion shall be regulated by the wisdom of the federal parliament.

Mr. WISE (New South Wales)[5.56]:

I should like to ask the hon. and learned member, Mr. R.E. O'Connor, who is the father of the clause, to explain a matter which, to my mind, presents a very serious difficulty. As I understand the clause, there is to be one member for each quota; consequently if the population of any colony, say Western Australia, quadrupled its population, as is quite possible, within the next ten years, that would raise the representation in the house of Assembly from five to twenty

Mr. SYMON:

That depends on how many there are in the other colonies!

Mr. WISE:

Whatever may be intended, I do not think that this clause provides that. It says until the parliament otherwise provides, there shall be one member for each quota of the people.

The Hon. F.W. HOLDER:

The quota would increase as time went on!

Mr. WISE:

You are dividing the population of the commonwealth by the number of the senate, and, therefore, when there is any increase of population in a state, that state will be entitled to a certain number of representatives in the house of assembly. I do not care what the exact number will be. What I desire to make plain is that, inasmuch as the increase of population is not the same throughout the continent, the effect will be that, where there is an increase of population in any one colony I care not which that colony cannot obtain its rights until we alter the whole system of relative representation of the whole of the other colonies in the senate. Take the case of New South Wales. If New South Wales increases in population so as to entitle her to increase of representation in the house of assembly, before she can get that increase of representation we shall have to increase the voting power of South Australia, Tasmania, and Western Australia in the senate.

The Hon. I.A. ISAACS:

Or take the numbers off the other colonies!

Mr. WISE:

That is what I am complaining of. There are two objections to the clause. It provides a balance between the members of the senate and of the house of assembly, and if that principle is to be adhered to it is impossible to give to any one colony that increased representation which the increase of its population will demand, unless you at the same time increase the voting
power of all the other states in the senate. That is how it appears to me, and
the question is, is there any reason why, before any one colony can get that
increase of voting power in the house of assembly to which it is entitled,
the other colonies shall receive an access of voting strength in the senate to
which they are not entitled, either by reason of increase of population or
anything else?

[The Chairman left the chair at 5.50 p.m. The Committee resumed at
7.30 p.m.]

The Hon. R.E. O'CONNOR:

Before answering the simple, though somewhat pertinent, question of my
hon. and learned friend, Mr. Wise, I think it would be well to lay before the
Committee my views in answer to the speech of the hon. and learned
member, Mr. Isaacs. I agree with him that this matter is a very important
one, viewed not only from the standpoint of the larger states, but also from
the standpoint of the constitution of the senate. Hon. members who
described this as a cast-iron system, I think, have apprehended the extent to
which the system is cast-iron in this constitution. If they will refer to the
24th clause, they will find that the only portion of the principle which is
fixed in the constitution is that the house of representatives shall bear the
proportion of double the number of members of the senate. That is the
only portion of this system which is fixed in the constitution, and as to the
mode of ascertaining the quota by which the representatives are to be kept
to a number proportionate to the number of the senate, that is provided in
this clause only until parliament otherwise determines, and it leaves the
parliament to determine at some future time any other method, if any other

The Right Hon. Sir G. TURNER:

Not to alter the proportion!

The Hon. R.E. O'CONNOR:

What I am pointing out now and I think it necessary to clear the ground
is that the only unalterable part of the system is that fixing the proportion
between the number of members of the senate and the number of members
in the house of representatives. That proportion being fixed unalterably in
the constitution, a mode is provided by the 24th clause for ascertaining the
quota of representatives in the house of representatives in order to maintain
that proportion—but that is subject to alteration by the parliament of the
commonwealth whenever it may think fit to take action.

An Hon. MEMBER:

That part is in the machinery!
The Hon. R.E. O'CONNOR:

It is in the machinery: So that it only comes back to this principle that I have indicated, that there shall be a certain proportion between the number of the senate and the number of the house of representatives. That brings one at once to the principle which, it appears to me, has justified the adoption of this system. If it were merely to arrive at some automatic way of keeping down the number of members of the house of representatives, it certainly would not be worth while, as there are other ways in which that might be done. The fact of its limiting the number of members of the house of representatives is incidental merely to the main object of the application of this principle, which is to keep up that relation between the number of the senate and the number of the house of representatives. On what ground does that stand? It stands on this ground, which, it appears to me, certainly ought to commend itself to everyone who wishes to see the senate an effective body in the legislature. Of course numbers are not always a guarantee of effectiveness or power in any legislative body, but if you have two bodies which are working co-relatively, and there is a tendency of the number in one body to become larger and larger every decade, and the other body to remain at a standstill, you get to a point to which from the mere smallness of its numbers, the house which contains the smaller number of members will necessarily lose in power and importance in the community. To give an illustration: Suppose, for instance, the number of the members of the house of representatives in the course of some thirty years grew to be about 250, and the number of members of the senate remained at 36.

The Hon. I.A. ISAACS:

Why should they?

I am giving an illustration now, and I will point out to hon. members by and by that it is an illustration that goes as far as the facts are likely to justify. I say take that position of things. It must be very obvious that a house which contained 250 persons, representing the inhabitants of the commonwealth as a whole, must occupy a stronger and more effective position in popular estimation than a house containing only 36 members, and representing the states themselves. In the deliberations of these two bodies there can be no question that the weight attached to the smaller house would be correspondingly less than when it bore a larger proportion to the more numerous house. It may be said that the Senate of the United States is an illustration to the contrary. The Senate of the United States
remains the same, while the House of Representatives has been increased from time to time until now there is no doubt it bears a very large proportion to the numbers of the senate. But the case of the Senate of the United States is altogether different. That body has not only legislative functions, but also executive functions of a very important character, and it is those executive functions which in the main now lend to the senate the great importance and weight which it exercises in the legislature of the United States. We give our senate no such functions; it is merely a legislative body, and never can be anything more than a legislative body. Therefore, it appears to me that if we are really to keep up that power, and effectiveness in the senate that everyone admits it must have if it is to take the place assigned to it in this constitution, some method must be adopted by which a proportion in the number of these two, houses must be kept up.

I think it will readily be admitted even by the hon. members representing the larger colonies here, that having once given this right of equal representation—whether we give it as a concession, as some of us say, or whether we give it as a right, as some others claim, having once given it, having once constituted the senate upon that basis, having once given it certain powers, we ought to be very careful to frankly and honestly carry out that principle all through in our dealings with the senate. If it is to be a house, representing the states, and if it is to be made effective for certain purposes, we ought to be very careful that we leave no germ of inoperation in the constitution itself which will gradually sap the power and the vitality of that body.

The Hon. I.A. ISAACS:

How?

The Hon. R.E. O’CONNOR:

I thought I made myself clear to the hon. member I say that if we once concede the principle of equal representation for the purpose of making the senate a body which shall represent equally all the states, if we once, give it certain powers which will make it an effective body, and as strong as such a body ought to be, we should take care that there is no principle in operation in the constitution which may detract from its strength; and I say that the gradual increase in numbers of the house of representatives which would go on if there was no proportion fixed, and no limit placed on the increase of the number of the members of the house of representatives, must gradually reduce the senate to a position of comparative inefficiency in regard to its weight in the community. I referred to an example just now, and in answer to an inquiry by my hon. and learned friend, Mr. Isaacs, I said: that it was a suggestion only, but, an example that I thought not very far from probable. I should like to say a word about the figures which my
hon, and learned friend, Mr. Barton, referred to. These figures are based on actual results; but, taking them beyond the present time, they are, of course, necessarily only founded on supposition.

But they have been very carefully prepared by Mr. Garran, to whom I am indebted very much throughout in preparing this matter. These have been prepared by him on the basis of Mr. Coghlan's figures. They show an increase in the population of the different colonies, taking ten years' periods in the same proportion in which the population has increased during the last ten years, and comparing them with each other. I admit at once that figures of that kind are, not necessarily reliable to their fullest extent; they are only illustrations; but whether the illustrations, are exaggerated, or do not come up to the mark, they illustrate most conclusively that there must be a tendency, as population goes on, to greatly increase the number of members of the house of representatives, if there is no check put upon it to numbers which will very largely exceed, the numbers of the senate. I take this table, and hon. members may discount it—even freely, if they wish—the illustration still stands. In 1897, say that the total number in the house of representatives would be 71; in 1901, it would be 88; in the year 1911, the number of members would be 129.

An Hon. MEMBER:
Would that be according to the same proportion?
The Hon. R.E. O'CONNOR:
No; I am now taking the quota proposed by the hon. member that is, 50,000.
The Hon. J.H. HOWE:
According to the same quota?
The Hon. R.E. O'CONNOR:
If we have no means of checking the increase in the number of members of the house: of representatives if we simply fix in the constitution the principle that there should be one member for every 50,000 inhabitants I am showing what the number will be. I am going to show the result of what the hon. member proposes, supporting there was no limitation upon it. According to this return, in 1901 the number of members in the house of representatives would have increased from 71 in 1897 to 88 in 1901. In 1911 it would have increased to 129; in 1921 to 190; in 1931 to 283; in 1941 to 446.
The Hon. I.A. ISAACS:
What are these increases based upon?

The Hon. R.E. O'CONNOR:

The increase of population is estimated and taken upon the periods just passed. They we taken from Coghlan's book on the seven colonies, where he gives the population for an average of ten years. Taking the same rate in proportion, the increase in the number of members in the house of representatives would be something like what I have stated. Make the largest discount you like for any error or exaggeration there may be in that estimate, it still shows that if there; were no method of stopping this increase, the number of members in the house of representatives would become very largely in, excess of the proportion which existed at the beginning of the constitution.

An Hon. MEMBER:

No one advocates that!

The Hon. R.E. O'CONNOR:

I am quite aware that a suggestion has been made that the limitation should be left in the hands of the federal parliament. That brings me to the second portion of the reasons which, it appears to me, exist why this proposition, should be carried in its original form. I have said that the proportion should be kept up between the house of representatives and the senate. I have pointed out to what disparity we would be led if there is no system of checking the increase in the number of the house of representatives, My hon. friends opposite admit that there must be some method of stopping the increase in the house of representatives. They say there is no reason why the number of members in the house of representatives should not be fixed exactly as the house of representatives may think fit to fix them-that there should be no proportion-

Mr. HIGGINS:

Rather, as both houses fix it?

The Hon. R.E. O'CONNOR:

Of course, as the parliament joins in fixing it, which is practically the same thing. There can be no doubt that the same rule would apply in the dealings between the two houses as applies where a legislature consists of two houses that is to say, that such a question as an increase or a diminution in the number of members of the representative house is always held to be within the province of that house. I feel perfectly confident it is the experience of hon. members that, in all the houses of the Australian colonies, that principle is invariably followed, and that no upper house
would dream of interfering seriously with the fixing of the number of members of the house of representatives.

Mr. HIGGINS:

It would interfere under the proposed constitution!

The Hon. R.E. O'CONNOR:

If the hon. and learned member will not be impatient I will meet all his objections. For that reason, although I was, perhaps, inaccurate in using the term "legislature," it will be fixed by the house of representatives. I said that the number very largely must be fixed and controlled by the voice of the house of representatives for the time-being; so that my hon. and learned friend, Mr. Isaacs, and myself, are brought at once to this issue: He admits that there must be some mode of controlling the increase in the house of representatives; but he says that that should be left to the parliament, and he ignores altogether the necessity for any such principle as that the proportion should be maintained between the senate and the house of representatives. I cannot understand any hon. member who wishes to see the senate maintain its efficiency, its power, its effectiveness in the commonwealth, refusing to support a proposition which will keep up a fair ratio between the number of members in the senate and the number of members in the house of representatives. I come now to another view of the matter which I think is no less important. One of the objections which are continually met with in the discussions in public on this system of federation is the fear of the expenditure which it may entail. There are many persons who look with a great deal of fear—of course, in many cases, with groundless fear—upon the extent to which the expenditure on the parliament may lead, and there are many persons to whom it will be a very strong recommendation if the federal constitution contains some provisions by which there will be a guarantee against any needless extravagance in the number of the members of the legislature. And remember, in dealing with the question of the number of members of the legislature, we are dealing with it on the same terms as those on which the parliaments have had to deal with these questions in years gone by. We are dealing now with a number of members, every one of whom will be paid a comparatively high salary—perhaps not a high salary for the services rendered, but a salary which, taken in the lump, means a very large item in the public expenditure every year. Therefore, in dealing with this matter, we must have regard to economy for the sake of our own finances, and also for the sake of the public fear that this federation will be conducted on extravagant lines. I am not one of those who say that in any essential matter where the expenditure of money is necessary we should consider such questions; but I submit that where we have a choice between a method which may lead to
extravagance, and a method which will lead to economy, unless there is some strong reason to the contrary we should adopt that method which leads to economy. One of the strongest reasons in favour of the proposition which is put forward now is that it will result in automati-
cally keeping down the expenditure on the parliamentary institutions of the commonwealth, and will put upon any government that wishes to increase that expenditure the onus of showing that such increase is absolutely necessary. The question has been asked by some hon. members why this matter has not been left to the parliament. They would do as has been done in America. The hon member read an extract from Woodrow Wilson, which seems to me to be instructive from two points of view. In the first place it shows that, whatever your system is, whether you have a quota of increase—whether it is a quota ascertained as the bill proposes to ascertain it, or whether it is a fixed quota of 30,000, as my hon. friend suggests—we must readjust matters every ten years. Every census we shall probably find that we shall have to make some readjustment, and I think the periods at all events the later periods my hon. friend quoted from Woodrow Wilson are nearly all ten year periods. Of course the population of the United States increased with enormous rapidity during that time. At the same time it was found necessary to make these revisions every ten years, and in the course of these revisions it is apparent large reductions in the amount of the quota have been made. On the question of economy, which is, of course, altogether apart from the question of principle, to which I have alluded already, we are met with this position: Is it safe considering our experience of these matters in the Australian colonies to leave the matter of the reduction of the members of the house of representatives to the parliament itself?

The Hon. I.A. ISAACS:
    It is proposed to leave the whole financial question to the parliament!

The Hon. R.E. O'CONNOR:
    What is the experience? I know our experience in New South Wales is and I think it is the experience of most of the other colonies that when once we get a house consisting of a certain number of members, whatever may be said to the contrary, there is necessarily operating a very large amount of vested interests, which continually prevent the question of the reduction of members of the house of representatives from being satisfactorily dealt with.

The Hon. I.A. ISAACS:
    The amount provides not for the extension but for the reduction of the number!
The Hon. R.E. O'CONNOR:
There is no distinction!
The Hon. I.A. ISAACS:
There is the distinction!
The Hon. R.E. O'CONNOR:
No, there is not. The hon. member will allow me to point this out: that if the 50,000 quota goes on without check or hindrance, as long as that quota remains, the numbers will go on rapidly increasing.
The Hon. I.A. ISAACS:
That is an assumption!
The Hon. R.E. O'CONNOR:
I am not dealing with the hon. member's assumption. I am dealing with what the facts must be that is to say, that if this 50,000 is taken as the quota, until you pull it up and introduce another quota, the numbers will go on increasing. Therefore, we must come to a period at which we shall be obliged to interfere with the vested rights and interests which would entitle a constituency to more members on the increase in the number of population. Our experience in these colonies is, that it is a very difficult matter to reduce a house, and for the same reason it would be a difficult matter to reduce a quota. It may be said that, as population increases, there should be some way by which the number of members of the house of representatives may be increased proportionately. That is granted; but I should like to point out that the analogy of the increase of representatives in our assemblies would be a very, misleading one in this case, and for this reason: that where local interests are necessarily represented in a parliament, where the expenditure of money in localities is being continually dealt with, it is a hardship if those localities are not sufficiently represented by numbers in the house which inaugurates and controls that expenditure. That is admitted; but if we look at the functions of the house of representatives, I think we shall find that, as far as local interests are concerned, there is not anything like the same necessity for the representation of localities as there is in the houses of parliament of the different colonies. If you look down the list of subjects dealt with, it will be found that they are all subjects of general application. In few instances are they matters which deal with particular localities. Certainly none of them are matters that would require an increase in the number of members with anything like the same urgency as would be the case with our local houses of parliament. So that the same argument certainly, does not apply in regard to the increase of the members of the house of representatives as applies in the case of our local houses of parliament. This bill does not by
any means fix a cast-iron limit upon the number of members of the house of representatives. The fullest power is given to increase the number of representatives. Exactly the same power is given to increase the number of members of the house of representatives as is given to deal with the house of representatives under the proposal of my hon. friend, Mr. Isaacs. But there is this condition attached to it: that you cannot increase the number of the house of representatives without also increasing the number of the senate.

Mr. HIGGINS:
Why should we have that provision? There is no principle in it!

Another Hon. MEMBER:
In clause 28 The Hon. R.E. O'CONNOR: There is no necessity for me to repeat what I said before. I explained at the beginning of my speech that which I contended was the principle which should guide us.

The Hon. E. BARTON:
May I say this: that there is no principle in observing a precaution of this kind? If there is no reason why the senate should not be one half of the number of the house of representatives, then there is no principle against making the number of the senate exceed the number of the house of representatives.

The Hon. R.E. O'CONNOR:
There is a provision, as I have said, for increasing the number of members of the house of representatives. Parliament has the freest possible hand in dealing with that question; but it must deal with it subject to what is a vital principle in the constitution of the senate, and that is that its numbers should not be unduly reduced.

Mr. SYMON:
Maintaining the proportion!

The Hon. R.E. O'CONNOR:
As long as the proportion is maintained, that is the only limitation upon parliament in dealing with this question of increased representation. How do these two principles apply? Under the method proposed by my hon. friend, at every decennial period when, I suppose, the alteration would have to be made an increase would be made in the number of the members of the house of representatives. That increase would take place by increasing the quota and the distribution of the number of members through more or less electorates as the case might be. Under the proposal contained in the bill, when an increase took place, the only necessity existing in dealing with the matter would be to find out the number of members in the senate necessary to give the increase in the house of
representatives, and making provision for that additional number. For instance, supposing you wished to get an increase of twelve members in the house of representatives you would have, if there were six states, to give an additional senator to each state. Having given that additional senator to each state, you could add twelve representatives to the house of representatives. That is a perfectly simple principle. What injustice would there be in that? I come now to a question put to me by the hon. and learned member, Mr. Wise, upon this point. He said, "It comes to this, then, that before you could increase the number of members of the house of representatives, say in the case of a colony largely increased in numbers, you would be obliged to add to the number of senators all round. You might then give to the colony which had increased in numbers additional representation."

Mr. HIGGINS:
And increase the expense!

The Hon. R.E. O'CONNOR:
You would increase the expense, there is no question whatever about that. But on that score, I think that a calculation will very easily show that the increased expenditure in dealing with the matter in that way would, probably, be nothing like the increased expenditure in dealing with it by the other method. What difficulty is there in dealing with the question in that way? It is said that it is an injustice. What injustice? Surely, if we are going to adhere to the principle of equal representation, whether conceded as a right or made as a concession, there is no reason, according to this constitution, why the number of members of the senate should not be increased. They do not represent localities; they, represent the state; and, if an increase takes place all round, what reason can there be to complain?

The Hon. E. BARTON:
The house of representatives does not suffer from that!

The Hon. R.E. O'CONNOR:
No, it does not. The house of representatives, where an increase is necessary by reason of an increase of population, gets the increase required: the increase in the number of members of the senate is fixed in proportion to the number, of members of the house of representatives, and these having been increased, there should be no complaint when each state gets an increase in the number of its senators.

Mr. HIGGINS:
What is the object of increasing the number of senators for each state?

The Hon. R.E. O'CONNOR:
If the hon. member thinks that that is a wrong principle, of course he will
vote against this proposal.

Mr. HIGGINS:

There is no reason in increasing the number of members of the senate because of the increase in population!

The Hon. R.E. O'CONNOR:

There is this reason: if you would secure by the, very terms of the constitution itself a certain proportion of representation in the senate to the representation in the house of representatives, you must fix it in some way that is unalterable. I admit that you may do it by providing that wherever there is an increase in the number of members of the house of representatives there must, be a corresponding increase in the number of members of the senate, and you may leave it to the parliament to decide what that increase shall be. But surely this is exactly the same thing, only you provide for it in an automatic way instead of leaving it for the consideration of parliament. I have been also asked by an hon. member whether this difficulty might not arise that wherever an increase has to be made in the number of the members of the house of representatives under this system there must be a redistribution of seats. That must take place in any case. That must take place in the case of your 50,000 quota; in the case of your 50,000 quota, if at the end of the ten years period you find that there must be some alteration that more members are necessary-then, inasmuch as you have to fit, say, an additional ten members into the same space, you must make a redistribution of the seats. It must be done whichever way you carry it out; whether you adopt the 50,000, or whether the quota is to be ascertained in the way provided for by the bill, you must have a redistribution whenever you make an alteration in the numbers.

The Right Hon. Sir G. TURNER:

The Hon. R.E. O'CONNOR:

I will come to that by-and-by. I am dealing now with the redistribution, and I say that whether you have the system provided for in the bill, or the 50,000 quota, you must have the same difficulty in redistributing the seats.

Mr. SYMON:

In some form or other!

The Hon. R.E. O'CONNOR:

Yes, however you fix the quota. The right hon. member, Sir George Turner, asks me how I deal with the difficulty as to the decrease in the number of members of the house of representatives? If we are to adopt the principle of proportionate representation, which I presume is the principle
embedded in the constitution of the house of representatives, surely no colony can complain if, because its population diminishes, its representation diminishes proportionately.

Mr. WISE:
They will complain all the same!

The Right Hon. Sir G. TURNER:
The population will be increased and the number of members decreased!

The Hon. R.E. O’CONNOR:
With all respect to the hon. and learned member I say the quota is fixed, and however you fix it, if that quota is decided by the population, there must be the same relative proportion between the representation and the population, and this is provided for in the bill at the beginning.

The Hon. I.A. ISAACS:
Can the hon. and learned member tell us by his figures what the quota will be forty years' hence?

The Hon. R.E. O’CONNOR:
I have not made a calculation.

The Hon. I.A. ISAACS:
I can tell you; it will be 310,000!

The Hon. R.E. O’CONNOR:
As I pointed out before, if there is any other way in which you can arrive at this quota more justly, it is open to the parliament to deal with it at the end of forty years. We are dealing with the matter now on the same principle which it appears to me will be sufficient to enable us to deal with the question at any period, whether it is forty or fifty years hence. It comes back to this: that if you have proportionate representation, then the hon. member's complaint must fall to the ground, because the quota fixes the number of the house, and the quota will be in accordance with the population. In regard to redistribution, exactly the same consequences follow, whether you adopt this method or some other method of ascertaining the quota. I have thought it necessary to occupy some little time in explaining the matter, because it appears to me that if the thing is really understood there is no difficulty in the working of the system, and there are no objections in regard to the inconvenience of its working which apply to this more than to any other system of dealing with the increase in the number of members in the house of representatives; and it has this to recommend it: that by the automatic working of this provision it enforces economy in the administration of our parliamentary expenditure, and it secures in the constitution itself one of the highest guarantees for the ability, power, and effectiveness of the senate.

Mr. MCMILLAN (New South Wales)[8.8]:
At first when the hon. and learned member proposed this mode of dealing with this matter I was rather inclined to favour it, but after a certain amount of reflection I am inclined to believe that it bristles with difficulties. The best thing is to analyse exactly the characteristics of representation in the senate and the representation of the house of representatives. As far as the senate is concerned it matters very little whether you have two, four, six, or eight. It represents the state, as I think the hon. and learned member, Dr. Quick, said, in its corporate capacity; but the object of representation in the house of representatives is to ascertain the actual opinion of the people of the country. That may be got at by a variety of ways. It is possible that in some instances it could not be got at by constituencies of 50,000, 60,000, 70,000, or 100,000 people, and after all what we want to get in that great popular house is, the representation of all interests combined. It seems to me that we have to look very far ahead in considering a question like this. I can imagine a case of this kind. We will take for granted that the population of this colony has grown to 10,000,000. We will even take it for granted that the states have been doubled in number. That is to say, that there are twelve states instead of six, including Queensland, of course. That would give seventy-two members for the senate. But it does not follow that, because seventy-two would be a fair representation for the senate, 150 with 10,000,000 of people would be a fair representation in the house of assembly. You must recollect, as I said, that what you want is to get at the real opinion of the country. You might find that by these large overgrown electorates it would be impossible to get by popular vote the real opinion of the country. After a certain amount of reflection on this matter, I have come to the conclusion that there is absolutely no analogy between the representation of the senate and the representation of the house of assembly, and as on another matter to which we referred to-day, I fear that the introduction of any rigid system affecting matters in the future which nobody can foresee may lead to incalculable trouble. Therefore, it seems to me that it would be better to adopt a system which would leave in the hands of the federal parliament the arrangement of this matter in the years to come. Let us take the case of the United States of America, and see the principle upon which they act. I take it that, when there were 20,000,000 of people in that country, they took for granted that a certain number of men was a fair quota for the representation of that population; when they got to 40,000,000 of population, they considered that a larger member was a fair quota, and so on, until at the present time I think the representation is about 350 representatives for 70,000,000 of people. There you have an elastic system,
by which you can use common-sense, and you can bring commonsense to bear upon your arrangements. But I can conceive that, in this country, you might want a large assembly when, practically, a small senate would be sufficient for all purposes. I quite realise the argument that, if you do not have a fair proportion between the senate and the house of representatives, you may, to a certain extent, lower the dignity of the senate. But on the other hand you cannot increase or determine the number of members of the house of representatives without the consent of the senate, and the senate can very well take care of its own dignity. As the number of the house of representatives is increased, the senate will say, "If you want to increase the number beyond a certain limit, you must increase our numbers so as to be commensurate as a matter of dignity." What I object to distinctly is this hard and fast principle, which may become outrun by the conditions of the future. I can imagine, to put it in an extreme way, that the population of this country might reach 70,000,000, which is the population of the United States of America at the present time. Would anybody attempt to say that under those conditions you would have to maintain exactly a ratio of two to one between the senate and the house of representatives?

Mr. Wise:

There would be one representative to every million of people in that case!

Mr. MCMILLAN:

It would be absolutely impossible to carry out representative government for that popular branch of the legislature, as we understand representative government. I quite agree that it is a good thing to put some check upon any inordinate number in the house of representatives; but I think it is a mistake, while trying to secure that principle, to bring in an automatic rule which may lead to great trouble in the future. Therefore, although I was at first inclined to favour the provision proposed by the hon. member, I can see that in the growth of these colonies, and under the various conditions of the future, it might lead to a great amount of trouble. It would be better to fix the quota now at what is reasonable under present circumstances, and leave it to the good sense of the federal parliament, which will have the check of the senate upon its deliberations, to deal finally with the matter. Furthermore, as a practical matter it would be very much against the feeling and the sense of these different states to find the continual process of reduction going on which this hard and fast rule might bring about. You might have a certain state having continually to reduce the number of its representatives, and that would be a very sore point with such state.
Therefore, it seems to me that what we have to do now is to fix what in the present circumstances is a fair proportion between the two houses, and leave it to the federal parliament in the future to decide what shall be the numerical strength of each house when the time comes.

The Hon. J.H. CARRUTHERS (New South Wales)[8.15]:

I fear very much any appeal which is made to secure the greater effectiveness of the senate, because an appeal of that character is very likely to carry with it the support of those who, during the whole of the proceedings of this Convention, have shown themselves anxious to secure the effectiveness of the senate at any price. At various stages of our proceedings my hon. and learned friend, Mr. O'Connor, and others, have advocated the adoption of the compromise which originated in the year 1891, by which equal representation in the senate, and various other provisions which have been embodied in the draft bill framed in Adelaide were conceded; but with an addition which has tended rather to strengthen the advocates of equal state rights, while the provision which the hon. and learned member has inserted has derogated from the dignity and detracted from the efficiency of the house of representatives. Therefore, when we are asked to abide by the compromise arrived at years ago, it is just as well to ask the representatives of the smaller states to stand by the bill which was drafted in 1891. That is practically the proposal of the Victorian and the New South Wales legislatures. In the New South Wales legislature there was not a solitary advocate of these quota provisions. There was not even a call for a division upon the question. With wonderful unanimity these provisions were negatived. First of all, the hon. and learned member says that the quota will result in economy; next, that it will result in greater efficiency; and lastly, that it will be difficult without some automatic arrangement of the kind to get parliament to alter its representation. In the first place, the hon. and learned member knows, and he has well pointed out, that the one drastic provision of this clause is that which provides that the house of representatives shall, as nearly as possible, contain twice the number of members forming the senate; a hard and fast rule which parliament itself cannot alter, and which, if it is found to be irksome, can only be altered by the
cumbersome machinery which has to be set in motion to secure an amendment of the constitution. Let us consider how this rule would work out practically. Under the enabling act federation may, be accomplished if the legislatures of three states, the people of which have approved of the draft bill present their addresses to the Queen. Suppose that the three colonies federating are New South Wales, Victoria, and South Australia,
whose united population would be more than three-fourths of the total population of Australia. They would begin their national career with eighteen senators and a house of representatives composed of thirty-six members. Common sense shows that a number so small as that would create the belief in the minds of the people that the reins of government were falling into the hands of a clique.

The Hon. S. FRASER:

The proportionate representation would be greater than that in the United Kingdom now!

The Hon. J.H. CARRUTHERS:

I believe that there is safety in numbers, especially in matters of government. You may fix the limit so small as to lose the security which comes from numbers; though, on the other hand, I am quite open to conviction on the point that you may have so many as to make the machinery costly and unworkable. I will now put another point to my hon. and learned friend. I dare say he has not contemplated an aspect of the case which was vividly portrayed in the New South Wales Assembly. After the commonwealth is established with this small number of senators and members of the house of representatives, Queensland may be subdivided and come in as three states. That would mean the addition of eighteen senators, and thirty-six members of the house of representatives to the federal parliament. The population of New South Wales may not have increased 1 per cent., or that of Victoria may not have increased 1 per cent, not they would be entitled to add to their representation between them probably about twenty additional members in the house of representatives. This automatic arrangement will give increased representation to colonies already properly represented, because another colony comes into the federation and increases the number of the senate.

The Right Hon. G.H. REID:

Without any regard to the increase of population at all?

The Hon. J.H. CARRUTHERS:

Yes; it ignores all reasonable representation. Can anyone say that states can be governed by a simple rule of mathematics? Are you to have a rule in proportion or some other rule in division coming in, governing the powers of the states, and adding to the representation of a colony, which is, perhaps, already quite satisfied with its representation, a large number of representatives, because some colony hundreds of miles away has chosen to join your federation? More than that, besides introducing this anomaly which I have already pointed out, you at once cause a necessity for a readjustment of your whole electoral system in order to comply with the terms of the constitution, or else you must be prepared to persist under an
illegality. We know very well how people complain of the doings of moribund parliaments. How much more rightly will they complain of a parliament which does not act according to its constitution? Therefore I take it that there will be a necessity immediately after more states join, to dissolve parliament, and have a readjustment of the constitution. It is possible none of these rules or principles will satisfactorily govern the representation of the people; and more than that, they are apt to produce anomalies of a most glaring character. Now I come back to the point about cheapness. I hope my hon. friend will not complain if I say there are many parts of the bill respecting which he is not so strong an advocate of cheapness. Where it is necessary to have a strong bench and a number of judges, the argument of cheapness is not to apply. Here, where we have the question of the representation in the senate involved, the people, on the point of economy, are not to be trusted. They have to pay for their members, and the proposal of the local legislature is simply that the number of representatives shall be so many for 50,000 people. Surely the people can be trusted to govern themselves in this way. If they find the cost of the machinery is too much, they will put the question to the candidates on the hustings whether they are in favour of continuing this. The people have in their own hands the reform of the representation. They can be trusted to see that a reform will be carried out. I am a sufficient believer in federation to be prepared to trust the people, especially in a small matter of this character, and especially when there is this incentive to action on their own part, that they will feel the necessity of a change in their pockets. That is the best argument to impel people towards reform. I am not so anxious as the hon. member to have this effective senate. I would remind him of the words he used thrice in his speech that we had conceded the principle of equal representation of the states in the senate. He rightly directed our attention to that in a speech which I admired very much. This afternoon the hon. member was loud in his declaration that we, having conceded this to the existing colonies, were not prepared to concede it to new States; but the hon. member here based his remarks on the assumption that we are going to concede equal representation to the new states which will come in. The hon. member's arguments tonight are based, according to his own expression, on conceding this principle of equal representation. But he knows that he is only conceding that to existing states, yet these quota provisions are applicable to senators who come from all states, and they will not come from the concession of the principle of equal representation, because a number of them will be there on such representation as
parliament may concede to them, no more and no less. I hope that this Convention will agree to revert to the provision in the draft bill of 1891. I can assure hon. members that in this colony the people will find, and will give evidence, that they are finding it rather difficult to swallow the constitution as we are proposing it. Add no greater difficulties than may be necessary. I take it that the more you diminish the power of that house in which the people are predominant, the more distasteful you will make the constitution to them. Having secured your point with regard to equal representation in the senate, I think it is only fair, unless there is any great principle of a vital character which was not apparent in 1891, to allow us to revert to the compromise of 1891 in this respect, and secure the dignity and effectiveness of the house of representatives.

Mr. Clarke (Tasmania)[8.27]:

The hon. member, Mr. McMillan, said and I am very sorry indeed that the smaller states should lose his advocacy on this occasion—that there was no principle involved, and that there was no reason why there should be a proportion between the number of members in the senate and the number of members in the house of representatives. I believe my hon. friend, Mr. Higgins, has interjected somewhat to the same effect. I well remember when we were sitting on the Judiciary Committee that my hon. friend, Mr. Higgins—

An Hon. MEMBER:

Do not tell tales out of school!

Mr. Clarke:

As I do not want to tell any tales out of school, I will not mention the name of Mr. Higgins. I do not want to nail any one's ears to the pump.

An Hon. MEMBER: Anyone can tell that the hon. member is an Irishman!

Mr. Clarke:

I well remember that a number of hon. members on that committee urged with reference to the constitution of the judiciary that the federal high court ought to be stronger than any high court in any of the colonies for the purpose of preserving its strength and its prestige, and that principle had the thorough support of my hon. friend, Mr. Peacock. If there is any principle involved here, if there is any virtue in keeping up the prestige and the strength of such a body, I think if you grant the right of an equal representation of the existing states in the Senate, we ought to preserve the prestige and the strength of the senate, and we cannot do that if, after
laying down that each state shall be entitled to six members in the senate, the house of representatives shall increase from time to time according as the population may increase without any regard whatever to the number of members in the senate.

Mr. MCMILLAN:
You cannot do that without the consent of the senate!

Mr. CLARKE:
I beg my hon. friend's pardon. If we insert the amendment which is suggested by some hon. members there will be one member in the house of representatives for every 50,000 of the population, and it will not require the consent of the senate to an increase of the number from time to time.

Mr. MCMILLAN:

Mr. CLARKE:
I do not think so. I think that if we set out in this constitution that every 50,000 people in the commonwealth are entitled to one representative, it will not require the consent of the senate to increase the number of members of that house. The number will depend simply on the population.

The Hon. R.E. O'CONNOR:
It is only to an alteration of that principle that you require the consent of the senate!

Mr. CLARKE:
It is only to an alteration of that principle that you will require the consent of the senate. If there is any principle involved in the relative strength of any high court in the colonies and the federal high court, the very same principle is involved in preserving some proportion between the number of members in the senate and the number of members in the house of representatives. If the senate is a very small body, and the house of representatives is a very large body, in my humble opinion, the senate will be overawed by the house of representatives, and I think we ought to avoid that as much as possible. My hon. friend, Mr. Isaacs, said that we ought to make the representation in the house of representatives according to population. We do that if we follow the principle of the quota that has been suggested by the hon. member, Mr. O'Connor. I assent entirely to the principle he has suggested, and I think the Committee ought to be thankful to him for discovering it. I would like to suggest to my hon. friends from Victoria that they ought to go down on their knees and bless the hon. member, Mr. O'Connor, for discovering this principle; because, if we accept the figures which were placed before us in Adelaide as in any way accurate—we can accept them at all events as prophecies the colony of Victoria according to the quota supplied by the hon. member, Mr.
O'Connor will descend from twenty-two members in 1901 to thirteen members in 1911.

The Hon. I.A. ISAACS:
I pointed that out!

Mr. CLARKE:

I should like to point out that if the same ratio continues, in another fifty years Victoria will be one of the small colonies, and it will then be thankful to the delegates of Tasmania and South Australia for securing for them the principle of equal representation in the senate, and a minimum of five in the house of representatives.

The Hon. I.A. ISAACS:
I suppose that is an argument to get the consent of the Victorian people to this extraordinary scheme!

Mr. CLARKE:

It is a very fair scheme. Unfortunately I was not in the Chamber when the hon. members, Mr. Barton and Mr. Isaacs, delivered their speeches; therefore I am unable to say whether I am mentioning anything new; but I have gone to the trouble of working out the figures, and I find that Queensland according to what has been stated in the papers which accompany the suggestions of the hon. member, Mr. O'Connor will rise from eleven members in 1901 to twenty-four members in 1941; South Australia will have seven members in 1901; and, according to the same arithmetic, she will be entitled to two members in 1941, but she would then get the minimum of five. Western Australia would be entitled, according to arithmetic, to three members in 1901, and in 1941 she would be justly entitled to the minimum. Tasmania will descend in the same way as Victoria and South Australia; but she will be always entitled to the minimum, and that is a satisfaction.

The Hon. A.J. PEACOCK:
If the hon. member keeps on much longer, he will find that there will be no representatives in the house of representatives at all!

Mr. CLARKE:

No; if my hon. friend takes the trouble of reading the section, he will find that, according to the proposal of the hon. member, Mr. O'Connor, the number of members in the house of representatives is to be always about the same, namely it is to be, as nearly as practicable, double the number in the senate. It will remain the same so long as the number of states remains the same. That is the principle, and I think it is a great principle. I should like to ask the Attorney-General of Victoria this question: In case Victoria,
according to population, is entitled to thirteen members in 1941 out of a house of seventy-two, why should she ask for more?

**The Hon. I.A. ISAACS:**

She does not, if you restrict the whole number to seventy-two; but what we say is, that 310,000 persons to one member is too ridiculous a quota!

**Mr. CLARKE:**

Then the hon. gentleman objects to the quota being an automatic one.

**The Hon. I.A. ISAACS:**

Certainly!

**Mr. CLARKE:**

The strong argument of the Premier of Victoria was, that there was great trouble and inconvenience in inducing the parliaments to reduce the number of representatives. I think he will get over that difficulty if he will adopt the suggestion of the hon. member, Mr. O'Connor; because, if that suggestion is adopted, the quota is arrived at in a mathematical way, and the federal parliament ascertains for the various colonies the number of members to which each colony is entitled. It would be much easier for each colony to apportion its districts when it is informed how many members it is to have than it would be for the federal parliament to reduce the number of its own members. But, if Victoria is entitled to thirteen members, I do not see why she should wish to have that number continually increasing. If the numbers are continually increasing, I would point out this: that, if the members of the Senate and of the house of representatives are paid £400 a year each, the increase will amount to a very large sum in the course of a few years.

An HON MEMBER: The federal parliament will take care of that!

**Mr. CLARKE:**

My hon. friend from Victoria suggests that we should leave it to the federal parliament. If there is any force in the objection of my hon. and learned friend, Mr. Isaacs, that the representation of Victoria should increase instead of diminish, it can be got over by section 28, which allows the federal parliament to increase the number of the house of representatives under the condition that the senate must also be proportionately enlarged. If we leave the matter to the federal parliament, it will create a great necessity for the referendum for the purpose of getting over deadlocks. If you adopt the idea of the hon. and learned member, Mr. Isaacs, and leave the fixing of the quota to the federal parliament, you may have the house of representatives wanting a larger number than that to which the senate thinks it is entitled. The senate, of course, may not agree, and such a state of affairs would be
continually leading to deadlocks. Now, we do not want deadlocks from time to time. We want to overcome the possibility of the creation of deadlocks in this matter, and, for these reasons, I think we ought to adopt the automatic Principle discovered by my hon. friend, Mr. O'Connor, because it will give to the various colonies, from time to time, the number of members to which they are entitled according to their population. Now, my hon. friend, Mr. Wise, asked a question. He said, "Supposing the population of New South Wales is so much, and that the quota is so much, she would be entitled to a particular number of members; but, if her population increases to the extent of doubling, she would be entitled to double the number of members." That is not so; because the number to which any colony is entitled can only increase in one contingency - that is, the contingency of that particular colony increasing in population at a larger rate than the average of the rest of the colonies. If the various colonies start out in 1901, and if they travel at the same rate, they will be entitled always to the same number of members as they began with. But if one colony increases at a greater rate than the average of the rest of the colonies, she will be entitled to a greater number of members proportionately than are the other colonies - that is to say, while the total number of members continues the same, the more progressive colony gets more representatives as her increase of population out distances the average of the rest. And I think that is a good principle, because the matter of money is a very important thing to the smaller colonies. I know that it is a very important thing to Tasmania. I know that Tasmania would feel indisposed to favour the payment of £400 a year to a large number of representatives. We want to keep the number within bounds; and I think that both the smaller and the larger colonies ought to endeavour to do so. I entirely dissent from the suggestion that we should return to the proposal of the bill of 1891; because, according to that bill, the house of representatives would be entitled to a number of members equivalent to one for each quota of the population that is to say, one for each 30,000 people; the number of the house of representatives would increase according to the population. Under that arrangement, the senate, instead of being a powerful body commanding the respect of Australia, would be treated to the scorn of members of the house of representatives whenever it suited that house to create a conflict between the two houses. For these reasons, I think we ought to have some ratio between the number of members in the two houses, and that the suggestion made by the hon. member, Mr. O'Connor, and which commended itself to the Convention in Adelaide, should be adopted now.

The Right Hon. G.H. Reid (New South Wales)[8.40]:

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I must say that it is rather discouraging to sit and listen for a number of hours to a debate upon this matter, feeling that the atmosphere is becoming more dense as each hour proceeds. With very great respect, it seems to me that the matter is one which might have been disposed of in a much shorter time.

My able friend, Mr. O'Connor, convinced me of the unsoundness of his proposition by the length of time that he took to vindicate it. I know from experience of my hon. and learned friend that when he has a good case, no man can put it in fewer words, or in a shorter space of time than he can. When I found him speaking half an hour on this matter, I looked into it more carefully than I otherwise would have done, and it seems to me that we had better at once get rid of the fallacy that the influence of a house depends upon the number of its members. That is the fallacy which has been running through the whole of this debate in support of this particular proposition of the hon. and learned member, Mr. O'Connor. It seems to me that so long as the powers are valid, so long as you have great powers, the fewer the number of persons who exercise them, the greater power those persons will have. I often think that the despotism of Europe would become infinitely milder if it were administered by twelve despots conjointly instead of by one. The force in politics, it seems to me, is not according to numbers. At the polls it is; but in a deliberative assembly, I often think that the more powerful body is that body which, having powers, has the smaller number of men to fritter them away. Take the Senate of the United States. It is based upon an immovable number-two to each state. That has existed from the foundation of the United States, although the population has grown from 2,000,000, 3,000,000, or 5,000,000 to 76,000,000 of human beings. The House of Representatives now numbers 357 members, as against the 90 members of the Senate, and yet there is no more powerful house in the world than the Senate of the United States.

The Hon. H. DOBSON:
It is a permanent executive!

The Right Hon. G.H. REID:
But surely it has other aspects besides that. That is a very limited view to meet one with on the present occasion. Its power as a legislative body is infinitely stronger than the power of the house of representatives, owing to the circumstances that it is more easily managed. At any rate, I suppose that the senate of the Australian federation will be entirely satisfied if, as a legislative body, it commands as much power in the federation as the United States Senate has. Let us get rid entirely of the fallacy which I have
mentioned. I know that in Adelaide I attached so little importance to the question of numbers that I proposed that the number of representatives should be only sixty, one to every 60,000 of the population, whilst the number of senators should be thirty-six.

The Hon. E. Barton:

The Right Hon. G.H. Reid:

No. In my address at Adelaide I pointed out that I would be content with a house of representatives consisting of one member to every 60,000 of the population. I named the number that would give us a house of sixty members, taking Queensland in, while the senate would have thirty-six members; and I am sure the Committee will gather from that circumstance the fact I am perfectly sincere in what I am saying that I do not attach the slightest weight to numbers as affecting the power of a deliberative body. I attach the significance to the powers it is capable of wielding, and I think hon. members will see, first of all, that their anxiety as to the senate should be shown by their anxiety as to the powers of the senate, and that this question as to how the number of the senate should compare with the number of members of the house of representatives, is, in the light of history and the facts of history, almost childish. The great inconvenience of the provision which we have in the bill before us is that it was really intended to meet a certain contrivance which has not been put in the constitution.

The Hon. R.E. O'connor:

No!

The Right Hon. Sir G. Turner:

Yes!

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The Right Hon. G.H. Reid:

Well, the suggestion comes from the same source.

The Hon. R.E. O'connor:

There is no such object in it!

Mr. Wise:

It has assumed altogether a new significance this evening!

The Right Hon. G.H. Reid:

All I can say is, that my hon. and learned friend and at the time I thought very wisely-looked to a possible solution in the meeting together of the two houses, and that went the round of the Convention as one of the possible solutions; and I think I am correct in saying that if, at the time these words were proposed, it had been clearly seen that that method would be entirely
discarded, the weight of this proposition would have been very much less
than it was. Now we have to look upon the matter quite free from any
suggestion of the meeting of the two houses, and it must be seen at once
that the basis of the two houses is essentially distinct. What is the basis of
state representation? Not representation of locality in the state, but the joint
representation by six men of the whole state, and the national interests of
the whole state. But the basis of the lower house is a widely different one.
It is a national house, and it is a house in which locality has to be
considered, and it is deliberately considered by the arrangement of the
electorates. Take the arrangement suggested, whether it is 30,000, 40,000,
or 50,000, it is essentially a basis of locality, and in no sense similar to that
of the senate. Then comes the only other remark which I wish to make.
Whatever our system may be, surely it should be one of a simple character-
one which is not complicated by considerations which should not weigh.
Suppose, for instance, that in the process of time the number of senators
increased from six to twelve, immediately there must be an adjustment of
the basis of representation in the lower house, without the slightest rhyme
or reason. Why should we complicate this matter, which has given rise to a
variety of difficulties in some other countries, by endeavouring to make out
a sort of relationship between the numbers of persons in the two houses? I
submit that the basis in both cases is essentially different that we
complicate the constitution very much by this and the succeeding clauses,
and that we should do well to adopt the proposed amendment, which
comes from this colony of New South Wales. To begin with, say, 30,000,
the federal parliament having power to alter that basis.

An Hon. MEMBER:
Why 30,000?
The Right Hon. G.H. REID:
I take the amendment as I see it. I am prepared to accept any other
number. I do not attach any great importance to the number. I believe that
the lower house would be a stronger house if it contained twenty members
than it would be if it contained 100, because it would bang more closely
together. However, I do not wish to digress into a long speech on the
matter. I wish to point out that I do not care what the number of members
of the house of representatives is so long as it is a reasonably efficient
number. Remember that the federal parliament in the proposed amendment
will have absolute power to adjust this thing afterwards. If any alteration is
proposed that is unfair, the senate may be left to look after that when the
time comes. I object strongly to putting these words in the Constitution,
because we are doing a thing in cast-iron which it might be expedient
afterwards to alter. The other proposal recommends itself to me because the ratio will begin, just as we like to make it, on some basis of reason and equity, and the matter will be left in such a state that it can be altered by the federal parliament if an alteration is thought necessary.

Mr. GLYNN (South Australia)[8.50]:

I was very pleased to hear the speech of my right hon. friend, Mr. Reid, because I think we are fighting over a matter of difference which is of very little consequence. If my right hon. friend would make a proposal such as he referred to in the Adelaide Convention, to make the ratio one member to 60,000, I would not be indisposed to support him; but I am going to support the bill as it stands, because the alternative to follow the rejection of the words in the clause would be the insertion of the proportion of 1 to 30,000.

An Hon. MEMBER:

1 to 50,000!

The Right Hon. Sir G. TURNER:

I propose to ask permission to alter the 30,000 to 50,000!

The Right Hon. G.H. REID:

I will support 50,000!

Mr. WISE:

So will I!

Mr. GLYNN:

I intend to make a suggestion myself as to what the proportion should be. I have run out a few figures with the object of reducing the house of representatives to a reasonable number of members, and to keep up what ought to be the proportion which should exist. A good deal has been said about the difficulty of toning down this ratio of 1 to 30,000 to start with. There were exceptional reasons in the case of America for making rapid changes in the quota. There was an exceedingly rapid increase in the population for the first thirty or thirty-five years; and when once they did adopt the principle of having a recasting of the quota every ten years, they adhered to it; but without such a rapid increase of population in Australia we shall find it more difficult to change the ratio from 1 to 30,000 to 1 to 60,000 than they did in America. If we stick to the ratio of 1 to 30,000, the position will be this: They started in America with a ratio of 1 to 30,000; there were then thirteen states with a population of 2,000,000; if the change had not been made, those thirteen states, which have now a population of 24,000,000, would be entitled in the house of representatives to 800 members.
Mr. HIGGINS:
The Hon. gentleman will find that when they started in America they had a population of 3,500,000!

Mr. GLYNN:
Not the thirteen states, However, the position will be this, as far as the ratio is concerned: that if an alteration had not been made, those thirteen states in America would now have in the House of Representatives 800 members; whereas for the whole of the 63,000,000 of population there is only a representation of 329 members, according to the latest statistics. If you took the population of Australia in 1894, keeping this ratio up, you would have a numb

The Right Hon. G.H. REID:

Mr. GLYNN:
You cannot possibly get anything that would determine it with mathematical accuracy.

The Right Hon. G.H. REID:
You are taking a larger representation!

Mr. GLYNN:
No doubt. That is my intention. You do not, even under the constitution, carry out the ratio of population with the strictest accuracy. You find in some of the other colonies—for instance, in South Australia that in some electorates 2,000 people return two members, while in others 15,000 people return only the same number of members. Under federation or pure consolidation you cannot carry out any absolute strictness of principle in regard to representation.

The Right Hon. G.H. REID:
But having equal representation in the senate why should you work up to equal representation in the house of representatives?

Mr. GLYNN:
It would not work up in that way. According to all reasonable probabilities, any large increase would take place in Victoria and New South Wales. South Australia has a large area of territory, but a small population, and, with the exception of 3,000,000 or 4,000,000 acres, the greater part of her land is pastoral country; so that there is a very small chance of a large increase of population in South Australia, and, with a few qualifications, the same thing might be said of Tasmania. The resources of New South Wales and Victoria, however, are boundless; they will respond with far greater rapidity to the call of human industry, and there is not the
slightest doubt that they will be able to support a very large population. In the case of Western Australia you must measure its possibilities, not by its mineral resources, but by its general agricultural and pastoral resources. If there were any likelihood of the Convention adopting the amendment, I would vote for the insertion of the words; but otherwise I will vote for the bill as it stands.

Mr. WISE (New South Wales)[8.56]:

This matter has assumed, to me at all events, a different significance from that which it had when we were at Adelaide. I am not going to enter into the arithmetical argument used in favour of the amendment; but I will make an appeal to the Committee. The hon. and learned member, Mr. Isaacs, has asked us, as a matter of practical politics, to reject the proposal which stands in the bill. I indorse that recommendation, and, as a representative of another colony, would, in the strongest possible manner, urge it upon the members of the Committee. We have had figures put before the public of Australia which, be they right or wrong and I believe they are wrong will be accepted by the enemies of federation as expressive of the truth. These figures and they come, I believe, from New South Wales show, or purport to show, that in a very short time, in the lifetime of many now living, the representation of Victoria, if the proposal in the bill be adopted, would be reduced from twenty-six to thirteen members. I ask hon. members who are in the habit of dealing with representative bodies whether they could go back and ask their people to accept a proposal which, whether it be theoretically right or wrong would, if these figures are correct, inevitably involve them in a loss of influence in the commonwealth?

An Hon. MEMBER:

We do not accept the figures!

Mr. WISE:

I agree that the figures may be doubtful; but they were accepted at Adelaide.

An Hon. MEMBER:

No!

Mr. WISE:

They were accepted by many at Adelaide, and we have to meet a strong and influential, if not very large, body of opponents of federation in every colony. If it is true, as I believe it is, that the proposals put forward are only alternatives of convenience in which there is no principle involved and I understood the hon. and learned member, Mr. O'Connor, to say that this
was not a question of principle-
The Hon. R.E. O'CONNOR:
    On the contrary, I pointed out that it rested upon principle!
Mr. WISE:
    It is a principle of convenience rather than one underlying the main provisions of the bill.

The Right Hon. G.H. REID:
    The hon. and learned member accepts the principle that the house of representatives should contain twice the number of members contained in the senate!
Mr. WISE:
    Will it not be better to adopt a proposal such as that put forward by the right hon. member, and fix upon, say, 50,000 as a quota? That would give a two to one representation,
The Right Hon. G.H. REID:
    Exactly!

An Hon. MEMBER:
    That is the present quota!
Mr. WISE:
    I believe that the quota in the bill is 51,000. I appeal to members of the Committee if it is worth while to run the risk of exciting popular feeling in Victoria against this proposal? I am bound to say that those who, for the purpose of exciting popular feeling against federation, would urge that there is something behind this proposal, that there is some conspiracy on the part of those who wish to make the senate strong at the expense of the assembly, may find some justification in some of the speeches which we have heard this evening. I therefore appeal to the Committee whether it is worth while upon a matter which, after all, is only one of practical convenience, to take a step which will give rise to misconception, and, perhaps, prevent the consummation of what we all desire, the union of Australia.
The Hon. Sir W.A. ZEAL (Victoria)[9.1]:
    Hon. members must have forgotten the circumstance that there are in Australia at present very large legislatures. If this proposal is carried out the question will be what we are to do with the local legislatures, and how are we to reduce their numbers. It is idle to talk of a proportion of one member to 30,000 people; it is preposterous. The federal parliament cannot afford any such proposal.
Mr. WISE:
The proposal is one member for 50,000 people; that is virtually the proposal in the bill!

The Hon. Sir W.A. ZEAL:
The same remark applies to one member for 50,000. Unless the local legislatures are reduced that number will be altogether too large. Hon. members should look at what has been done in other countries when they make proposals of this kind. In the United States of America in 1897, with a population of 62,522,250, the representation in the Senate is one member for 694,691 people. Coming to the House of Representatives, we find there are 357 members, giving one member for 173,901 persons. That is rather more than three times what is proposed here.

The Right Hon. G.H. REID:

The Hon. Sir W.A. ZEAL:
Will any hon. member attempt to argue that it is necessary for the efficient governing of the federation that we should have an enormous number of members? They will only be in each other's way. When we bear in mind that for five or six years there will be very little for this federal parliament to do, we should start on as economical and as efficient a basis as we possibly can. Will it be economical and efficient to start with one member to 30,000 people? That has been the proposal, and it is only because its ridiculous character has been demonstrated that hon. members have gone back to one for 50,000.

The Right Hon. Sir G. TURNER:
I proposed that in my first speech in Adelaide!

The Hon. Sir W.A. ZEAL:
I have every confidence in the hon. member. I am sure he is willing to do what is fair and reasonable; but it is monstrous for hon. members to advocate this large assembly. Do not hon. members know well what our experience has been in Australia, namely, that these large houses do not work well? What has been the case in Victoria? At the last election there was a direct mandate to the Government to reduce the number of members in the Assembly, but the Government were afraid to take up the challenge. I am speaking advisedly.

The Right Hon. Sir G. TURNER:
I brought in a bill to reduce the number in both houses!

The Hon. Sir W.A. ZEAL:
But the hon. member knew very well that he was bringing in a bill which
also affected a house which had the entire confidence of the people.

The Right Hon. Sir G. TURNER:
No!

The Hon. Sir W.A. ZEAL:
I say that advisedly. The right hon. gentleman knows quite well that he and his friends in the Assembly are continually trying to find fault with the Council in order to keep in power.

The CHAIRMAN:
Does the hon. member think that that has anything to do with this clause?

The Hon. Sir W.A. ZEAL:
Not much, sir; but I hope you will forgive me for trespassing, seeing that this question was brought up by the interjection of the Premier.

The CHAIRMAN:
The hon. member should take no notice of the Premier's interjection.

The Hon. Sir W.A. ZEAL:
I think it is our duty to start this federal parliament on an economical and businesslike basis. Do hon. members believe there is any virtue in numbers? Do they believe that if we have a house of 120 members, those members will carry on the business of the federation any better than a house of sixty or seventy members? The reverse is the fact. A small body, of men, at all events for the next ten years, will be all that Australia will require. I would be prepared to accept the proposal of my right hon. friend, Sir George Turner, to have one member for every 50,000 persons.

The Right Hon. G.H. REID:
You would increase the number of representatives without rhyme or reason if there was a larger number of states!

The Hon. Sir W.A. ZEAL:
We do not want any large number. I am quite sure that one member for every 50,000 persons will be a very adequate number, and I am prepared to support, that principle. I think it would be a good solution of the difficulty.

The Hon. Sir J.W. DOWNER (South Australia):
I think that, after the last speech, we had better keep the clause as it is. My hon. friend, Sir William Zeal, need not be a bit anxious about the immediate effect on the economy of the federation. He has pointed out the pernicious effect of having too large a lower house. The difficulty, once it is established, is to reduce the number.

An Hon. MEMBER:
You cannot do it!
The Hon. Sir J.W. DOWNER:
   It is impossible to do it.

An HON MEMBERS:-

The Hon. Sir J.W. DOWNER:
   I thought the hon. member, Sir William Zeal, opposed the clause as it stands.

The Right Hon. G.H. REID:
   Yes!

The Hon. Sir J.W. DOWNER:
   I thought so; and I am using an argument he applied from the stores of his experience, which I value that we ought to prevent any inducement to the people to return too many members to the lower house. There is not a colony in Australasia which is not suffering from an excessive number of members in its house of assembly. There is not a single house that would not like to reduce its number if it had a chance; and there is not a single house that is able to do it; and, with these awful warmness before us, if we can, by some perfectly harmless and innocent provision because that is what my right hon. friend, Mr. Reid, says it is prevent that which is a public scandal and public nuisance, which we will have to accept, if once established, to all eternity, then it should be, not merely our duty, but our pride to do it.

The Right Hon. G.H. REID:
   There is no land tax in this!

The Hon. Sir J.W. DOWNER:
   I follow my hon. friend. I agree with his arguments, but I absolutely dissent from his conclusions. I arrive at the same result as he does, that it would be well that we should provide checks against having too many members in the house of representatives; but, apart from the persuasion which my hon. friend has unconsciously exercised upon me, I listened, if he will allow me to say so with all respect, with some amusement to the speech of my right hon. friend, Mr. Reid. He was a member of the Constitutional Committee which devised this scheme. He, except during the times when he was called away to discuss finance.

The Right Hon. G.H. REID:
   I was on the Finance Committee when you were doing this!

The Hon. Sir J.W. DOWNER:
   The right hon. gentleman was often with us. We had the advantage of his constant attention in the House when the matter was being discussed.

The Right Hon. G.H. REID:
   Not this!
The Hon. Sir J.W. DOWNER:

We never thought of the Norwegian scheme from the beginning to the end, and it was never mentioned as a reason for our conclusions.

The Right Hon. G.H. REID:

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The Hon. Sir J.W. DOWNER:

It was never proposed and seconded nor suggested that the keeping up the numerical relations of the two houses was for the purpose of bringing about the Norwegian scheme.

The Hon. I.A. ISAACS:

It was distributed!

The Right Hon. G.H. REID:

It was distributed, and I spent a week over it!

The Hon. Sir J.W. DOWNER:

If my right hon. friend had been listening to the constant debates at which he was always present in the House, I am quite sure he would have arrived at a conclusion different from that which his private studies seem to have conducted. This was arrived at after much consideration by the Constitutional Committee, was discussed at length in the Convention, had the hearty approval of the right hon. member, and it is only now that he has heard the reasons for the acceptance of the proposal, reiterated with great force and effect, that he says he has arrived at a different conclusion. Will he allow me to say this? I entirely disagree with him in saying there is no force in numbers. Most of us who have been in a position of authority agree that it would be very convenient that one man should rule, and if we could get everyone else to come to the same conclusion, the business of government would be much simplified, and the advantage to the public would be enormous. But the mischief is that we cannot get them to do that. To carry my right hon. friend's argument to its legitimate conclusion, what do we want six representing the senate in each colony? One will do. We should have the advantage of perfect unanimity in that gentleman, unless he was one who could not make up his mind. What do we want to increase the number for? If we have two, it might create division of opinion, and just in proportion as we make the number more, we increase the differences which will arise. If we keep up the number if by the legitimate evolution of events we keep it up progressively we might have a number which might fritter away largely the immense authority of the senate.

The Right Hon. G.H. REID:

Have the numbers any necessary connection?

The Hon. Sir J.W. DOWNER:

I think they have a good deal. Supposing we have a house of 30 members
resisting, and trying, as it would be said, to dominate a house of 200 or 600 members, we should have a vehement outcry sounding throughout the land; we should have constant attacks both in newspapers and in every shape or form in which attacks could be made. I say that a solid phalanx does have an effect; that mere manhood, sympathy, influence, and force have an effect; and it is useless to talk in the way in which the right hon. member talked I hope with not much earnestness that numbers are of no consequence, and that the whole point is authority. I admit we must have the power, or the numbers will be useless; but given the numbers, and you get your power to exercise the authority-strong in one way though it may be weakened in another. We truly enough produce the differences of opinion that will come from the association together of a number instead of a few; but in those very differences we produce strength and confidence; and although there may be a certain amount of weakness in action, there is weakness in the corporate body through the confidence which exists in the whole largely through numbers. I think this is a sound and good provision. We all agree that it should exist at the start. It is trained on a basis which the right hon. gentleman wants to agree to. Why should not it exist in the future? Do we fear some sudden change in the condition of the colonies? Do we not think they are all going to advance I do not say with equal steps, but with something like an even degree of progress; and is it necessary that we should make these limitations or have these fears which hon. gentlemen entertain?

The Right Hon. G.H. Reid:

Supposing a large colony now is subdivided into three, and the senate, instead of being six becomes eighteen does the hon. member see any necessity from his point of view, of adding thirty-six members to the lower house, the population being exactly the same as it was before? Would not that be an evil from the hon. member's point of view?

The Hon. Sir J.W. Downer:

That could not happen, in the first instance. That is the answer to that remark. There is to be some quota of the numbers returned to the other house, and all that is provided is that the number shall be two to one. It is only an increase in population, and not a subdivision of states, that will produce any substantial increase in the number of members.

The Right Hon. G.H. Reid:

But you make it absolutely compulsory that if you have an increase of twelve senators, you must have an increase of twenty-four members in the house of representatives.
The Hon. Sir J.W. DOWNER:
Why not?
The Right Hon. G.H. REID:
Because there is the same population!
The Hon. Sir J.W. DOWNER:
I want to know what is the objection, except on the score of expense? You have one house representing the people generally, and a second house representing the states, 
An HON MEMBER: What is the use of the increase?
The Right Hon. G.H. REID:
You would have to rearrange every constituency in the commonwealth!
The Hon. Sir J.W. DOWNER:
I am constantly asked what is the use of doing this. It is done with the object of preserving the importance of one house, of preserving its even ratio with the other. That is the object. If my right Hon. friend still contends, and is right in contending, that numbers are of no consequence, and that six men will do as well as sixty men, well and good; I retire from the position. But I entirely disagree with him in thinking that numbers are of no consequence, and I hope the Convention will adhere to that to which it agreed before.

The Hon. Sir JOSEPH ABBOTT (New South Wales)[9.18]:
I shall vote for the amendment, and for two reasons. In the first place, I have always thought that, in the Australian colonies, there has been over representation in proportion to the population. My next reason is that the experience of New South Wales has shown us that any attempt to increase the representation of the constituencies automatically is an absolute failure. We tried the plan here, and we found constituencies obtaining an increase at every period at which a census was taken, until finally the number of members so increased that we had to abolish the system. Now, if the power is given to the commonwealth to deal with this matter, I do not see that there is any necessity for any other power at all. So far as over-representation is concerned, I would ask hon. members to compare the colony of New South Wales with Great Britain. If Great Britain had the same representation in the House of Commons in proportion to its population as New South Wales has in its Legislative Assembly, it would have over 6,000 members. Now, I do not want to see this over representation in the Australian colonies, and, therefore, I would like to know the number of votes for each representative returned. Why should we not fix it in the constitution act, and not leave it to any precarious system which may be adopted hereafter?
Question-That the words "as nearly as practicable there shall be two members of the house of representatives for every one member of the senate" proposed to be omitted stand part of the paragraph put. The Committee divided:

Ayes, 26; noes, 17; majority, 9.
AYES.
Briggs, H. Henry J.
Brown, N.J. Holder, F.W.
Clarke, M.J. Howe, J.H.
Cockburn, Dr. J.A. James, W.H.
Crowder, F.T. Lee-Steere, Sir J.G.
Dobson, H. Lewis, N.E.
Douglas, A. Moore, W.
Downer, Sir J.W. O'Connor, R.E.
Forrest, Sir J. Solomon V.L.
Fysh, Sir P.O. Symon, J.H.
Glynn, P.M. Walker, J.T.
Grant, C.H.
Hassell, A.Y. Teller,
Henning, A.H. Barton, E.
NOES.
Abbott, Sir Joseph McMillan, W.
Berry, Sir G. Peacock, A.J.
Brunker, J.N. Quick, Dr. J.
Carruthers, J.H. Reid, G.H.
Fraser, S. Turner, Sir G.
Hackett, J.W. Venn, H.W.
Higgins, H. B. Zeal, Sir W.A.
Kingston, C.C. Teller,
Leake, G. Isaacs, I.A.
Question so resolved in the affirmative.

Question-That the paragraph stand part of the clause resolved in the affirmative.

Paragraph 2. 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 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.

The Hon. E. BARTON (New South Wales)[9.22]:

I desire to make an amendment in this paragraph. In the third line, the words "for each quota" have crept in. I think that those words were not intended to be there.

The Right Hon. Sir G. TURNER:

Is not that a matter for the Drafting Committee to consider?

The Hon. E. BARTON:

This is merely a verbal amendment, and we might just as well make it ourselves.

The Right Hon. Sir G. TURNER:

I could not make head or tail of the paragraph!

The Hon. E. BARTON:

The words number of members for each quota" are absurd, for under any circumstances there can only be one member for each quota. It has been discovered since we met at Adelaide that these words are a clerical or typographical error, and we might as well strike them out.

The Right Hon. Sir G. TURNER:

So long as the hon. member is satisfied as to that!

The Hon. E. BARTON:

I am quite satisfied as to it. I move:

That the words "for each quota," line 3, be omitted,

Amendment agreed to; paragraph, as amended, agreed to.

Parliament 3 agreed to.

Clause, as amended, agreed to.

Clause 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.

Amendment suggested by the Legislative Council and Assembly of New South Wales:

That the clause be omitted.

The Hon. E. BARTON (New South Wales)[9.23]:

It is nearly half past 9. We are not likely to sit more than another hour, and the discussion as to the money powers which come next will undoubtedly take some time. Therefore, it may be convenient to hon. members if we deal with some minor clauses machinery clauses that follow so as not to go into so important a subject as the money powers
until to-morrow morning. If that is most convenient to hon. members, I propose to go on with clauses which, I take it, will not provoke much discussion.

The Hon. J.H. CARRUTHERS (New South Wales)[9.24]:

It is proposed by the New South Wales legislature to strike out this clause, not because there was any objection to the principle involved in the clause, but because it was thought that there was some ambiguity in expression. It took me some time to realise the ambiguity, but I think there is an ambiguity, and I should like to point it out, so that the Drafting Committee may recast the clause, and put it in such a shape as to do away with any doubt. It is proposed that in ascertaining the number of 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 people of the states the number of people of any race not entitled to vote for the more numerous house of the parliament of the state. What was intended was to exclude from the computation aboriginals, or others whom might be expressly disqualified by parliamentary enactment, but as the words are here, the number of people of any race not entitled to vote may be interpreted to include females and children, as they are not, entitled to vote. They are people of the race, and it is not a question of their race. It is difficult, I admit, in using these words to say that what you mean to exclude is the race, and not the mere individuals of the race. I hope that the Drafting Committee, when they meet to deliberate on the provisions of the bill, may see fit to alter this provision, so as to remove any ambiguity.

The Hon. E. BARTON (New South Wales)[9.26]:

This was included in the bill of 1891 in this way:

When in any state the people of any race are not entitled by law to vote at elections for the more numerous house of the parliament of the state, the representation of that state in the house of representatives shall be reduced in the proportion which the number of people of that race in the state bears to the whole number of the people of the state.

That was conceived to be a rather cumbersome way of stating the matter, and the clause in this bill is rather a shorter and clearer way. I do not think it can be seriously contended that any court would uphold the contention that the use of the words "people of any race not entitled to vote" applied to women or children. A race not entitled to vote is such an alien race as may exist in the community to whom the state in which they live has not conceded the privilege of voting. There may be some objection to the drafting of the clause, but I do not quite see it myself. I think the matter is clear enough, but in
accordance with the arrangement we made the other day I would suggest to my hon. friend that we should pass the clause. I have made a note of the suggestion, and will bear it in mind.

Clause agreed to.

Clause 26. (Mode of calculating number of members.)

The CHAIRMAN:

There are two amendments suggested in this clause, but as they refer to matters already decided as to quota I shall not put them.

Clause agreed to.

Clauses 27 (Representatives in first parliament), and 28 (Increase of number of house of representatives), agreed to.

Clause 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.

Amendment suggested by the House of Assembly of Tasmania:
Omit the words, line 1, "Until the parliament otherwise provides."
Amendment negatived.

Amendment suggested by the Legislative Council and Legislative Assembly of Victoria:
Omit the words, "until division each state shall be one electorate," lines 7 and 8.

The Hon. E. BARTON (New South Wales):

This is a provision which was inserted at the instance of Mr. Carruthers, and I think a very proper one, to meet the contingency of the parliament of a state not having provided as expected by the bill. In that case it would not be entitled to representation, unless this mode of representation were adopted, until it made some law on the subject.

The Right Hon. Sir JOHN FORREST:

Do I understand that the parliament of the commonwealth is to have power under this bill of arranging the electoral divisions in the state? Is it proposed that the federal parliament should override the state parliament in regard to the electoral divisions for the house of representatives?

The Hon. E. BARTON:

This provision was well discussed in Adelaide. The object of the insertion of the words, "Until the parliament otherwise provides" was to meet certain contingencies. The constitution does not in itself raise any objection to the laws on this subject being made by the various states. The subject is the making of electoral divisions and the prescribing of the
number of members to be chosen. That is properly left in the hands of the parliaments of the several states. But there may arise some difficulty of this sort: Every hon. member of the Convention will remember the history of the "gerrymander." This is a reserve power proposed to be given to the parliament of the federation, not to been exercised in any ordinary case but in case there should happen to be some such state of things as once occurred in the United States. It is a reserve power left, to the parliament of the federation to see that the House, which is the most important of the federal legislature should not have its efficiency impaired or its representation made, I would not say, corrupt but ineffective or improper by any course that might be taken by a state.

The Hon. N.J. BROWN (Tasmania):

It seems to me that the words "until division each state shall be one electorate" should be struck out. Otherwise the clause will be contradictory. We have already provided that with regard to elections for the federal parliament each state parliament shall be empowered to make laws for the purpose of carrying out the first elections. Surely after having provided that it is somewhat contradictory to say that until the division is made by the federal parliament each state shall vote as one electorate.

The Hon. I.A. ISAACS:

But suppose no provision is made by the state parliament for the holding of the elections?

Mr. SYMON:

I presume that provision has already been made.

Mr. SYMON:

No.

Amendment negatived; clause 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 shall vote only once, and if any 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 common wealth from exercising such right at elections for the house of representatives.

Amendment suggested by the Legislature of Tasmania:
After "once," line 8, omit and if any elector votes more than once he shall be guilty of a misdemeanour."

Amendment negatived.

The Hon. E. BARTON (New South Wales)[9.37]:

With regard to the remainder of the clause I take it that it was intended that the provision for the preservation of rights should be made to apply equally to the houses of representatives, and to the senate, and that that will be borne in mind when the clause is finally dealt with.

The CHAIRMAN:

There are two other suggested amendments, one by the Assembly of New South Wales, and the other by the Assembly of Victoria.

An Hon. MEMBER:

The suggestion attributed to Victoria is a mistake.

Amendment suggested by the Legislative Assembly of New South Wales:

At end of clause add "Provided that the parliament may not enact that any elector shall have more than one vote."

The Hon. E. BARTON (New South Wales)[9.38]:

We have to decide whether this amendment is a necessary one. We have already placed in the clause words which say that in the choosing of members for the house of representatives each elector will vote only once, so that the federal parliament will be unable to provide that an electo

The Hon. J.H. CARRUTHERS (New South Wales)[9.39]:

I am rather in doubt as to whether the provision in the earlier part of the clause is thoroughly effective. What is intended is that at a general election each voter shall have one vote, and one vote only. But there is nothing in that provision which prevents a man being enrolled more than once. That is to say, he may be enrolled for one division here and for another division in another part of the colony. A by-election may take place, and then he may claim a vote in another division, wherein he has never exercised his vote before, and thus be only exercising one vote. What the Parliament of New South Wales intended to enact was that at any time should a law be passed which conferred on a man the right to be enrolled more than once as a voter, the former part of the clause should provide that no matter how many times a man might be enrolled as a voter he shall vote only once. But do not hon. members see that he may vote at a general election. only once, and a fortnight afterwards there might be a by-election in an electorate for which he is enrolled as a voter, in which he has not voted before. He could go there and claim a vote and be only voting once, although in the general
election and at the by-election he will be exercising two votes in respect of two different constituencies, in both of which he may have been enrolled as a voter. It was said that a man should be enrolled only once, and that he should not have the option of exercising a choice as to where he would vote; otherwise during the currency of a parliament he would be exercising two votes where another man only had the right to exercise one vote. That was a point which was emphasised in the local legislature. I submit there is something in the point. This is a safeguarding proposal. I do not say that it is expressed as well as it might have been, but I think if the Drafting Committee take notice of this point, and if we let it go now, it might be framed much better afterwards, so as to avoid tautology, with respect to a general election. My hon. friend, seeing the aspect of the case with regard to by-elections, will recognise that a man, voting in this manner at a by-election, although only voting once, would have a greater right conceded to him than was enjoyed by the bulk of the electors.

The Right Hon. Sir JOHN FORREST (Western Australia)

I have not considered this clause very closely; but if there are divisions in the state, and electoral rolls in each district, and electors on several of those rolls, is it proposed that such electors should not be allowed to vote except once in the whole state?

An Hon. MEMBER:

Yes!

The Right Hon. Sir JOHN FORREST:

That is not the system in force in many of the colonies at present, for instance Victoria, Western Australia, and Queensland. It has only recently been in force in New South Wales. Voters with the necessary qualification were able to vote wherever they happened to be on the roll. I cannot follow the hon. member, Mr. Carruthers. He seemed to urge that if a man exercised his vote, and if some months afterwards another election took place, he should not be allowed to exercise his vote, although he might be on the roll in another electorate. Must an elector always remain in one electorate? That would very much restrict the individual, because a voter, I suppose, can get transferred from one electorate to another under almost any system of voting. I would be very much obliged if the hon. member, Mr. Barton, would explain exactly the operation of this clause. It seems to me that the hon. member, Mr. Carruthers, wishes to tie us down to something worse than one man one vote.

The Hon. S. FRASER (Victoria)
Is it contended that a man cannot be placed on the rolls of two electorates in any case?

The Hon. J.H. CARRUTHERS:
Certainly he can!

The Hon. S. FRASER:
That is the intention of the act.

The Hon. J.H. CARRUTHERS:
No!

The Hon. S. FRASER:
I understand that to be so.

The Hon. J.H. CARRUTHERS:
There are many New South Welshmen resident in this colony who are on the ratepayers' roll in Victoria.

The Hon. S. FRASER:
I understand that the intention of the act is that a man cannot be on the rolls of two divisions at one time. I contend that we ought to adhere to the principle that a man can vote only once in any case.

Mr. SYMON (South Australia) [9.46]:
There is perhaps a little difficulty about this; but the clause, as it stands, I think will adequately meet the case. The point which my hon. friend, Mr. Carruthers, has in view is to prevent a man from voting in two different constituencies. That is, from voting in one constituency to-day, and if an election takes place in another constituency in a month's time-

The Hon. J.H. CARRUTHERS:
A by-election!

Mr. SYMON:
It is clear that he cannot vote in two constituencies at the same election!

The Right Hon. Sir JOHN FORREST:

Mr. SYMON:
It is perfectly clear I think, because it says "in the choosing of such members each elector shall vote only once," and no act passed by the federal parliament could possibly be made to conflict with that provision, or to give the power of voting more than once.

The Right Hon. Sir JOHN FORREST:
Only once in one district!

Mr. SYMON:
Only once at each election. The point which my hon. friend, Mr. Carruthers, calls attention to is, that a by-election may take place within a
short time, and then the same person who voted in another district at the
previous general election may vote at the by-election in another
constituency. But that is not a thing against which we ought to direct any of
the provisions of this constitution, because that can happen in our colony
now. Suppose, at a general election, a man votes in a district, if he changes
his residence, he has to transfer his vote from one district to the other. That,
I apprehend, is not something which can be sought to be provided against,
because it would be grossly unfair. I think perhaps the better way will be to
adopt the suggestion of my hon. friend, and leave it to the Drafting
Committee to reconsider the phraseology of this clause, with a view, if
possible, to prevent any loophole by which a man would be enabled to vote
twice at the same election.

Amendment negatived.

The Hon. E. BARTON (New South Wales)[9.48]:

I may mention that notwithstanding the vote which has taken place, the
whole of my hon. friend's suggestions will be considered by the Drafting
Committee.

Amendment suggested by the Legislative Assembly of Victoria:

At end of clause add "Provided also that the basis of such qualification
for the electors of the members of the house of representatives shall be on
the basis of one adult one vote."

The Hon. I.A. ISAACS (Victoria)[9.49]:

It is by a mistake that this suggested amendment appears in the schedule.
It was lost in the Legislative Assembly by 46 to 16 votes. It is not by a
mistake of the Clerk of the Convention that it appears in the schedule.

The CHAIRMAN:

I will take it on the authority of the Attorney-General of Victoria that this
is a clerical error.

Clause, as amended, agreed to.

Clause 31. Until the parliament otherwise provides, the qualifications of
a member of the house of representatives shall be as follows:-

1. 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:

2. 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.
The Hon. N.E. LEWIS (Tasmania): Before the amendment proposed by the legislature of Tasmania to subclause 1 is submitted I should like to submit to the Drafting Committee, a question of which I have given one of them private notice, and that is whether it is not possible under that sub-clause for a female elector of South Australia to be a candidate and to be elected for either the senate or the house of representatives? The clause provides that a member of the house of representatives must be of the full age of 21 years, and entitled to vote in some state at the election of members to 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.

The Hon. E. BARTON: Under the clause it will have to be "he."

The Hon. N.E. LEWIS: This will be an Imperial act, and it will be read in connection with the Imperial statute, which provides that where the context does not imply to the contrary, the "female" will be included,

The Hon. E. BARTON: The context does imply to the contrary!

The Hon. N.E. LEWIS: I doubt it very much. Females will be able to contest every electoral district either for the senate or house of representatives, not only in South Australia, but right through Australia a state of affairs which is really too awful to think of.

Question That the paragraph, "Until the parliament otherwise provides the qualifications of a member of the house of representatives shall be at follows:" stand part of the clause agreed to.

Sub-clause 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.

Amendment suggested by the Legislative Council and House of Assembly of Tasmania:

After "representatives," line 4, omit to the end of sub-clause (I); insert "and no person shall be capable of being chosen or of sitting or acting as a representative of any state except he be and has been for three years a
resident of that state for which he is chosen. The seat of any senator or representative shall be declared vacant on his ceasing to be a resident of that state, except during such time as he may be a member of the executive government."

The Hon. Sir P.O. FYSH (Tasmania): The Legislative Council of Tasmania has suggested, with respect to sub-clause 1, that we should adopt the practice of the United States and make the qualification of a member a residential qualification not a residential qualification so far as the commonwealth is concerned, but so far as each state is concerned. It is not deemed desirable, at any rate in Tasmania, that a non-resident should have a qualification. He may be qualified as an elector but by reason of his residence elsewhere he should not be qualified to be elected. The purpose, therefore, is to secure the practice, I believe, of most of the United States of America that he must be absolutely resident within a state as a representative of which he is elected, and I move accordingly.

The Hon. E. BARTON (New South Wales): The object of this amendment is to secure that the person, to be a member of the house of representatives, shall

Amendment negatived.

Sub-clause I agreed to.

Sub-clause II agreed to as follows:-

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.

Clause agreed to.

Mr. WISE (New South Wales): I desire to move an amendment in this clause which, I believe, was moved by Mr. A.I. Clark, of Tasmania.

The Hon. Sir P.O. FYSH (Tasmania): I should like to explain to the Drafting Committee that Mr. Clark proposed to remove this clause from its present position, and to place it in, apparently, its proper position in Part IV that is, amongst the provisions relating to both houses. If we strike out the clause now, we can ultimately include it on page 10 of the bill, in Part IV, following sub-clauses which relate to both houses alike. The legislature of Tasmania propose to insert the following clauses to follow clause 44:
44A. A member of the house of the parliament of a state shall be incapable of sitting in either house of the parliament of the commonwealth.

44B. A member of either house of the parliament of the commonwealth shall be incapable of being chosen or of sitting as a member of the other house of the parliament.

I think the phraseology conveys all that can be said in connection with the matter.

The Hon. E. BARTON:

It is only a question of drafting!

The Hon. Sir P.O. FYSH:

It is a question of drafting; and if the hon. and learned member will make a note of it, it will obviate the necessity for any discussion on the point.

The Right Hon. Sir JOHN FORREST:

The proposal to which the hon. member has referred goes further than the proposal in this bill!

The Hon. Sir P.O. FYSH:

It is a provision which we ought to apply to both houses, and I submit that our proper course is to strike out the clause now, and to, reconsider it when we come to Part IV.

The CHAIRMAN:

Do I understand that the hon. member, Mr Wise, desires to, move an amendment.

Mr. WISE (New South Wales)[9.59]:

I do not desire to move an amendment at this stage; but the question I wish to test is whether a member of the senate and the house of representatives should not have the power to contest an election for a seat in the house of which he is not a member without resigning his seat in the house to which he belongs.

The Right Hon. Sir JOHN FORREST:

He might be elected without knowing it!

Mr. WISE:

I do not wish to press the matter now. I have not the reports of the Tasmanian debates before me; but I was under the impression that an amendment to this effect had been moved by Mr. A.I. Clark. I think it is well worthy the attention of the Committee.

The Hon. E. BARTON (New South Wales)[10]:

It will lead to considerable complication if the electors of the whole commonwealth do not understand that when a person is a member of the senate he cannot be made a member of the house of representatives. To place the matter in this way in the constitution does not impair the
efficiency of the clause, and it is, at the same time, a clear indication to every elector as to what is intended.

The Hon. Sir P.O. FYSH:
Would it not be well to change the position of the clause?

The Hon. E. BARTON:
It is not a question of position!

The CHAIRMAN:
I understand that the hon. and learned member, Mr. Wise, does not intend to move his amendment.

Mr. WISE:
No!

The Hon. N.E. LEWIS (Tasmania)[10.1]:
If this clause is to stand part of the bill I think it should go further and provide that a member of the house of representatives shall not be capable of being chosen or sitting as a member of the senate.

Mr. WISE:
Do this later on!

The Hon. E. BARTON:
It is possible the position of the clause will have to be changed!

The Hon. N.E. LEWIS:
If you pass this clause you ought to have an alternative provision in regard to the senate.

The Right Hon. G.H. REID (New South Wales)[10.2]:
I think it would be well if this clause were postponed, because there is a strong opinion that, if this clause is retained in the bill, there should be a similar clause with reference to the members of the house of representatives.

The Hon. H. DOBSON:
They both come later!

The Right Hon. G.H. REID:
Yes.

The Hon. E. BARTON (New South Wales)[10.3]:
I have no objection to the postponement of the clause, which will give us an opportunity to consider the matter.

Clause postponed.

Clauses 33 (Election of speaker of the house of representatives), 34 (Absence of speaker provided for), and 35 (Resignation of place in house of representatives), agreed to.
Clause 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.

Amendment suggested by the Legislative Council and Assembly of Tasmania:

That after the word "for," line 2, the words two consecutive months of" be omitted with a view to insert in lieu thereof the words "thirty consecutive sitting days in."

The Hon. Sir P.O. FYSH (Tasmania)[10.3]:

It is undesirable that a member should be permitted to absent himself for so long a period as two months. He could always secure leave of absence, if necessary, and to give him power under the constitution to absent himself for so long a period as two months seems too much. The purpose of the suggested amendment, therefore, is to limit the period to thirty consecutive sitting days.

The Right Hon. Sir G. TURNER:

Is that better than two months?

An Hon. MEMBER:

It might be a longer period than two months!

The Right Hon. Sir G. TURNER:

We should not sit more than about two days a week!

The Hon. N.E. LEWIS (Tasmania)[10.4]:

The reason for putting in the words "thirty consecutive sitting days " was to meet the contingency of a long adjournment. At the present time our House is only adjourned for something like six weeks, and if any member of our Legislative Council had not been present the last week when there was very little business to do, and if he were not present the week after we go back, when probably also there will be very little business for the Council to do, he would be away two consecutive months when, however, there was practically nothing requiring his attendance.

The Hon. I.A. ISAACS:

How could he attend if the house was not sitting?

The Hon. N.E. LEWIS:

The House might be sitting; and would you for merely formal business drag a member to the federal capital perhaps all the way from Perth or Cape York? There may be an adjournment of one of the houses.

The Right Hon. G.H. REID:

That does not count!

The Hon. N.E. LEWIS:

There may be no house, or the house may be just formed to receive
messages and adjourn for a long period.

The Right Hon. G.H. Reid:

It would not matter in that case!

The Hon. N.E. Lewis:

The mere fact that the house met would cause the time to run. It is thought that thirty consecutive sitting days would be a better arrangement than two consecutive months. The thirty consecutive sitting days is something understood, and no doubt the attendance or non-attendance of an hon. member would be placed on the records of the house. It would then be apparent whether he had infringed the provisions of the Constitution or not.

The Hon. E. Barton (New South Wales)[10.7]:

I think it is really splitting straws to discuss the proposal to alter this provision. The House will sit three or four days a week, and thirty consecutive sittings will be about ten weeks. If the House sits four days a week, thirty consecutive sitting days will be seven and a half weeks. I do not think we want to put it in that way. If there is any doubt, as my hon. friend says, the Journals of the House will determine the matter; but the almanac will determine it, and I think that is enough.

The Hon. J.H. Carruthers (New South Wales)[10.8]:

I venture to suggest that the period provided by the bill, as it stands, and also in the proposed amendment, is too short. We must not forget that we shall have representatives from the whole of this vast continent. A man may be suddenly called home by sickness in his family.

An Hon. Member: He can get leave!

The Hon. J.H. Carruthers:

There have been cases where men have been suddenly called away by sickness, and have not made provision of this character, and before they have time to do anything in the ordinary course of things, they may find their seats taken. We shall have men from the northern portion of Western Australia. Accidents might occur, and having regard to the fact that there would be representatives of the whole continent, we ought to allow a reasonable time. In the parliaments of all the colonies absence for a session is allowed. I venture to suggest that we do not insert the words proposed by the Tasmanian legislature, but that we insert the words "the whole of," to give the right to a member to absent himself for a whole session, provided he gets the sanction of parliament.

Amendment negatived; clause agreed to.

Clauses 37 (Issue of new writs) and 38 (Quorum of house of representatives) agreed to.
Clause 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

The CHAIRMAN:
There is an amendment suggested in this clause. After the word "shall," in the third line of the clause, it is proposed by the Parliament of Victoria to insert the words "except as hereinafter provided," and to add at the end of the clause the words-

Provided that in case of a proposed amendment of the constitution the speaker may vote notwithstanding the votes are not equal and in such case he shall not have a casting-vote.

The Hon. I.A. ISAACS (Victoria)[10.10]:
The object for which this amendment was introduced was that while preserving, under ordinary circumstances, the very salutary rule that Mr. Speaker should observe an impartial attitude in the house of representatives, yet, when such an extraordinary occasion arose as a proposed amendment of the constitution, his state should not be deprived, in case of necessity, of his vote, but that he should not have a casting vote. It is not only possible, but it has actually occurred in the Victorian Assembly, that a proposed amendment of the Constitution that was considered by one chamber, at all events, to require an absolute majority did not have that absolute majority by one vote. If Mr. Speaker had been allowed to vote in that case, the vote would have been given. It seems a hard case that the state for which Mr. Speaker is returned should be deprived of his vote when the clause of the Constitution provides that an amendment of the Constitution cannot be carried unless it has an absolute majority of the senate and an absolute majority of the house of representatives. A proposal might be prevented from actually going to the people at all under the referendum provided by the bill by reason of the Speaker being in the chair. I think it will be conceded by the Convention that in such a case as that it is not unreasonable to ask that the Speaker should have an original vote, but not a casting vote. That would preserve the usual rule that he is not to intermingle in the debates and vote in the House, while laying down the principle that, in the case of a proposed amendment of the constitution, an exception should be made. I, therefore, hope that the Convention will agree to the amendment

The Right Hon. G.H. REID:
Suppose that, having an original vote as well as a casting vote, the Speaker's vote makes the numbers equal?
The Hon. I.A. ISAACS:

There would not then be an absolute majority!

The Hon. E. BARTON (New South Wales)[10.13]:

Not feeling very strongly about this matter, I think the difference between the case of the house of representatives and the case of the senate is this: that a similar provision to that which my hon. and learned friend wishes to introduce has been made in the case of the senate.

The Hon. I.A. ISAACS:

No!

The Hon. E. BARTON:

Well, Somewhat similar. The President is to have an original vote and no casting vote.

The Hon. I.A. ISAACS:

No; the President has a vote in all cases.

The Hon. E. BARTON:

My hon. friend is right.

The Hon. I.A. ISAACS:

I propose that an exception should be made in the case of a proposed amendment of the constitution.

The Hon. E. BARTON:

The argument for this which my hon. and learned friend puts is that the state is not to be disfranchised. I do not know that it really means that the state is disfranchised. The speaker represents an electorate in the national assembly in the same way as the Speaker in this Legislative Assembly represents an electorate in the representative and popular chamber. If there is a question of the amendment of the Constitution here, or in the lower house of any one of the parliaments of the colonies, the speaker is not entitled to any other vote than a casting vote. As this is not a states house, but what might be called, if it would not offend the susceptibilities of some people, a national house, it is rather difficult to suggest a reason for a differentiation between the position of a speaker in a chamber such as the house of representatives will be, and the position of a speaker in the Legislative Assembly of any separate colony.

The Hon. I.A. ISAACS:

Both ought to have votes!

The Hon. E. BARTON:

I do not see the reason for it myself. I do not feel strongly about it and I should be happy to be convinced. But, at the present time, I do not see any reason why there should be any difference between the position of a speaker in the house of representatives in the proposed federation and the position of a speaker in such a house as the House of Assembly in Victoria.
The Right Hon. Sir G. TURNER:
Our experience in Victoria has shown the necessity for such a provision as that proposed!

The Hon. E. BARTON:
If this depends upon an exception arising out of the practice in a colonial legislature, then it cannot be the correct reason for it to say that a state would be disfranchised in the federation; because if it rests on the former reason it cannot rest on the latter.

The Hon. I.A. ISAACS (Victoria)
May I add one word? In the case of an ordinary house of legislature, if the speaker had the right to vote, it might bring a law into operation at once; but in this case the vote of the speaker will only allow a matter to go to the people for decision. The absolute majority of both houses is required, in the first instance, in order that a proposed amendment of the constitution may be submitted to the people, and therefore it seems hard that the fact that the speaker is not allowed to vote should prevent the project from being put before the people.

The Hon. E. BARTON:
Would the hon. and learned member provide that where the votes are equal, the question should pass in the negative?

The Hon. I.A. ISAACS:
If the votes were equal there would not be an absolute majority.
Amendment negatived.

The CHAIRMAN:
I will not put the other amendment.
Clause agreed to.
Clause 40. Every house of representatives shall continue for three 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 writs for a general election.
Amendment suggested by the Legislative Assembly of Western Australia:
Line 2, omit "three," insert "four."

The Right Hon. Sir JOHN FORREST (Western Australia)
This amendment was suggested by the Legislative Assembly of Western Australia, because it would make the provision of the clause accord with that contained in our own constitution, the members of the Western
Australian Legislative Assembly holding their seats for four years. It was also thought that three years would be too short a time, considering the long distance which members will have to travel from their homes to get to the place of meeting. I think there is a general feeling throughout Australia that the triennial System in rather short. Considering that members of the senate will hold their seats for six years, it does not seem unreasonable that members of the house of representatives should hold their seats for four years.

Amendment negatived; clause agreed to.

Clause 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.

Amendment suggested by the Legislature of Tasmania:

Line 5. After "The" where first occurring, line 7, insert "first writs shall be issued within six months from the date of the establishment of the commonwealth, and all subsequent."

The Hon. E. BARTON (New South Wales)[10.19]:

It is a question for the Committee whether the amendment is necessary. The second paragraph of clause 6 provides that

the parliament shall be called together not later than six months after the establishment of the commonwealth.

Therefore it is already provided that parliament shall be called together not less than six months after the establishment of the commonwealth, and as it is obvious that parliament cannot be called together without the issue of writs the amendment seems unnecessary.

The Right Hon. G.H. REID:

Does not the hon. member propose to omit the black-letter word in the second paragraph?

The Hon. E. BARTON:

No. It is proposed by a very able gentleman in Tasmania, Mr. Inglis Clark, to make sure as to the procedure in the case of the first election. But I think it is sufficiently provided for.

Amendment negatived; clause agreed to.

Clause 42 (Continuance of existing election laws until the parliament otherwise provides) agreed to.

Clause 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.

Amendment suggested by the Legislature of Tasmania:

After "representatives," line 4, insert "or any question of a disputed election relating to that house."

The Hon. Sir P.O. FYSH (Tasmania)[10.22]:

This is a question of qualification and vacancies. How are they to be dealt with? How are we to deal with disputed elections until parliament otherwise provides, so that you shall not have two powers dealing with these matters? If we have words in the clause which will deal not only with qualifications and vacancies, and also as to disputed elections, we will cover the whole ground.

The Hon. N.E. LEWIS (Tasmania)[10.23]:

Clause 50, referred to by the hon. member, does not make any provision for disputed elections. In the first election to the senate and the house of representatives, it says "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." Until the parliament is assembled, and the federal court is also established, and the procedure is laid down, there will be no court to deal with disputed elections which may arise in the first elections that take place.

The Hon. R.E. O'CONNOR:

After parliament is constituted it will have power to deal with such cases!

The Hon. N.E. LEWIS:

It will have power, probably, under the authority contained in this 43rd section by the first words, "until the parliament otherwise provides." But until the parliament does otherwise provide, all questions of disputed elections, relating to either house, must be determined by some authority or power; and the Parliament of Tasmania considered it desirable that it should be determined by the house to which the election related, and that, after the federal high court was established, the court should deal with disputed elections. I think that in all the colonies except New South Wales disputed elections are tried by the Supreme Court.

The Hon. J.H. CARRUTHERS:

The Hon. N.E. LEWIS:

I think the federal parliament will undoubtedly enact, as soon as possible, that disputed elections relating to either house of that parliament shall be decided by the federal supreme court.

The Hon. Sir W.A. ZEAL (Victoria)[10.26]
was understood to say that he thought it was not necessary to make any addition to the clause, because each house would nominate a committee of elections and qualifications, which would decide a question of disputed election which could only be raised by petition.

The Hon. N.J. BROWN (Tasmania)[10.27]:

I hope the proposed amendment will not be rejected without consideration. Suppose some irregularity occurs in connection with the first elections to the house of representatives. It must be quite obvious to every hon. member that it is desirable to have some tribunal to settle that disputed election, so that when the parliament is called together every representative can be in his place. A period, of course, is allowed for the elections to take place before parliament is called together, and the object of this amendment is to provide that, in the case of an irregularity occurring, there may be an opportunity to cure that irregularity, and to provide for another election before the parliament meets. Of course, after the parliament meets, the federal court will be established, and then clause 50 will come into operation. A certain interval must elapse before the federal court is established to deal with a disputed election, and the only object of this provision is that the House itself shall deal with the matter until the federal court is established.

The Hon. E. BARTON (New South Wales)[10.29]:

I am inclined to be converted by what has been urged.

Mr. WISE:

Allow me to say one word first!

The Hon. E. BARTON:

I speak quite subject to conviction. In clause 50 we have provided that any case of disputed election shall be determined by the high court, or a court exercising federal jurisdiction, and, in this clause, we have provided that questions of qualification and vacancies shall be decided by either house itself. That I take to be, on the face of it, a very proper provision; but there is this difficulty: If we turn to clause 71, that provides how the judicial power of the commonwealth shall be vested, we see this provision:

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.

Until an act is passed by the parliament, constituting the other judges than the chief justice, there can be no judge of the federal high court, except the chief justice. That will create a difficulty, because it may be considered that there is no sufficient tribunal to deal with this matter at the time of the meeting of the first parliament, and at that time a question of
disputed election may arise, so that there would be a hiatus unless we made some provision in this clause to meet such a case. Inasmuch as it is open to Parliament itself to provide how these matters are to be tried after the meeting of the first parliament, perhaps it will be better to adopt this amendment, or something like it; and we might in clause 50 make a further amendment that, on the constitution of the high court by act of the federal legislature, then questions touching disputed elections shall be tried by the federal court.

Mr. WISE (New South Wales): I understand the hon. member will keep in view the clear distinction between clauses 43 and 50. The amendment now proposed does not keep that in view, but will interfere with further amendments in clause 50.

Mr. WISE: I understand that the reason clause 50 was introduced was because it was thought that where the rights of the electors were in any way infringed, or came into question, the matter was one-for the courts. Where it was, merely a question of internal discipline if I may use the expression of Parliament itself to determine the qualification of a member who had done anything which, under the standing orders, or under the constitution, required his seat to be declared vacant, that was a matter for the house itself. Where the rights and privileges of members were affected, it was a matter for the house; but where any conflict arose as to the claims of any member to represent a particular constituency, the matter was one for the court. The amendments moved by Tasmania confuse altogether the distinctions which were endeavoured to be drawn by the framers of the bill.

Mr. JAMES: We propose to strike out clause 50 altogether!

The Hon. R.E. O'CONNOR: The hon. member might amend the amendment by making it apply only to questions of disputed elections in connection with the first general election!

Mr. WISE: That would do. Perhaps it would be better to leave the Drafting Committee to consider it.

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The Hon. I.A. ISAACS: Might I suggest that the consideration of the clause be postponed until we come to clause 50?
Hon. MEMBERS:
Adjourn!
Question That the consideration of clause 43 be postponed agreed to.
The Hon. E. BARTON (New South Wales)[10.33]:
I have to thank hon. members for the assiduity exhibited during the first
night sitting, and I now move:
That the Chairman leave the chair, report progress, and ask leave to sit
again tomorrow.
The Right Hon. Sir G. TURNER (Victoria)[10.33]:
There is one matter which I desire to mention before the adjournment
takes place, and it has reference to clause 24 with which we have dealt
tonight. We, as representatives of Victoria, feel the seriousness of the vote
that was taken to-night, and the grave difficulties which it undoubtedly
places in our way. As the Committee had not the full number of members
present when the vote was taken, I desire to mention that later on I will ask
the leader of the Convention to be good enough to recommit that clause, in
order that it maybe further considered, and a vote taken in a full
Committee. The clause is the one which has reference to the quota. In our
opinion the vote is a very serious one, and one of grave importance; and I
shall ask the leader of the Convention to recommit it in order that we may,
if possible, produce arguments which may induce some members who
voted one way to reverse their decision. That will also give an opportunity
to those who were absent to be present. The matter is one which certainly
ought to be voted upon in a full Convention.
The Hon. E. BARTON:
(New South Wales)[10.34]: I only desire to mention that the voting on
the clause was 26 to 17. In other words, forty-three members out of fifty
voted, and as you, Sir Richard Baker, were in the chair, there were only six
absentees. I do not know whether or not there were any pairs.
The Right Hon. Sir G. TURNER:
There was one pair!
The Hon. E. BARTON:
Then we had the vote practically of the whole Convention with the
exception of four members.

An Hon. MEMBER:
Mr. Deakin is away!
The Hon. E. BARTON:
I know that. At the same time, I would say, with regard to any clause
which appears to involve, in the opinion of hon. members, a matter of vital
importance with regard to the acceptability of this bill in its final stage, I shall be prepared to give the greatest consideration to any application of this kind. I do not like to pledge myself now, because so much depends upon time and circumstances. At the same time, I think my right hon. friend can rely upon my giving every consideration to any such suggestion. I should like to say, with regard to tomorrow's proceedings—if I may say so now—that while we have taken some minor clauses since the division in reference to the house of representatives, I propose tomorrow to revert to the arrangement we made, and to take next the money powers of the two houses, in order that hon. members may proceed to consider any provision they wish to make in regard to deadlocks.

The Hon. I.A. ISAACS (Victoria)[10.37]:

With regard to the matter mentioned by my right hon. friend, the Premier of Victoria that is, the possibility of recommittal of clause 24 I hope the recommittal will be taken before we leaves otherwise the matter presents to my mind a very serious aspect. If the question is decided at a very late date, it will probably be in the absence of several members of the Victorian delegation. I do not wish to say anything further than that I desire to impress the Convention with the seriousness of the question, if the matter be not dealt with before we go to Melbourne.

The Hon. E. BARTON (New South Wales)[10.38]:

I understand that we can-

not enter upon a recommittal until we have dealt with the whole of the clauses; but, from the progress which is being made, and having regard to the statement of the Right Hon. Sir George Turner, that he and his colleagues could not stay beyond three weeks, I take it that by Friday week a, fall opportunity for recommittal will have been afforded.

The Right Hon. Sir G. TURNER:

I shall be away before then, although some of my colleagues will probably be here!

The Hon. E. BARTON:

All I can say is that I trust not; and I hope the right hon. gentleman will not state anything final in reference to the matter just now.

The Right Hon. Sir G. TURNER:

I must go!

The Hon. E. BARTON:

I understood the statements of the right, Hon. gentleman when we first opened our session to be that the Victorian delegation could not remain here any longer than three weeks. I took that statement to imply that they certainly would stay for that three weeks. I assumed that there would be a
disposition en the part of the whole of the Victorian delegation to stay during that time. And assuming that the Convention sits during a period of three weeks I do not see that we can fail to have an opportunity of recommitting any clauses which it may be desired to be recommitted.

The Hon. F.W. HOLDER (South Australia)[10.39]:

With reference to the question which is being discussed, I desire to say that although I voted on the opposite side to my right hon. friend, Sir George Turner, and to the hon. member, Mr. Isaacs, I shall nevertheless be prepared to afford every opportunity for a reconsideration of the clause by suspension of the standing orders, if necessary. I hope that the whole of our business will be done without any appearance of an attempt to catch votes.

Motion agreed to; progress reported.
Convention adjourned at 10.40 p.m.
Tuesday 14 September, 1897

Commonwealth of Australia Bill.

The PRESIDENT took the chair at 10.30 a.m.
COMMONWEALTH OF AUSTRALIA BILL.

In Committee:
CHAPTER 1-THE PARLIAMENT.
Part IV-Provisions relating to both houses.
Clause 44 (Allowance to members).
The Hon. E. BARTON (New South Wales)[10.32]:
In accordance with the understanding arrived at yesterday, that we should take the constitution of the two houses, then the money powers, and, then the question of deadlocks, I presume that it will be acceptable to hon. members if I move to postpone clauses 44 to 53 inclusive. I, therefore, move:
That clauses 44 to 53 inclusive be postponed.
Question resolved in the affirmative.

Clause 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.

The CHAIRMAN:
In this clause the Legislative Council and Legislative Assembly of New South Wales propose to omit the words "having for their main object" with a view to insert "for." The Legislative Assembly of Victoria propose to omit the words "having for their main object the appropriation of" with a view to insert the word "appropriating," and the Legislative Assembly of Tasmania propose to omit the word "main." I think that I will put the question that the words, "having for their main object" be omitted, and then those who only wish to strike out the word "main" can amend that suggestion by leaving out the other words, so that these hon. members from Tasmania who wish to give effect to the suggestion of their legislative assembly can do so by amending the proposed amendment.

The Hon. E. BARTON:

The CHAIRMAN:
In order to enable the amendments suggested by Victoria, New South Wales, and Tasmania, each to be put and voted upon, I now put the question:

That the words, "leaving for their main object, "proposed to be struck out, stand part of the question.

The Hon. E. BARTON (New South Wales)[10.36]:

There has been a good deal of trouble about the definition of the words "having for their main object," and I think we all feel this: even those of us who are against any undue limitation of the power of origination in the senate of some matters which impose charges on the people probably think that there is a great deal of indefiniteness about these words. I remember the difficulty which the original mover of the suggested amendment felt about that, and we all feel it. An attempt has been made to get rid of that difficulty by the Legislative Assembly of Tasmania which proposes to strike out the word "main" and leave that part of the clause to read "having for their object," and to put in the following proviso at the end of the clause:

But a proposed law which provides for the imposition and appropriation of fines or other pecuniary penalties, or for the demand and payment and appropriation of fees for licenses or for services, and does not otherwise impose any tax or appropriate any part of the public revenue, may originate either in the house of representatives or in the senate.

I thought it just as well to invite the attention of hon. members to this suggested amendment, because it maybe thought that it has the merit of making the intention more definite. On the other hand, there may be hon. members who think that the widest possible meaning should be given to the words "having for their main object," It struck me that to avoid that inconvenience and unnecessary trouble which occurs when the second chamber is prohibited to deal with matters which incidentally impose a fee, such as a license fee, or which ask a fee for services rendered, under which circumstances it has often been ruled that such bills cannot be introduced in the second chamber those of us who think it has been a needless. harassment, as I do, may very well vote for an amendment of this sort if we think that the words "having for their main object" are rather undefined as they stand. But I think it is well to consider whether this is or is not a desirable amendment.

The Hon. Sir P.O. FYSH (Tasmania)[10.39]:

Who is to define the words "main object" the president of the senate, or the speaker of the house of representatives, or the minister, or executive, who introduces the bill? It is very certain that the word "main" is not sufficiently definite, and I also fully understand that the purpose of the
Adelaide Convention was to give to the senate power for the introduction of a bill, whose object was only incidentally to collect a charge, as, for instance, a toll, or some fee for services rendered. If you leave out the word "main," therefore, and state definitely what you mean, namely, "a proposed law which provides for the imposition and appropriation of fines, or other pecuniary penalties, or for the demand, and payment, and appropriation of fees for licenses or for services," then you certainly get more near a definition than we have at the present time. If it can be improved upon, so much the better. The word "main" is certainly indefinite and unsatisfactory. More difficulties are likely to arise if we leave the provision in an indefinite form than if we attempt to make it definite.

The Right Hon. G.H. Reid (New South Wales)[10.40]:

If we strike out the word "main" it will not remove the difficulty, because the ambiguity will be as great as before; but in accordance with the suggested amendment read by the Chairman we can make the clause read "proposed laws appropriating," which will get back to the phrase employed in the bill of 1891, and we can then add to the clause a very valuable amendment suggested by the Tasmanian legislature which, while leaving the wording of the clause similar to that in most of our constitution note, will give the senate power to introduce measures in which the appropriation of a fee or the creation of expenditure is a mere incident in the main scope of the bill. No man of any sense or moderation would call such a bill a money bill in the sense that it must be introduced in the lower chamber. The amendment suggested by the Tasmanian legislature would enable bills of this kind to be introduced in the senate without difficulty. I would suggest the omission of the words:

"having for their main object the appropriation of" with a view to the insertion of the word it appropriating."

The Chairman:

The omission of the words "having for their main object" has already been put from the Chair.

The Right Hon. G.H. Reid:

Then I think we might fairly agree to the striking out of those words upon the understanding that words are to be added to the clause enabling the senate to initiate bills of a certain character.

The Hon. J.N. Bruncker (New South Wales)[10.43]:

Whilst I concur in the proposition of the right hon. gentleman, I would suggest that the word "licenses," occurring in the amendment suggested by
the Tasmanian legislature, should be omitted.

An Hon. MEMBER:
We have not come to that yet!
Amendment agreed to.
Amendment (Right Hon. G.H. REID) proposed:
That the words "the appropriation of" be omitted with the view to the insertion of the word "appropriating."

Mr. SYMON (South Australia)[10.45]:
As I understand that the word "main" has now been struck out-

An Hon. MEMBER:
No; the words having for their main object" have been struck out!

Mr. SYMON:
That is a very important amendment, and I am sorry that I did not understand at the time what words it was proposed to omit.

The Hon. E. BARTON:
Did not the hon. and learned member hear the explanation of the right hon. member, Mr. Reid?

Mr. SYMON:
I always listen with a great deal of interest to what my right hon. friend has to say; but this morning I was not able to hear him. To my mind the Tasmanian amendment would be ineffective. I do not think that the omission of the words "having for their main object" will enable us to attain the end which we could have attained if the words had been left in the clause: "Proposed laws having for their object the appropriation of" is a phrase very different from the phrase "proposed laws appropriating." The very sweeping effect of the amendment to which I understand we have agreed is not helped by the introduction of the Tasmanian amendment dealing with fines, licenses, and matters of that kind. It reduces the powers of the senate to a mere farce. Of course, I cannot deny that the amendment now proposed is grammatically a good one; but I think some attention will have to be directed to this matter by those who wish to see the senate clothed with more satisfactory and reasonable powers in relation to money bills.

An Hon. MEMBER:
The words were in the original bill!

Mr. SYMON:
I know that; but the origination of money bills is a very important function. So far as the mere grammatical amendment now proposed is
concerned, I have no objection to it; but if I had clearly heard what was being done, and understood the effect of the last amendment before it was carried I should have desired to have had some discussion upon it.

The CHAIRMAN:
I have overlooked the fact that the legislature of New South Wales has suggested the insertion of the word "for," which is a prior amendment to that suggested by the right hon. member, Mr. Reid, and must, therefore, be put first.

The Hon. Sir J.W. DOWNER (South Australia)[10.48]:
I was under the impression at the time you put the last amendment, Mr. Chairman, that you intended to put the Tasmanian amendment afterwards.

The CHAIRMAN:
I explained to the Committee that if anyone wished to move an amendment upon the amendment he could do so!

The Hon. Sir J.W. DOWNER:
That was my idea. I think the amendment one of great importance.

The Right Hon. G.H. REID:
Which amendment?

The Hon. Sir J.W. DOWNER:
The amendment of my right hon. friend.

The Right Hon. G.H. REID:
It is merely a verbal amendment!

The Hon. Sir J.W. DOWNER:
I think not. As I understand the amendment, if it is carried the clause will read "proposed laws for appropriating."

Mr. MCMILLAN:
That may make a slight difference!

The Hon. Sir J.W. DOWNER:
Those words may mean the same as the words that have been struck out. There has been a difficulty in Victoria for twenty years over this subject, and the two houses are still debating it. With an example of that kind before us, it will not be beginning very well with the federal parliament if we allow this doubt to exist.

The Right Hon. G.H. REID:
My amendment avoids that difficulty!

The Hon. Sir J.W. DOWNER:
Truly enough it avoids the difficulty, but it does not avoid the difficulty
in the way in which the majority of the Convention desire to avoid it; because, if you simply say "bills appropriating," as long as there is no appropriation, however trifling, in any bill, there is no power of origination.

**The Right Hon. G.H. Reid:**

I am moving this amendment with the object of allowing other words to be put in, giving the senate the power of amendment of bills, the main object of which is not appropriation.

**Mr. Wise:**

It will bring it back to the same as it was in 1891!

**The Hon. Sir J.W. Downer:**

We altered the language because it was not sufficient.

**The Right Hon. G.H. Reid:**

We are endeavouring to meet all you want by inserting subsequent words!

**The Hon. Sir J.W. Downer:**

I will carefully examine the subsequent words, and I have no doubt the hon. member will guarantee that they will be well considered. It seems to me that having omitted the words, "having for their main object," we have removed the matter beyond question much more clearly than the words will do which the Tasmania representatives propose.

**Mr. Higgins (Victoria)[10.53]:**

I think the hon. and learned member, Mr. Symon, and the Hon. Sir John Downer, are under a misapprehension with regard to the object of the Right Hon. G.H. Reid's proposal. It will be understood that I have no dark design in this matter. I think we are all agreed as to what we want. I understand no one wishes to give to the senate the power of originating ordinary money or appropriation bills.

**The Hon. H. Dobson:**

Having for their main object!

**Mr. Higgins:**

Exactly; ordinary appropriation, or taxation bills. At the same time, I think there is no one who desires to prevent the senate from originating a bill which incidentally imposes a fine or fee, or to appropriate a small part of the revenue as incidental to the main object. The whole difficulty has arisen over the words "main object."

**The Hon. H. Dobson:**

Because you cannot define "main," you want to cut away the power from the senate!

**Mr. Higgins:**
I hope the hon. member will not adopt a suspicious and fearsome attitude with regard to any suggestion from the larger states.

The Hon. E. BARTON:
The amendment suggested by the Tasmanian Parliament goes a good way towards removing the difficulty!

Mr. HIGGINS:
If the proposal from Tasmania, which, I understand, was suggested by Mr. Clark, was adopted, it would achieve the object of the Convention.

An Hon. MEMBER:
No, it would not!

Mr. HIGGINS:
It simply means that all bills appropriating money, or imposing any tax, must originate in the house of representatives; but there is an exception. The only question is, whether the exception would cover all the matters which we wish to cover. I have looked at those words carefully, and they seem to me to cover all that any person who wants even extreme rights to be given to the senate could possibly wish. The Right Hon. G.H. Reid, in his excellent speech, which I understand was not heard by hon. members at the end of the chamber, indicated what the proposed amendment should be. The Tasmanian amendment says:

But a proposed law which provides for the imposition and appropriation of fines or other pecuniary penalties, or for the demand and payment and appropriation of fees for licenses or for services-

That will include appropriation, as will be seen-and does not otherwise impose any tax or appropriate any part of the public revenue, may originate either in the house of representatives or in the senate.

I do hope that such an excellent proposal as this, which, I think, really meets the views of members as a whole, will be adopted. If you put in the word "for," it will lead to those unending quarrels which have arisen in Victoria, I think very uselessly, and fruitlessly, between the Legislative Assembly and Council. In Victoria we have the words "for appropriating." The Council insists that the word "for" indicates that it must be a bill which has for its main object appropriation. The Assembly insists that it matters not what are the objects, that even these little bills providing for appropriation must be originated in the Assembly. That quarrel has never been settled, and has led to a great loss of time and temper. I hope the word "for" will not be put in the bill. I think the representatives of the larger
states have no intention of depriving the senate of the power to impose these fines, fees, and penalties, and even to appropriate these fines, fees, and penalties.

Mr. GLYNN (South Australia)[10.57]:
I wish to mention now that if this word "for" is put in I shall move the addition of the words "their chief purpose." At the time the question was put I did not know whether that had not been suggested by some of my colleagues, and therefore I did not insist upon a division although I called for one. Others beside myself allowed the amendment to be put under a complete misapprehension.

The CHAIRMAN:
I may say that I shall not be able to accept the amendment indicated by the hon. member, because it would be reopening a question which we have already decided.

Mr. GLYNN:
There has been some confusion about the matter, and if I assure the Committee that I called for a division, I would like to know if it is now too late to insist upon a division?

The CHAIRMAN:
Yes; it is too late now. I did not hear the hon. member.

An Hon. MEMBER:
I heard the hon. member, Mr. Glynn, call for a division!

Mr. GLYNN:
As you, sir, say it is now too late, I will simply say that later on I will make a proposition to add the words, "having for their chief purpose." I do not think the amendment suggested by the Tasmanian Parliament goes far enough.

The Right Hon. G.H. REID:
Will it not be better to remove any ambiguity?

Mr. GLYNN:
Of course there is a great difficulty in filling up all the details so as to cover the general meaning.

Mr. MCMILLAN:
Who is to decide what is the chief object?

Mr. GLYNN:
That is the point which shows the necessity of being particularly careful. Under our existing constitutions that point is decided by the houses themselves, but under this bill I think the question as to the main object of
a bill might have to be interpreted on a case arising in litigation by the
Supreme Court. That shows the necessity of being far more careful than
even when such words are in the constitutions of our local parliaments. It
has been pointed out that there has been a dispute in Victoria as to the
meaning of the word "for" in connection with the word "appropriating,"
and that dispute is not yet settled after many years. Will it not be well to
have the question as to the main object decided at once by putting in the
necessary words? A definition to be complete ought to be sufficiently
general to cover everything that can possibly be covered by specification.
But in specifying in detail we are almost sure to leave out something. Look
at the Tasmanian amendment. Supposing it is desired to introduce a bill
like the railway commissioners bill, fixing, the salaries of the railway
commissioners? That bill could not, under the Tasmanian amendment, be
introduced in the senate, because it would not be a question of fines,
penalties, and fees for services, but a question of salary. I simply mention
this as a case in point. The point, as regards the railway commissioners bill,
was brought up in South Australia. There was a dispute there as to whether
there was power to amend the bill, simply because it fixed the salary of the
railway commissioners in one of its clauses; and the point raised was that it
was not a money bill, although it contained one or two clauses relating to
money matters.

The Hon. H. DOBSON (Tasmania)[11.2]:

I think the clause before the Committee has a more important and wider
scope than hon. members seem to attribute to it; but you, Mr. Chairman,
put the matter exceedingly clearly, and the Premier of New South Wales
was also equally clear. Some of us, however, were busy with our letters
and telegrams, and did not quite see the importance of what was being
done. As I understand the matter when it was found that we departed from
the 1891 bill, and allowed the senate to be elected by the direct vote of the
people, and when we refused to give to the senate the power to amend a
money bill, and only left them with power to suggest, the Convention, I
understand, wanted to give them a slight quid pro quo, and in inserting the
words "having for their main object" they wanted the senate to initiate bills
in their own chamber, the main objects of which were not the appropriation
of revenue. The hon. member, Mr. Higgins, and others are, I think,
unintentionally and unwittingly cutting down the power which was
advisedly and directly given to the senate in recommending the striking out
of those words. The authority or power to the senate to introduce a bill
which can simply impose a paltry fine or penalty is practically nothing, and
it is not the kind of bill the senate would wish to originate.

The Right Hon. G.H. REID:
Can the hon. member mention one they would wish to originate?

The Hon. H. DOBSON:

I am going to mention one, and I would be glad to hear what the right hon. gentleman thinks of it. Hon. members will notice that the Attorney-General of Tasmania has put in the words "fees for licenses or for services." He put in those words upon a suggestion from myself, when I raised the point in Tasmania which I am now raising here. How can we have fees or licenses for service? What I suggest is that the senate may wish to be an active legislative body. Whilst the members of the house of representatives are busy with their finances, the senate may wish to go into the question of defence; they may wish to go into the question of establishing schools for meteorology, or other matters, which are handed over to the federal parliament; and if they introduce a very useful bill which the federation wishes for, but which involves the payment for services of a secretary or clerk to the extent of £1,000 or £2,000 a year, I understand that that is the kind of bill which this clause enables the senate, under the terms of the Adelaide Convention, to introduce.

The Right Hon. Sir JOHN FORREST:

We should want a message from the governor for that!

The Hon. H. DOBSON:

We should want a message from the governor, but the minister in the senate would bring the message from the governor. I understand that that was the quid pro quo offered to the senate because it was to be elected on manhood suffrage, and was not to have power to amend money bills, but only to suggest amendments. I would point out to the Premier of New South Wales that there would be scores of bills in time to come whose main object would not be the appropriation of revenue, but whose object could not be carried out without the appropriation of

The Hon. S. FRASER (Victoria)[11.5]:

was understood to say that he hoped power would be given to the senate to introduce all bills excepting appropriation bills, bills imposing taxation, and loan bills. If we confined ourselves to that be thought there would be no difficulty.

Mr. MCMILLAN (New South Wales)[11.6]:

I think we all know exactly what we want, but the difficulty is to carry it out. We all know what we mean by those bills, which simply incidentally imply a money expenditure; but, although I am sure those who believe in strengthening the senate as much as possible are anxious to meet this difficulty, still, we must have no apprehension in the future. I cannot see
what tribunal has been erected outside the Supreme Court which could define what is and what is not a money bill. Therefore, it seems to me that whilst a definition such as that proposed by Tasmania does very much to reduce the power of the senate because it is often the unforeseen that happens, and this is an attempt to define what is practically undefinable still, to my mind, it is the nearest approach we can make to this compromise. I look with the most absolute horror on the idea of any question between the two houses as to their separate jurisdiction. Therefore, whilst I have not sufficient knowledge to say whether the proposal of Tasmania is sufficiently large, still it does seem to me that whatever proviso we insert must be absolutely clear and unmistakable.

The Right Hon. C.C. KINGSTON (South Australia)

I shall be found recording my vote in favour of inserting the word "for," and one of my reasons for agreeing to the adoption of that word is that it is found in the Constitution Act, under which there has been a fairly harmonious working between the two branches of the legislature. In the 1st section of our Constitution Act, by which the two houses of the local parliament are established, a proviso is added that

All bills for appropriating any part of the revenue, or for imposing, altering, or repealing any rate, tax, duty, or impost shall originate in the House of Assembly.

I am prepared, so far as I can, to endeavour to place a provision in the Commonwealth Bill similar to that which we have in the Constitution Act. I am glad indeed that we have struck out the provision by which it is stipulated that the test as to whether or not the senate shall have the right to originate bills should depend as to whether or not the main object of the bill is a certain thing. I see in an indefinite definition, so to speak, an abundant source of future doubt and difficulty. We have had experience in the Victorian legislature as regards the use of this word, and in view of the difficulties which have arisen in the past, I think we shall be false to our trust if, in framing a constitution which will be acceptable to the people, we do not endeavour to prevent, as far as practicable, the possibility of dispute if we do not do all that we can to make the statute so clear that he who runs may read.

An Hon. MEMBER:

Will not the amendment make the clause more obscure?

The Right Hon. C.C. KINGSTON:

It might make it obscure from some points of view; but I do not think it
will generally, and for this reason: We ourselves have not had much trouble in ascertaining its meaning. I think, however, that what the Convention is determined to do is to adopt an expression which will tell us more clearly than we have it in the clause at present, what we really mean. I welcome the suggestion of the Tasmanian Parliament. No doubt the matter has been most carefully considered. It is not very difficult, I think, to observe in the amendment the handiwork of our friend, Mr. Inglis Clark, and I trust that by the addition of words such as he proposes we shall leave no loophole for those difficulties which have existed in the past; but that we shall define the relative rights of the two houses, with reference to the origination of these bills, in a way which will be acceptable to the two chambers, and which will promote the interests of the commonwealth.

The Hon. E. Barton (New South Wales)[11.12]:

I am of opinion that the adjustment of these money clauses, which took place in 1891, is, on the whole, the fairest that can be made as between the colonies. The clause corresponding to this clause in the bill of 1891 reads thus:

Laws appropriating any part of the public revenue, or imposing any tax or impost, shall originate in the house of representatives.

I take it that the desire of the Right Hon. the Premier of New South Wales is to retain this clause. The Right Hon. Sir George Turner moved a similar amendment, which was defeated by only four votes. I voted with the right hon. gentleman on that occasion, and I should like to explain that I have not changed my opinion. I am quite prepared to go in the direction indicated by the amendment of Mr. Inglis Clark which not only makes things a good deal more definite, but is a step beyond the bill of 1891 by way of making the legislative machinery work more smoothly, and securing to the senate that degree of individuality in matters of this kind of which it would be a scandal to deprive them through some matter of construction. I think that the addition contemplated by Mr. Inglis Clark might be made; but I think, also, that with that exception we should adhere to the lines of the adjust-

[Page 475] starts here

ment made in 1891, because I believe it to be on the whole the fairest adjustment in the interests of the individual colonies, and also the best solution of this difficult money question in the interests of constitutional government. I hope the amendment suggested by the right hon. the Prime Minister of New South Wales will be adopted.

The Right Hon. G.H. Reid (New South Wales)[11.14]:

I believe the amendment put from the Chair is to insert the word "for," which precedes the amendment I desire to move. I would suggest to the
Convention that inasmuch as we know as a matter of fact that the word "for" has created unending disputes between houses of an Australian legislature, we, with our eyes open to that fact, should incur a serious responsibility if we were to imitate that form of words. As I said in Adelaide, I am quite in favour of brushing away all those artificial difficulties which would prevent the senate from initiating bills of a general character where money comes in incidentally; for I have never been opposed to the senate having perfect freedom in those matters. I think we are all agreed upon that. I think, however, that we all owe one duty to the people of the future commonwealth, and that is, that we should not, with our eyes open put into the constitution a form of words which, as a matter of simple fact, we know to have caused endless disputes in a colony of the future commonwealth. With our eyes open to that state of things, we should be incurring a serious responsibility if we adopted precisely the same form of words. With reference to the fact that in the South Australian Constitution there is the word "for"; it is, in my opinion, a loose expression, which is calculated to give rise in a federal community to a great deal of dispute. Having removed that source of ambiguity, I am prepared to agree to any reasonable enlargement of the Tasmanian amendment in order to make it quite clear that we do not wish to prohibit the senate from initiating general legislation involving only incidentally the appropriation of money.

The Hon. Sir J.W. DOWNER (South Australia)[11.16]:

There is no doubt to my mind that the Tasmanian suggestion will make the powers of the senate less than they are under the bill. Some hon. members, I know, are of a different opinion. My right hon. friend, Mr. Kingston, seems to think that it would be better to diminish powers that ought to be diminished than to use words having any ambiguity. I think the words originally in the clause stated that which was intended fairly enough. The right hon. the Premier of New South Wales has spoken of bills which incidentally impose expenditure. It seems to me that these words are clear enough, and I do not see why there should be difficulty in construing words which we understand thoroughly well when used colloquially, about which there is no difficulty, when those words get into an act of parliament. I object to the word "for." It seems to me that the alteration now proposed is a distinct diminution of the powers of the senate, and I think it is meant. The Tasmanian amendment probably contains everything which the ingenious draftsman could think of at the moment. Mr. Inglis Clark is a lover of precision, and he would rather diminish the powers of the senate a little than not be precise in his draftsmanship. The hon. gentleman has put into this addition everything he could think of which
might represent the incidentals; but there are many things which may not be, and which experience will allow, are not contained within these words. The result will be that the senate will have no jurisdiction where they might have had it had the clause not been altered.

The Hon. E. Barton (New South Wales)[11.19]:

I might point out that this is really an adaptation of what is a standing order of the House of Commons, in which it is provided that the House will not insist upon its privileges in certain cases. Substantially, the cases there defined are the cases mentioned in this amendment. I thought it well to mention that matter. It will be better to have this provision in the constitution. In practice, the House of Lords exercises no power in the origination or amendment of money bills, and the friction caused by the want of power led to the passing of the standing order by the House of Commons, and it is constantly availed of by the House of Lords.

Question-That the word "for" be inserted-negatived.

The CHAIRMAN:

It is now proposed to strike out the words "the appropriation of," line 2. Question-That the words stand part of the clause-negatived. Question-That the word "appropriating" be inserted-agreed to. Amendment suggested by the Legislative Assembly of Victoria agreed to:

Omit "the imposition of," line 3. Insert "imposing."

Amendment suggested by the House of Assembly of Tasmania:

At the end of clause add "but a proposed law which provides for the imposition and appropriation of fines or other pecuniary penalties, or for the demand and payment and appropriation of fees for licenses or for services, and does not otherwise impose any tax or appropriate any part of the public revenue, may originate either in the house of representatives or in the senate."

The Hon. J.H. Gordon (South Australia):

I would draw the attention of the hon. and learned member, Mr. Barton, to the wording of this amendment. I would suggest that the word "and" after the word "demand," and also after the word payment," should be "or."

Amendments substituting "or" for and," in line 4 of proposed amendment, agreed to.

Suggested amendment, as amended, proposed.

The Hon. H. Dobson (Tasmania)[11.23]:

In this amendment the Attorney-General of Tasmania put in the word "services" in order to retain that power to the senate which the original
clause gave it. As I read the clause with the word "services" in it, it appears to me that there is something which ought to be seen to. The hon. member, Mr. Higgins, in his speech, went on to say that we had power to appropriate, and there he stopped, and then he said "fees and licenses." Now, the senate does not care twopence about appropriating fees and licenses. We want to appropriate a small part of the revenue for services rendered. The senate may have to introduce health laws; it may have to introduce laws in reference to immigration, and it may want to pay the salary of a secretary or an inspector to the amount, perhaps, of £300, £400, or even £1,000 a year. I understand that these were the kind of laws which the senate might initiate as laws not having for their main object the appropriation of revenue. I desire to call the attention of the leader of the Convention and the other lawyers present to the fact that the word "services" ought to come out, or else something should be put before it. The amendment is hardly sense as it reads now.

The Hon. J.H. CARRUTHERS (New South Wales)[11.25]:

At the first blush I thought the proposed amendment rather limited the powers of the senate; but on close examination I find that its operation will be to largely increase the powers of that chamber. Under these words, "the appropriation of fees for licenses or for services," we are proposing now to hand over to the senate powers which, in the draft as it left us in Adelaide, were not conferred upon that body. Under this proviso the senate will have power to originate bills which will practically regulate the whole of the mining industry in the territories which come under its jurisdiction. It will not regulate the mining industry with regard to colonies, but with regard to territories which, under the 116th clause, may become vested in the commonwealth. The whole of the mining industry there will be regulated, and we know that taxation received from the mining industry is in the form of licenses. More than that, the whole of the postal revenue will be placed in the hands, so far as its collection and appropriation is concerned, of the senate equally with the house of representatives, because the large revenue which the commonwealth will derive from the postal business will consist of fees for services rendered.

The Right Hon. Sir G. TURNER:

They must always get a governor's message before they can move!

The Hon. J.H. CARRUTHERS:

In addition to the Governor's message, the words in clause 54 restrict the power of the senate to interfere in money bills, unless for merely an incidental purpose. We may have a postal bill introduced, having for its sole purpose the question of raising the postage on the mail matter of the
commonwealth. Even if a message had preceded such a bill, it could not be introduced in the senate, but would have to be introduced in the house of representatives. We have also handed over to the commonwealth the question of Australasian fisheries. The whole of the revenue from those fisheries will be derived from fees or licenses. Prior to this amendment being proposed, the senate had no power in the bill to interfere with that great interest, as regards the revenue derived from it, or the appropriation of that revenue. Under this amendment, the whole of the revenue and the appropriation of it would be a matter of equal concern with the senate as with the house of representatives. That would be unduly enlarging the scope of the authority of the senate, and enlarging it beyond what we agreed upon in Adelaide. Although, as regards the colonies which have self-governing powers at the present time, these difficulties may not appear to be great, yet as regards the territories which would be handed over, some time or other, to the commonwealth, we should have the power of the purse to a large extent in the hands of the senate, which does not represent the individuals concerned, but which is supposed to be a body to conserve state rights. With regard to this financial jurisdiction over the territories there can be no claim as to state rights being involved, as the territories will, perhaps, have no state rights to be conserved in the senate. I warn hon. members that we are unduly enlarging, by this provision, the powers of the senate. The amendment proposed in the Legislative Assembly of New South Wales, was in the direction of restricting those powers and going back to the compromise made in 1891. We carried those amendments, and it would be merely taking away that which has already been granted by the amendments passed, and superadding, to the powers of the senate, if we agreed to the amendment now proposed. Then, again, navigation is handed over as one of the subjects to be dealt with by the commonwealth. A large portion of the revenue of the commonwealth will be derived from the imposition of what are called harbour dues or tonnage rates. These are practically fees for services rendered. They will come under the broad definition in this proviso. We shall have the power handed over to the senate of originating laws, preceded, of course, by a message, which will wholly and solely deal with these questions of the imposition of harbour dues or tonnage rates.

The Hon. E. BARTON:
A message would only be required in case of their appropriation!

The Hon. J.H. CARRUTHERS:
These laws, therefore, could be introduced without a message.
The Hon. I.A. ISAACS:
But harbour dues and tonnage rates are scarcely fees-they are charges!
The Hon. J.H. CARRUTHERS:
With regard to harbour dues, most of the colonies collect them as fees for services rendered in the shape of pilotage and other matters. The plea on which harbour dues are imposed is that they are fees for services rendered by the pilot service. The wharfage rates may stand on a different footing, but the harbour dues are in Newcastle and Sydney, and I dare say in Melbourne, largely imposed on account of the services rendered by the various officers of the Government. In regard to the mining industry, the fisheries industry where the revenue is collected in the form of licenses in regard to other industries which would be carried on in a territory, the revenue would be derived in the form of fees. In regard to the postal business, the revenue is derived in the form of fees. And in regard to navigation, the revenue is derived in the form of fees. If we are going to hand over the power of originating bills to impose and appropriate those revenues we are whittling away all the power, which we claim for the lower house the power of the purse. If we begin to whittle them away in that direction, we might as well concede the whole thing, and give co-ordinate powers in matters of finance to the senate.
The Hon. A. DOUGLAS:
Why not wipe out the senate altogether?
The Hon. J.H. CARRUTHERS:
I do not intend simply to speak; I desire to test the feeling of the Convention by moving the emission of the words, for the demand and payment and appropriation of fees for licenses or for services,-
Mr. MCMILLAN:
Read further on!
The Hon. J.H. CARRUTHERS:
and does not otherwise impose any tax or appropriate-
Does not the hon. member see that those words govern the latter words he calls my attention to? As long as the proposed bill only appropriated these fees or licenses, or other services, and does not otherwise appropriate any part of the public revenue, that bill will be introduced into the senate.
The Right Hon. Sir JOHN FORREST:
What harm will be done?
The Hon. J.H. CARRUTHERS:
I move:
That the words "for licenses or other services "be omitted with the view to the insertion in their place of the words "of office."
I propose the amendment so that bills may not be introduced in the senate
for the purpose of appropriating or collecting what are known as fees of office such fees as are collected by clerks of petty sessions, and minor fees collected by various officers in different parts of the colony. I wish to limit the powers of the senate in such a way that in those matters which are largely sources of revenue for licenses or for public services, the senate shall not have co-ordinate powers with the house of representatives.

The Hon. E. BARTON (New South Wales):[11.33]

I do not anticipate the dangers from this suggested amendment that seem to have suggested themselves to my hon. friend, Mr. Carruthers. I do not think that there is anything in this addition to the clause which need arouse the susceptibilities of or need alarm anyone who, like myself, is a strong believer in the system of responsible government being conserved by the ultimate custody of the public purse being in one house. I do not think there can be any danger of that sort. Perhaps I had better read the standing order of the House of Commons which has been adopted in South Australia:

The Hon. N.E. LEWIS:

And in Tasmania!

The Hon. E. BARTON:

And in Tasmania also, I believe. I do so in order to show that a similar provision to this is not regarded by the House of Commons as leading to any infringement of its privileges on the put of the House of Lords. The following is the standing order of the Legislative Assembly of South Australia, and it is virtually a copy of the standing order of the House of Commons:

With respect to any bill brought to the House from the Legislative Council or returned by the Legislative Council to the House with amendments, whereby any pecuniary penalty, forfeiture, or fee shall be authorised, imposed, appropriated, regulated, varied, or extinguished, the House will not insist on its privileges in the following cases:-

1. When the object of such pecuniary penalty or forfeiture is to secure the execution of the act, or the punishment or prevention of offences.

2. Where such fees are imposed in respect of benefit taken or service rendered under the act, and in order to the execution of the act, and are not made payable into the Treasury-

That is to say, when there is no specific provision made that it should be made into the public Treasury.

or in aid of the. public revenue, and do not form the ground of public accounting by the parties receiving the same either in respect of deficit or surplus:
3. When such bill shall be a private bill for a local or personal act.

The Right Hon. Sir G. TURNER:
These words are wider than those!

The Hon. E. BARTON:
Yes, a little wider; but the extent to which they are wider is not enough to alarm any one.

The Hon. I.A. ISAACS:
Why not insert after the word "services" the words under the proposed law "?

The Hon. E. BARTON:
I think that that would be a proper limitation. But even without those words, I think that there is nothing in the suggested amendment which need cause alarm to any one, or make any one suppose that the house of representatives are in any sense surrendering the control of the public purse.

Mr. TRENWITH:

The Hon. E. BARTON:
Yes; there is a marked difference between inserting something in a standing order and inserting it in an act of Parliament; but we must, recollect that the standing orders of the, House of Commons have been so long in existence, and have regulated the practice so uniformly for a long period of time, that they have now acquired such force that there ought not to be any bar to their being inserted in the constitution. I think that is a fair answer. If we want to avoid ambiguity, confusion, and unseemly quarrels between the two houses of legislature we had better take this opportunity of making a reasonable definition. Therefore, I think that these words may be retained. But I ask you, Sir, to put the amendment proposed by the hon. member, Mr. Carruthers, in a limited form, because I wish to make a slight amendment even before that suggested by the hon. and learned member, Mr. Isaacs. So that there shall not be any misconstruction as to the meaning of the words "for services," I propose to make the amendment read "appropriation of fees for licenses or fees for services," and then to add the words "under the proposed law." I ask you, sir, to put Mr. Carruthers amendment in such a way as to permit of this afterwards coming on.

The CHAIRMAN:
I will put it in this way: that the words "fees or licenses" proposed to be struck out stand part of the proposed amendment. But I understand that the hon. member, Mr. Carruthers, wishes to withdraw the proposed amendment.
The Hon. J.H. CARRUTHERS:
There being no chance of carrying the amendment which I have proposed, and the amendment proposed by the hon. and learned member, Mr. Barton, going somewhat in the same direction, I beg leave to withdraw my amendment.
Amendment, by leave, withdrawn.

Amendment (by Hon. E. BARTON) proposed:
That after the word "or," line 5, of proposed amendment, the word fees" be inserted.

The Hon. J.H. GORDON (South Australia)[11.38]:
"Fees for services" appears to me not to include salaries. There is a distributive idea about the word "fee" which would imply short and temporary services,

The Hon. E. BARTON:
There is nothing in this amendment at any stage which will cover salaries!

The Hon. J.H. GORDON:
Then, I think, it ought to cover payment for salaries.

An Hon. MEMBER:
That comes in the annual appropriation bill!

The Hon. J.H. GORDON:
But still the intention of the clause is to give to the senate the power of appropriating money for salary under a bill which the Assembly has passed.

The Hon. E. BARTON:
That might allow the senate to real with the appropriation of money for carrying on the civil service!

Mr. WISE:
Or for originating a new department of the civil service!

The Hon. E. BARTON:
Very nearly. At any rate, it would enable the senate to go shares in the appropriation for the civil service!

Mr. GLYNN (South Australia)[11.41]:
I wish to insert after the word "services" the words "or as incidental to its policy of salaries." The case I have in mind is that of measures such as that under which the Railway Commissioners have been appointed. I think that in all the colonies the railway boards have been created by acts which fix the salaries of the commissioners, and in South Australia we had a dispute
as to whether a measure of that kind was a money bill. The position I took up was that such a measure was not a money bill, that the term "money bill" ought to be abolished, and that for the future we should speak of money clauses in a bill. Originally all bills of the Commons were practically money bills. After some time it came to be the practice to mix up matters of general policy with matters of finance. If a bill like a bill appointing Railway Commissioners was introduced into the senate, and became law, the question of its validity might subsequently have to be decided by the Supreme Court.

The Hon. R.E. O'CONNOR:

Would the hon. member claim the right to introduce a bill of that kind in the senate?

Mr. GLYNN:

Decidedly. Why should we not introduce a bill for the creation of a public service board, or any measure of that kind in the senate? As a matter of convenience such bills have often been introduced in the Legislative Council of South Australia. We had a bill introduced there recently providing, for the consolidation of the electoral laws of the colony; but because that bill incorporated clauses for the payment of fees and salaries it was found necessary to divide it into two, and a bill was drafted to separate the two kinds of provisions. If the words which I suggest are inserted in the amendment it will get rid of the difficulty pointed out by the hon. and learned member, Mr. Barton, that you might, under the general term of salaries, perhaps bring in a bill appropriating the salaries necessary for the carrying out of the work of the state.

The CHAIRMAN:

I will first put the amendment proposed by the hon. member, Mr. Barton. Amendments (inserting "fees" before "for services," and inserting "under the proposed law after "services") agreed to.

Amendment (by Mr. GLYNN) proposed:

That, after the words last inserted, the words or as incidental to its policy of salaries " be inserted.

The Hon. E. BARTON (New South Wales)[11.45]:

I think we can scarcely insert these words. The limitation created by the words "I incidental to its policy" is almost so wide as scarcely to be properly called a limitation. A thing incidental to the policy of a measure is a very large order indeed; and I think that, if we agreed to the amendment, it would throw us again into that very troubled obscurity and confusion
which it is our purpose to avert.

The Hon. I.A. ISAACS:

The two questions are, what is an incident, and what is a policy?

The Right Hon. G.H. REID:

A big loan might be incidental to a policy!

The Hon. E. Barton:

How are we to ask a president or a speaker, they being officers removed from all party considerations, and supposed to be purely impartial, to define the policy of a government or of a member in connection with any measure? That is a task which we could not impose upon such an authority.

Amendment negatived.

Amendments (by the Hon. E. Barton) agreed to:

That after the word "revenue," line 7 of proposed amendment, the word "or moneys" be inserted.

That the words "either in the house of representatives or," lines 7 and 8, be omitted.

Amendment, as amended, agreed to.

Clause, amended as under, agreed to.

Proposed laws appropriating any part of the public revenue or moneys, or imposing any tax or impost, shall originate in the house of representatives. But a proposed law which provides for the imposition and appropriation of fines or other pecuniary penalties, or for the demand or payment or appropriation of fees for licenses or fees for services under the proposed law, and does not otherwise impose any tax or appropriate any part of the public revenue or moneys, may originate in the senate.

Clause 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 ordinary 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.

Amendment suggested by the Legislative Council of Western Australia:
Sub-clause I. Omit "laws imposing taxation and," lines 3 and 4.

The Right Hon. Sir JOHN FORREST (Western Australia)[11.49]:
The important question involved in the amendment was dealt with by the Convention of 1891, and again at the beginning of this year in Adelaide. On both occasions it was desired by a considerable section almost half the members of the Convention that the words proposed to be struck out should be so struck out; but, in both cases, there was a majority in favour of restricting the powers of the senate. I do not want to take up the time of the Convention unnecessarily; but, inasmuch as the matter has gone a stage further since our meeting in Adelaide, I have no option but to again ask hon. members to give a vote upon it. Since we met in Adelaide, the bill has been before the various parliaments of the continent, and in some of them, at any rate in the colony I represent, both houses of Parliament have suggested the alteration which I now propose in this clause. The object of those who desire that these words should find a place in the bill, is, of course, to make the senate less powerful than we desire it should be. We were told in 1891, and in March of this year, and we will be told again today, that if these words are omitted from the clause, there cannot be federation, that the larger colonies will not have anything to do with it, and that the desire of the smaller states is to coerce the larger ones. Specious arguments, no doubt, will be used, and will have their full effect, and if they fail, then we will be threatened. That was generally the course pursued on the two former occasions; but, nevertheless, I have a duty to fulfil to the Parliament whose representative I am, and I shall do my best before I sit down, and in as few words as I can, to place the case before hon. members.

The Right Hon. G.H. REID:
The hon. member has never threatened!

The Right Hon. Sir JOHN FORREST:
No.

The Right Hon. G.H. REID:
I will tell the hon. member the reason because he has always had his own way!

The Right Hon. Sir JOHN FORREST:
That is a very clever interjection no doubt; but, as a matter of fact, I have never had my own way in this matter at any rate, for I have been defeated on both occasions in 1891, and in the beginning of this year—with regard to this clause. I cannot understand the fear which is expressed by the larger colonies. I cannot see that there is anything to fear on their part with regard to this federation. I am sure they will be strong enough to hold their own in the future as they have been in the past. I cannot understand why they should take up the position they do with regard to this and every other matter where it is desired to make the senate of the commonwealth strong. Only yesterday we were told, because the majority of this Committee desired that in future the proportion should exist between the senate and the house of representatives of one to two, for that reason Victoria would not be able to enter the commonwealth. If there were any disadvantage to be suffered by any particular state, I could understand that argument; but, seeing we are all in the same boat, and that every one of the states is to be in the same position with regard to the number of representatives, I cannot see how it should affect one large, important, and wealthy state like Victoria more adversely than it would affect New South Wales, Queensland, or any other portion of Australia. When I was away from the Convention, and when I had no opportunity of opposing it, a clause was inserted in the bill with regard to the elections to the house of representatives, providing that there should be one man one vote, although that system does not exist in many of the colonies at present. Therefore the larger colonies of New South Wales and Victoria have been strong enough to have it decided that we shall altogether change our constitution with regard to the franchise in order to meet their wishes. It seems to me to be a system of coercion all round by the larger states with respect to the smaller ones. We are asked to give way in everything. Although in 1891 the Convention rejected almost unanimously, I think, the proposal that the commonwealth of the federal parliament should have anything whatever to do with the mode of election to the house of representatives by the various states, that has now gone by the board, according to the decision arrived at by the Convention in the early part of this year. Every attempt has been made to weaken the senate, and the larger states seem to be afraid—for some reason or another, but principally because they fear a combination of the smaller states of having a strong senate. I do not see why they should. They seem to consider that the senate will be a body similar to the existing upper house in the various colonies, and they desire that it should not have more power, or even as much power, as those bodies have at present. Now, by this clause, they desire that the power to
amend a tariff or taxation bill shall be denied to the senate, which we have made representative of the whole of the states. Under the constitution we are creating in this bill, the senate will be far more representative of the whole of the people of the states than the members of the house of representatives will be, for the members of the house of representatives will be elected by the people of the states in various small divisions; they will be elected subject to local influences, local quarrels, and prejudices to a much larger degree, I think it will be admitted, than will be the case in the election of the whole people of the state as one electorate. Therefore, there can be no reason whatever, on the ground of logic or common-sense, why this thoroughly representative body—the senate—representing the whole people, and elected by the whole people as one constituency should not be trusted with as large powers as the house of representatives, which will be elected by various parts of a state subject to all sorts of influences. I suppose no one will deny that among all the powers that we are giving the parliament of the commonwealth, one of the most important will be the power of imposing taxation. We are giving to the commonwealth parliament power to impose taxation throughout the length and breadth of the continent. We are giving it power to borrow money for the purposes of the commonwealth. That being so, surely there should be some provision in the bill which will give to the smaller states of the commonwealth some power and influence over those great and important questions.

Mr. HIGGINS:
Who pays the taxation!

The Right Hon. Sir JOHN FORREST:
I do not know that that is any argument both houses will be representative of the people.

Mr. HIGGINS:
Yes, but the smaller states have fewer people!

The Right Hon. Sir JOHN FORREST:
We will have fewer members in the house of representatives in consequence of that. The colonies of New South Wales and Victoria will each probably have nearly four times the number of members that the smaller colonies will have. All that it is desired to give the senate is the right of veto. The right of veto is a very important power, I do not deny that for a moment, but it is very often impossible to exercise it. Necessity may make it absolutely necessary that a taxation bill of some sort shall pass into law, and unless the senate are prepared to veto it they will have no power to insist upon any amendment of it. As we know very well, from our experience in regard to legislation in this continent, the power of veto, although a great one, cannot frequently be exercised, owing to the force of
circumstances. I should like to ask whether a state, as a state, has any interest whatever as to the way in which it should be taxed? If hon. members admit that—if they will admit that a state has some right to say in what way it should be taxed, they cannot very well deny the power of the Senate to amend a taxation bill. As is apparent to every one, the number of the representatives of the smaller states, as states, in the house of representatives will be so small, as compared with the number of representatives of the larger states, that they will not have any great influence there in deciding the manner and method in which their states shall be taxed. Therefore, the only place in which they can have any influence in regard to the mode of taxation will be through their representatives in the senate.

The Hon. I.A. Isaacs:
What do you want equal representation in the senate for?

The Right Hon. Sir John Forrest:
There should be no fear on the part of the larger states as to the smaller states combining against them. That seems to me to be the argument generally used—that they will place themselves in subjection to the smaller states. In the first place, it is not easy to get a combination; it is not easy to find the whole of the smaller states agreeing. Is it not more likely that the smaller states will be altogether dominated by the larger ones, even though there may be more smaller states than large ones? The large populations, the environment, the surroundings, the public opinion of the place in which the meetings will be held because there can be no doubt that they will be held in one of the large colonies that the federal capital will be either in New South Wales or Victoria the press, the whole of the influences which are attached to large British communities, will be quite sufficient to prevent any combination of the smaller states to do an injustice to the larger. Even if there were such a combination, I do not believe that they would be able to carry it out. Therefore, I say, the larger states have nothing to fear in regard to combination it is merely an idea; nor do I think the smaller states have much to fear from a combination. I do not think there will be any desire on the part of either the larger or smaller states to coerce or do injustice. These things are imaginary in the minds of the people. But there need be no fear, even in imagination, so far a I can see, for the large states; but there is a sort of fear amongst the smaller states which we have to meet in dealing with this question. We have to meet the constant objection that we are to hand ourselves over body and soul to the large states. I think that, to a large extent, is imaginary; but, at the same time, it has to be faced. We all know that the occasions when the states will
vote as states will not be very numerous. My great objection to limiting the senate and I am sure it ought to commend itself to hon. members is this: that it is desired by those who want to limit the powers of the senate to stamp it as an inferior body. The principal objection I have to trying to limit the powers of the senate is that there is a desire -and it has shown itself in this Convention many times to take away the power of the senate, and to stamp it as a body inferior to the house of representatives. We were told in Adelaide by some of the speakers near me by one of the members from Victoria, I do not remember which, I think it was the hon. member, Mr. Trenwith that it would all depend upon the sort of senate we created as to what powers he would give it; that if we made the senate a body representative of the whole of the people of the colonies, then he would be prepared to give it greater power. What has happened? We have taken away everything we can from the senate, and we have given nothing in return. The hon member, Mr. Trenwith, was carried away for the moment with a generous impulse, and stated that if we could only get a representative body in the senate it might be entrusted with great powers; but he thought better of it afterwards. He thought better of it after he found that we were willing to give what he wanted. Then he went back to his former position, and desired that the senate should be as weak in power as possible.

Mr. TRENWITH:
I never proposed, under any circumstances, to give the senate control over money matters!

The Right Hon. Sir JOHN FORREST:
It was desired by many hon. members that

the senate should not originate money bills. I do not object to that myself. It is proposed that it shall not have power to amend any taxation bill. To that I am opposed. It must not increase any tax, these are all concessions to the lower house and to that I agree.

The Hon. Sir JOSEPH ABBOTT:
That is no concession; the lower house even cannot increase a tax!

The Right Hon. Sir JOHN FORREST:
It can by message from the Governor. The upper house cannot do anything even with a message from the Governor. Again, the upper house has no power whatever over the executive government. All these things are taken away from the senate, and are given to the house of representatives. Still, that does not satisfy, hon. members; they want to take away the power of amendment, and to give the house of representatives the sole power of taxation to provide that the states, as states, shall have no power
to say anything in regard to taxation, except to reject it. In fact, as far as I can see, the leaders of what I may call the anti-senate movement in this House desire to make that branch of the legislature a sham a useless and discredited body. Now, what are the powers of the house of representatives? To begin with it makes and unmakes governments. It has the initiation of all money bills. It has control, except as to veto, in regard to the annual expenditure of the country. These are very great powers to give. It is not contended that such powers should be given to the senate. I myself do not contend for them, because I do not see how you can carry on a system of responsible government if the senate is to have power to amend the annual appropriation bill. You have already your schemes of taxation, and unless you repeal the existing taxation it would be only a new method you would be introducing, having the old one behind you, and the measure would not be as necessary as would an ordinary appropriation bill involving the carrying on of the ordinary business of the country. The power of initiation of all taxation is given to the house of representatives, and is willingly given, also the initiation of all borrowing, and that house, as I pointed out, has the control of the executive government. Surely these ought to be sufficient powers and privileges for that house without hon. members desiring to take away the one thing that the states want—that their representatives in the upper house should have the power to amend taxation bills. It seems to me that those who are opposed to giving power to the senate desire that it should be a body not in any way superior to, if indeed equal to, the existing legislative councils in the various colonies.

The Hon. Sir J.W. DOWNER:

Hear, hear!

The Right Hon. Sir JOHN FORREST:

Hon. members do not hesitate to speak with contempt of the legislative councils of the various colonies. There is generally a sneer when anything is said about one of the legislative councils. The Legislative Council of Victoria certainly has one or two defenders here; but we know that, as a rule, all over these colonies the house of representatives sneers at, and as far as it can, treats with contempt the legislative council. Is it right that in the constitution we are desirous of building up, one branch of the legislature should be encouraged to regard with contempt and to sneer at the other branch? I said just now that there was a tendency on the part of hon. members in this Convention, as well as on the part of hon. members outside, to so limit the powers of the senate as to make it a discredited body. If the powers of the senate are to be limited and circumscribed in this way, would it not be better to sweep it away altogether? If hon. gentlemen are not prepared to give reasonable powers to the senate, a straight forward
way of dealing

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with the matter would be to sweep it away altogether. We want no inferior or discredited body in this constitution. We want both branches of the legislature strong; we desire that they should both live in the respect of the people. Hon. members are not satisfied with what has yet been proposed in regard to the senate. Members who are leading the attack upon the senate in this Convention, are not satisfied even to have the sole power of taxation in the house of representatives. They want in addition power to dissolve the senate, and also the power of referendum against the decisions of that body. I repeat that, rather than have provisions of that kind in the constitution, it would be better to sweep the senate away altogether. Rather than have a weak, useless, discredited body, it would be better not to have a senate at all.

The Hon. Sir J.W. DOWNER:

Have a newspaper from each colony!

The Right Hon. Sir JOHN FORREST:

We have often had placed before us by hon. members on both sides of this Convention, by hon. members holding all sorts of opinions, the Constitution of the United States. Is the Senate under that constitution a weak and discredited body?

Mr. TRENWITH:

It is discredited, but it is not weak!

The Right Hon. Sir JOHN FORREST:

I think the hon. member knows very little about it. Some of us have travelled in the United States, and have had opportunities of observation there. Do the Americans tell us that the Senate is a weak and discredited body? Do those who have travelled in America say that? No; they say that it is a great and a powerful body. The very best and wisest men in the country endeavour to get into it to take part in its deliberations. What is this body in the United States? It is elected by the legislatures; it cannot be dissolved; there is no power of referendum, and it has equal powers with the House of Representatives.

Mr. TRENWITH:

It works Tammany rings!

The Right Hon. Sir JOHN FORREST:

You will find weak spots in any system of government which ever was invented of which designing men will take advantage.

Mr. TRENWITH:

I said it was a discredited body!

The Right Hon. Sir JOHN FORREST:
It is not a discredited body. It is one of the best legislative bodies in the world. It has equal power with the House of Representatives, and, what is more, it has the power to control the executive government. Beyond that it has stood the test of time for over 100 years, and it has flourished. Has it in any way injured or brought discredit upon the country? Has it crippled the liberties of the people? Has it impeded the progress of the United States?

Mr. TRENWITH:
Yes!

The Right Hon. Sir JOHN FORREST:
I say that the contrary is the case. You cannot say that of the Senate of the United States. It cannot be said of it that it has done any of these things. On the other hand it has promoted and maintained the glory of that great country. It is desired that there should be some power to dissolve the senate under this constitution, and that there should be some process of referendum with a view to prevent deadlocks. This is proposed notwithstanding that the senate is an elected house, and that its members must go before their constituents once in every three years. I say are also unknown in Great Britain, and they are unknown in the self-governing colonies of the empire. Why should we endeavour to improve upon those constitutions by the introduction of provisions of this kind which have been found quite unnecessary among the people of the great mother country and among the people of these colonies? We are referred in the matter of the referendum to Switzerland, but I would prefer to go for example and illustration in a matter of this kind to the self-governing colonies of our own empire and to the English-speaking people of the United States.

The Hon. A. DOUGLAS:
The referendum of Switzerland is not the referendum which it is proposed to introduce here!

The Right Hon. Sir JOHN FORREST:
I am not asking for anything which is unreasonable or which can be said to be unjust. All that I wish to see in this constitution are provisions which will promote our future prosperity. I do not think I need say any more. I hope that hon. members who voted for the omission of these words in 1891, and again at the beginning of this year, will stick to their colours. We have come back here fortified by the action we took on both those occasions, because we are not now speaking for ourselves; but we can speak on behalf of the parliaments of the colonies we represent.

The Hon. Sir P.O. FYSH (Tasmania)[12.21]:
It may be presumptuous for representatives of the smaller colonies to
enter thus early into the discussion of the great question of the monetary powers of the senate; but I am emboldened by my right hon. friend who has just resumed his seat to rise and attempt to express the opinions which I know are held by many of my friends in Tasmania on this subject, and before I conclude I intend also to express my own opinion and my purpose of action. I am one of those who, in connection with the bill of 1891, and again in connection with this bill at the Adelaide Convention, strongly supported the power proposed to be given to the senate, not only to reject but to amend money bills. When the bill of 1891 came from the House of Assembly to the Legislative Council in Tasmania, I was charged with the duty of introducing an amendment in that Council by striking out the words "and not amend" in order that the bill of 1891 should provide that the senate should have power, not only to reject, but also to amend, and on a late occasion at Adelaide I voted with a like purpose. I will not anticipate my present intention by stating it now; but it maybe partially gathered by the opinion to which I give utterance—that federation in New South Wales and in Victoria has, since April last, found very many friends public men, whose opinions previously had been seriously doubted; public men, who it was feared were making use of federation for sinister or other purposes, but who by their declarations in their parliaments, and in this convention, have given to many of us who doubted their purpose the conviction that at any rate they are determined, if practicable, to obtain a true federation, and that to obtain such a federation they may be prepared to forego their own serious convictions. If, therefore, those of the smaller states who are equally desirous of securing federation approach this subject, it should be with the object of co-operating with those who have shown a desire to make concessions on important points, in order that the smaller states may not be found working as conspirators, or in actual co-operation, for the purpose of securing what may be regarded as the rights of the smaller states. I think it would be a great mistake for the smaller states to be discovered so co-operating and so conjoined time after time as to leave the conviction upon the mind of the public, when the great power of the federal parliament shall have been brought into existence, that the weaker or smaller states would be found in combination then as they have been found in combination in the Convention. I shall strive, therefore, to avoid anything which may give colour to that opinion, and shall endeavour so to act that the people at large may see that the interests of the smaller states are wrapped up in the interests of the larger States, and that we are prepared upon a great question of this kind—as New South Wales was prepared on the great
question of free-trade or protection to leave to the judgment of those who will form the federal parliament the dealing with very many of these questions, and to trust the higher judgment and wisdom of that body, believing that they will be actuated by a desire to secure the good of the people as a whole, and not selfishly to promote the interests of any particular state. I speak thus, notwithstanding that I feel that I am charged with a message from Tasmania in common with my colleagues to maintain as strongly as possible the intention of securing in this bill the power to the senate of amending money bills. I have said that the 1891 bill was so amended in the House of Assembly in Tasmania, and had the bill gone to an issue in the Legislative Council, I was charged to secure a similar amendment there; and now, coming to this Convention after the local parliaments have considered the bill framed at Adelaide, I am the more convinced that there is a large majority of the legislature of Tasmania, representing a very large number of the people of Tasmania, who still feel strongly determined—even as strongly determined as my right hon. friend, Sir John Forrest to secure for the senate the powers which that right hon. gentleman has been advocating. But although the legislature and the people may desire to maintain the senate in the position of proud importance which, the right hon. gentleman desires, I am compelled to ask myself the question whether as we approach the difficulties of our deliberations, we are not approaching that period when, if concessions are to be made, they should be made now. I want, therefore, to bear in mind that the smaller states are not to have it all their own way, and that neither will the smaller states not be prepared to federate if upon some important matters their views have not been conceded. I am prepared to acknowledge that there has been a great concession. I agree that it is a right, if you please. It was claimed by the Right Hon. Sir George Turner, by the hon. and learned member, Mr. Isaacs, and also by many others, that the right existed and that there has been no concession that we stand before you to-day as states having the same power by reason of our senates having equal numbers. I claim the right as much as anyone. But we may claim rights which may not be conceded, and I can quite understand that there are powers in existence throughout the community, which are backing up the powers of this Convention, who would have prevented, if possible, the granting of that as a right. But we had the speech of the hon. and learned member, Mr. Isaacs, in Victoria, admirable in its cause, admirable in its method, and admirable in its conciliation, which induced his people to give up that for which they had been clamouring.

The Hon. Sir J.W. DOWNER:

They have been wanting it for years!
The Hon. Sir P.O. FYSH:

They have been wanting federation, and they need it, I think, as much as any of the colonies; but for all that we are none of us prepared to take federation at too great a price. You may buy gold too dearly, and you may buy federation too dearly; and, poor though we may be insignificant though we may be in Tasmania, it will be found that we are not prepared to buy federation at too dear a price. But when it comes to a question of drawing together the two ends of the string, to a question as to who is to jump in the one direction or the other, and when we have had the olive branch held out to us, as it has been held out to us, by New South Wales, and by those who carried the bill through the Victorian Assembly, then it seems to me that the time is coming when, while not concealing our opinions, we shall concede Something to those who have striven to meet us. I shall watch what will take place with respect to this clause, and shall watch it with the hope that some of my colleagues from Tasmania may join those three who on a former occasion voted with the majority on this particular question. It is not a matter upon which there should be a narrow majority it is now a matter on which we should either reverse that position or make the majority much more, powerful and I trust that the speeches which will be delivered on this occasion will induce many to change the opinions which they had, and to recognise that the time is coming for some concession. It is a very important matter that the senate shall have the full power of rejecting money bills. The senate will recognise the paramount importance of that power, which is embodied in our bill, and that they are not to be regarded as the nonentities to which my right hon. friend, Sir John Forrest, refers. But having that power, they will also have the power of making suggestions; and the more I think of the power of making suggestions, the more I am disposed to think that it is absolutely the power of amendment.

The Right Hon. Sir JOHN FORREST:

Oh, no! The Hon. member knows nothing about it!

The Hon. Sir P.O. FYSH:

Follow the practice; and, although in the teeth of the strong opinions formed by our own respected Clerk of the Council, Mr. Nowell, I am not prepared to say it is a good system although I am not prepared to say that the power of suggesting which casts back on the house of representatives the responsibility of disobedience to their own standing orders in other words, of reviewing their own work, and amending it contrary to the parliamentary practice although I am not prepared to support the proposal as being a wiser one; yet, instead of giving to the senate the power of
amendment, you give them the power of sending back the bill with their
suggestions to another chamber.

The Right Hon. Sir JOHN FORREST:
Which they will treat with contempt!

The Hon. Sir P.O. FYSH:
We shall soon discover if they are or are not treated with contempt. What
is the difference between rejecting your amendment and rejecting your
suggestion?

The Hon. J.H. CARRUTHERS:
The difference between "tweedledum" and tweedledee"!

The Hon. Sir P.O. FYSH:
Surely the difference is as much as that between tweedledum" and
"tweedledee"?

The Right Hon. Sir E. BRADDON:
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The Hon. Sir P.O. FYSH:
Will it be contemptuous for the house of representatives to send back a
measure with a suggestion? It surely would be equally contemptuous for
them to send back the bill with an amendment? The position remains the
same. If need be, there can be a conference between the two branches of
the legislature. Therefore, I hold that whilst you have first of all the
extravagant power of rejection by the senate, you have the minor power of
suggesting which to my mind is equivalent to amendment.

The Right Hon. Sir JOHN FORREST:
Oh, no!

The Hon. Sir P.O. FYSH:
I am quite prepared to magnify the position of our senate as our right
hon. friend, Sir John

Forrest, has done. We have magnified the senate in that we have lifted it
from the position of numbers, and from the position of representation
which the second chamber holds now in connection with our local
legislatures. We are in the habit of regarding the opinion of our local
legislative councils with less respect than we shall regard the opinion of
our senate. Why? Because they are but representatives of a minor number
of the people, and of certain class interests, mostly. Victoria may claim
what she will with respect to her Legislative Council after the last
important amendment of its Constitution; but there still remains, with
respect to some of the legislative councils of Australasia, the fact that they
are nominee; and if they are not nominee, there still remains the important
fact that they are elected by a very small number of the people, and
generally that number is selected from a class of property holders.

The Right Hon. Sir JOHN FORREST:
There is no harm, in that!

The Hon. Sir P.O. FYSH:
No; there is no harm in it. I have had the pleasure of respecting the opinions of the Legislative Council, and I have also had the opportunity and necessity of struggling very hard against some of their opinions; I have not only known them to stand in the way of progress, but I have also known them to be exceedingly useful. You cannot, however, obtain from the peoples of Australasia respect for a body which is, after all, but representative of classes, or of a class.

The Right Hon. Sir JOHN FORREST:
What sort of a class?

The Hon. Sir P.O. FYSH:
Chiefly the monetary class, the property class.

The Right Hon. Sir JOHN FORREST:
Every householder has a vote!

The Hon. Sir P.O. FYSH:
There must be a certain amount of rental, or of leasehold, or of capital value. The great masses of people have been excluded from representation in the Legislative Council.

An Hon. MEMBER:
Where?

The Hon. Sir P.O. FYSH:
Throughout Australia.

Mr. LYNE:
But in Tasmania are you not elected by property-holders?

The Hon. Sir P.O. FYSH:
Partly so; but our House of Representatives is representative of the great masses of the people. If I am not interrupted I will just come to the same point, that so far as your commonwealth parliament is concerned, you will have two bodies of men chosen by the same class of persons and the same numbers of persons, and having made that important amendment in the old bill, that instead of your members being nominated or appointed by your legislatures, you will have them the representatives of the people, having secured their suffrages-and they, having secured their suffrages, will secure their respect, and most likely their affection, and so you will have two bodies of men holding correlatively the same respect from the people.

The Right Hon. Sir JOHN FORREST:
The Hon. Sir P.O. FYSH:

I grant the right hon. member that, having raised up so respected and respectable a body, you might give them equal power.

The Hon. H. DOBSON:

I should think so!

The Hon. Sir P.O. FYSH:

But I am not prepared at the present moment to wreck federation for the purpose of the senate securing that power.

The Right Hon. Sir JOHN FORREST:

Don't be afraid!

The Hon. Sir P.O. FYSH:

I am not expressing any fear, but the time is coming, I feel sure, for some concessions to be made by the smaller states.

The Right Hon. Sir JOHN FORREST:

We have been conceding all along!

The Hon. Sir P.O. FYSH:

When my right hon. friend points out where we have made any special, important concession, I shall be very glad to hear him; but I do recognise that there has been a very important division taken in this Chamber during the last few days a division with such a majority as I little expected and that has inspired me with greater confidence that as we proceed with the bill we shall be drawing nearer and nearer together, and not finding ourselves more and more separated. I shall watch the progress of the measure with the hope that those of us who represent the smaller states may be found even in this matter voting with those who represent the larger states.

The Right Hon. Sir JOHN FORREST:

We will not always be small!

The Hon. Sir P.O. FYSH:

I can quite understand my right hon. friend who is expecting to loom considerably larger. He is looming large already, and so is his colony. But Tasmania also looms large. Hon. gentlemen who laugh at the idea of Tasmania looming large would not do so if they happened to hold a thousand Mount Bischoffs, a thousand Mount Lyalls, a thousand Golden Gates, or a thousand Roseberys. They would admit that Tasmania looms large, and that there is laid up there a storehouse which we are now exposing, and which, I am perfectly satisfied, will in a few years place our colony in a position of greater importance than that which it has hitherto occupied. When she occupies that position she will, I feel sure, be a
member of the Commonwealth of Australia, and I shall not regret that the senate, of which her six senators will form part, will have the power to defeat a taxing bill or an appropriation bill, and the power of suggesting alterations and amendments, although it does not secure the absolute recognition of the right to amend.

Mr. SYMON (South Australia)[12.41]:

This is a question of the very greatest importance, and, at the Adelaide session of the Convention, it was debated at length, and with a thoroughness worthy of the subject and of the occasion. I, myself, shared in that discussion, so that, probably, I need hardly assure hon. members that I am perfectly alive to the gravity of the question, and to the seriousness of the issues involved. I wish to say that I adhere entirely to the views which I then sought to enforce. It appears to me that the direct power of amendment is of great importance to the strength, and to what is, perhaps, of as much consequence, the dignity of the senate. I agree with the Right Hon. Sir John Forrest that to give up this power is, to a certain extent, an acknowledgment of inferiority to the house of representatives with regard to a certain class of bills. I think that my right hon. friend did not use language too strong when he spoke upon the point, and possibly it may be that, to the people of the less populous colonies, it may look as though the senate has been lopped of a limb, or, to some extent, maimed, if this power is taken away. But, adhering as I do to these views, I have come to the conclusion that this power is not absolutely essential to the efficient exercise of the functions of the senate. My belief is, and I wish to put my views in the very fewest possible words, that, even shorn of this power, the senate may still hold with effect a great and patriotic position in the councils of the nation we are going to create. I think so the more, because after a very thoughtful, and, I am sure hon. members will believe me when I say very anxious, consideration, I have come to the conclusion that the safeguards provided in the bill as it now stands are of the very highest value. I believe that the provisions which we inserted during our Adelaide session were most carefully considered, and that, short of retaining to the senate the power of amending taxation bills and the ordinary appropriation bills, it appears to me that the scope of the senate's control over finance is sufficiently large to enable it to exercise a very strong and very satisfactory power in the state. Under these circumstances, I have resolved to support the clause as it stands as the outcome of our deliberations at Adelaide. In my opinion, it will not materially weaken the senate.

The Right Hon. Sir JOHN FORREST:
It will build up an inferior body!

Mr. SYMON:

There is undoubtedly the slight blemish to which the hon. member has referred. The senate will be an inferior body, but inferior only in the sense that it is not absolutely co-ordinate with the house of representatives. But if I entertained more doubts than I entertain on the points which I have briefly indicated, I should still take the course which I now propose for myself. On this great question I do not wish to act the part of the boy who looked for a star in the grass, and when he found a diamond threw it away. Like my hon. friend who has just sat down, I want to have federation. It seems to me that the irrevocable moment in this movement has arrived, and I wish to be guided, as I indicated the other day, on this and all questions of greater or less consequence, by the desire to remove every obstacle, whether of feeling or of substance, so long as it is not entirely essential to the progress of this great cause. I do so, because I have an assured hope of the greatness and the prosperity which the success of the cause is inevitably destined to secure. Therefore, without further argument on my part, and without any qualification, or any desire to know how others are going to vote, I declare that I will support the clause as it stands.

The Hon. Sir J.W. DOWNER (South Australia)[12.48]:

I am going to maintain the position which I took up in 1891, and again in Adelaide this year. I consider that the concessions to which the hon. member, Sir Philip Fysh, referred, have been all on one side. So far from gentlemen having sacrificed their views in most important particulars in order to meet us, they have given away nothing at all. The more we meet them, the more they ask for concessions. Directly we make a concession which some of them represent to be the only concession they want they make that a ground for demanding another. Even now, with the money clauses, they have weakened the senate until this unfortunate suggestion came from Tasmania, and we have to go back to the first principles upon which federation should be founded before we arrive at a true conclusion. I feel very much that the mere physical weight of the great states is telling upon the Convention even now.

The Right Hon. G.H. REID:

The weight of their arguments!

The Hon. Sir J.W. DOWNER:

Although opposed to the first principles on which any proper federation was ever established; although the representatives of the larger states ask for concessions that they never give to others; although they have managed more and more to bring this federation on to the lines of a consolidation, still I notice hon. members drop off one after another. The sweet
surroundings, coupled with the great power of the people we are amongst, and the great states they represent, are proving too much for us. One by one the poor birds are fluttering down, and soon, I am afraid, there will not be one left.

The Right Hon. G.H. REID:
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An Hon. MEMBER:
Do not let them put you down!

The Hon. Sir J.W. DOWNER:
I will not just yet. We have now got to the practical consideration of this power of amendment about which we had so much discussion. When we were at the Convention in 1891 there was no substantial fight on the question of equal representation in the senate that was in fact conceded as a necessary condition.

The Hon. Dr. COCKBURN:
As a postulate?

The Hon. Sir J.W. DOWNER:
As a postulate.

Mr. HIGGINS:
It never will be again!

The Hon. Dr. COCKBURN:
You have got so much that you want more! The Hon. Sir J.W. DOWNER: It was well understood, and there were members as capable of discussing it as the hon. gentleman who says "Hear, hear." Every point of view was carefully thought out; but the history of all federations established amongst people in our condition pointed inevitably to the one condition, that the states must have equal representation. It was only when we came to this question as to the money power that the fight began. The question was whether there was to be a government responsible to the lower house, or a government responsible to both houses. Now, by the cleverness of the gentlemen representing the larger populations, the whole battle-ground has been shifted. We are thrown back a stage. We have had a big fight, which has been referred to triumphantly by the hon. member, Sir Philip Fysh. He seems to think it is something to be proud of; but it was all a matter of course. We have had a magnificent fight over nothing. After we have secured it, we are told that, out of consideration for the victory which we have gained, we should make concessions. What right have we to make any concessions at all? We ask for no favour, and if we did ask we should not get it. I should like to know what mission the hon. gentlemen who
represent New South Wales and Victoria have from their constituents to
give us anything to which we are not entitled. Is it not their mission to do
the best they can for their own constituents?

Mr. HIGGINS:
NO!

Mr. LYNE:
It should be!

The Hon. Sir J.W. DOWNER:
Is it their mission then to sacrifice their own constituents?

Mr. HIGGINS:
To do their best for all Australia!

The Hon. Sir J.W. DOWNER:
Is it their mission to do their best for all Australia including their own
candidates?

Mr. HIGGINS:
Certainly!

Mr. LYNE:
It should be!

The Hon. Sir J.W. DOWNER:
I am glad that is admitted. If that is the case what is the good of talking
about their having to give something away? If they do so it is throwing a
sprat to catch a mackerel. They must do their duty to their constituents, and
when it is for the well-being of their constituents that they should make
some temporary sacrifice, it will be with a view of producing greater
benefits for their people.

An Hon. MEMBER:
That has been our object always!

The Hon. Sir J.W. DOWNER:
That is the position of all of us; therefore, when we say we must make
concessions, and you must make concessions, we may all have to submit to
immediate sacrifices; but we all hope a reward will come to us from that
line of action. What is the position now? We have got expressions of quite
different understandings as to the effect of this provision, and as to how it
will work out, from gentlemen who represent the larger colonies, and from
the hon. member, Mr. Symon. The hon. member, Mr. Symon, says that if
the present bill is preserved it will give more power to the senate over
financial questions.

The Right Hon. Sir JOHN FORREST:
He did not say so in Adelaide!
The Hon. Sir J.W. DOWNER:

I am only dealing with the debate that is now taking place. The hon. member says it will give more power to the senate; but we have heard from the other side that it will not give more power. We are told that it will not be submitted to that the house which represents the people should be dictated to or interfered with by the house which represents the states, so that we begin this friendly compact with a misunderstandings. As I said before, the understanding by the Convention of the constitution is quite as important as the letter of it. We each interpret what is done in his own way, and we have the press in the different colonies giving their own interpretation. Instead of having the best and most thorough of understandings as to what we are doing it is evident that there is a thorough misunderstanding. The position I have always taken up, and which I intend to maintain, although no doubt I shall be defeated, is that the senate and the house of representatives ought to be co-ordinate houses with co-ordinate authority, and that they should only cease to be co-ordinate where some question of convenience would make a departure from it necessary. As far as the origination of taxation bills is concerned, it might be convenient that you should have one house in which they should originate. About that I care but little. When the American Constitution was established, and when it was provided that bills imposing taxation must originate in the house of representatives, that was not done with any view or intention of making the senate in any way inferior to the house of representatives. It was a mere provision of convenience as to the house in which certain measures should be introduced, and to some extent, possibly, it was copied from the British Constitution with which they were familiar. But beyond that, was there any question that the authorities of the senate were very much larger than those of the house of representatives? Here we are taking another course we are not taking away the great powers of the senate because we have not created them; but we are refusing to grant those great powers which constitute the dignity of the senate there.

[The Chairman left the chair at 1 p.m. The Committee resumed at 2 p.m.]

The Hon. Sir J.W. DOWNER:

I was saying that as we are going we are more and more frittering away the essentials which are at the root of a true federation. We have had the argument of expediency—a good enough argument to use in the way of an assertion that unless you agree to this, and unless you agree to that, we will not have federation and I say there must be a time, surely, in which people will say "then we will not agree to federation." We are met here; the climate is beautiful at present; the scenery is delightful; the hospitality is
perfect; and we feel disposed to agree more and more. I assure hon. members that I myself am speaking with the greatest difficulty, because I feel overwhelmed by the surroundings which are antagonistic to me, and yet so, friendly. I feel more killed by the kindness of my surroundings than I should be affected by action of a different character, and so I speak under an effort, trying to put myself in the cooler position of being at home with ordinary surroundings, and to think of this matter as the people of South Australia and the smaller populations will think of it with all our delightful environments absent from us. I am, from that point of view, trying to look coldly at the question and yet doing so under great difficulty. The people look back to the history of past federations, and they say, the very basis was the recognition of the states as states the recognition of the people as one people. "You will not get federation without this," said a gentleman to me not very long ago. You will not get federation at all with it, because, even if you get it, in my opinion it will not be federation. I have no particular objection from my own point of view to a consolidation of the colonies. I can see an immense advantage which might come from the centralisation of certain offices, and the saving of a vast amount of expense both in legislative authority and in administration. If our mission were to consider the best scheme under which we can consolidate all the colonies of Australia into one commonwealth, I certainly should not refuse, if elected, to be a party to that mission; but it is not our mission now, and in the degree in which we make this attempt at federation tend towards consolidation, to that extent we are false to our trust, and are not doing what we were sent here to do. That will apply equally to all the colonies. We must come back to this: we will not do this; if you will not concede this we will not concede that. We are business men who are talking here; we are not children with playthings; we are not talking about concessions; we are not talking about conferring benefits or receiving them. We are here to do what is fair and right for the benefit of all, and that is the point of view we have to pursue. What is all this objection to the only object lesson we have, the American Constitution? Where does all this objection come from? I observe that some writer in the press the other day thought he would expose the fallacy of my suggestion here that the American Constitution stood a severe test, in that it remained powerful in the face of a victorious army which could have destroyed it in a moment. To me, and to a good many people, I think that argument was conclusive on the subject of the American Constitution. What is the good of going back to the letter of the law and saying, "the army could not have destroyed it, because the
law said they could not." Who was to resist them? If the senate were the cause of all the trouble, who could have stood in the way of that army in the destruction of it? They did make material alterations in the Constitution. They had the power of wiping the constitution out by mere physical force, without the aid of reason, and in utter disregard of the constitution; but so far from that, after all these years and years of experience of the working of this most mischievous constitution, which wronged the people for the benefit of rings after all this, after being forced into a most cruel civil war, with its endless trouble and bloodshed, they did not turn upon the power which had produced the injury, but they dignified and ennobled it. I say again, as I said the other day, what is the good of writing to the newspapers, or of essayists preparing elaborate articles, or of gentlemen twenty or thirty or a hundred years afterwards writing very clever books to prove that what was proved to demonstration then was not true? This is practically the argument I had to meet in Adelaide, and which everyone has to meet everywhere: "The American Constitution is the most corrupt constitution in the world; the American Senate is the most corrupt body in the world. Look at So-and so's book on the subject; look at the article in such a paper, and you will find all that is so." The American Senate I expect has done wrong, seeing, unfortunately, that it has to be composed of fallible human beings; but that the American Senate has not always been a body held in highest respect not only in America but in the civilised world, I absolutely deny; and above all things the American Senate is an institution suitable to the American people, which has not remained simply on account of their constitutional difficulties in making an alteration, but remained intact when the constitution was disrupted, and when there was nothing left but war and the power of main force. I defy anybody seriously to contend, under these circumstances, that the American Constitution has not worked well, has not worked harmoniously to the people. Has it worked to the ennoblement of the smaller states as against the larger states. We have two lines of argument. We have it said in one breath that the effect of this will be to establish a constitution similar to that in America, will be, as it has been in America, to produce an undue ennoblement of the smaller states to the degradation of the larger ones. We are in the same breath told, and by identically the same persons, that it is quite stupid to have all this trouble, to have all this discussion, to have all this ill-feeling which may be engendered, for the purpose of producing a body which will not bother about state right when it is established, because they say that, in America, where there is equal representation on the part of all the states, small as well as large, the
question of state rights never arises. We have these gentlemen, from both points of view, showing us how very futile all this argument is, and how very unnecessary. Because a body is established on reasonable, sensible, aye, judicial lines, which has worked out so excellently in the results, that all state differences are forgotten, and when disputes occur they have so become one people that questions of state rights are never involved because that body, so well established, whose basis was so perfect, and whose vindication has been so supreme, has worked well, therefore a body established on no logical basis at all except the sacrifice of the entity of the smaller populations, will bring about just the same results. Why, sir, the very excellence of the working of the American Constitution proceeds from the excellence of the balance of its establishment. It is the perfect balance which is preserved by means of the strength of the senate, between the representatives, who are the people as a whole, and the states which have to preserve their individuality it is this perfect balance which has brought about that great result that, in all the troubles and disputes which have arisen between the Senate and the House of Representatives, a question of state rights has, practically, never arisen. That is the guarantee we want. We want our constitution established on a logical and sound basis, and above all, we want our constitution established on a basis consistent with the solemn duty we are sent here to discharge, which is not to establish a constitution which must end in consolidation, but to establish a constitution which will preserve the entity of the colonies whatever may occur. It is said you have really got the same power in the power of suggestion. Of course, we shall have that power vehemently attacked before long. The power which the gentlemen on the other side say we have got, they will industriously prevent us from having in a few minutes, and they will say, "What more do you want? You have got in effect the same power." When they have convinced me by their eloquence, by their friendliness, and by their conviviality, that it is all right, they will say, "We will not have that; we are going to strike that out." That is what will happen, as a matter of course.

The Hon. A. DEAKIN:
That will not happen in this clause!

The Hon. Sir J.W. DOWNER:
If my vision is inaccurate, no one will rejoice more than myself; but, supposing it does happen, it is not the same, it is not meant to be the same thing. I admit that it may work out as the same thing. We can make the constitution; we can create conventions of the constitution; we may cause great ill-feeling, instead of great good-feeling at the initiation, and misunderstanding instead of a perfect understanding: but, as to limiting the
manner in which the constitution will evolve itself, we are absolutely powerless. The constitution will be strong and effective just in proportion to the attractiveness it affords to the best intellects of the colonies; but the best intellects of the colonies will certainly not be attracted to a body which has no particular premiums to offer. I do not mean premiums in the sense of worldly advancement or money, I mean premiums in the sense of authority which can be exercised. Unless the senate has that power, the best intellects will, as a matter of course, go to the place which really has it, and the result will be a gradual degradation of the senate, as is intended by some, until it becomes a body less than the House of Lords, until it becomes a body which has the physical power of saying "no," but annexed to it, as a condition of its existence, that it must not say it. We are truer federationists, and much less narrow than some of these gentlemen; we want to approach the consideration of this question from a broad, constitutional standpoint, without which the federation cannot be established and cannot continue. That is the point of view from which we are acting, and which we are asking them to adopt. From what I observed in the voting last night, and from some defections I have seen today, I know that my views will not be carried. I must not be understood to use this favourite method, which comes particularly from one colony-I forget the name of it-that unless you do this we will have no more to do with it. We have passed the portmanteau stage. I am not going to speak at all in that spirit, because I do not feel in that way; but still I believe that we are not beginning well unless we establish our houses on a basis of practically co-ordinate authority. If we put the brand of inferiority on one at the start, with all the surroundings to induce inferiority, it will degenerate. When speaking in Adelaide, I said that, so far from giving the senate less powers, if I saw my way I would give it greater powers than the house of representatives, because the house of representatives is bound to be marvellously powerful. Representing the great body of the people, having both numbers and influence, with the pressure of public opinion that will be behind it all, its power will be almost absolute, and our senate will not have, like the American Senate, those large outside powers which practically give it its dignity, and enable it to retain the equality of its position. We want to establish an abiding federation, founded on the only means on which a federation will proceed. Our determination must be to have the states and the people equally represented. Anything short of that must end in a consolidation or will end in difficulty. As the right hon. member, Sir John Forrest, pointed out, this is only one of a string. When
you have emasculated the powers of the senate, when you have said that it is not to have equal authority with the other house, you have not done then. You have to have what they are pleased to call a cure for deadlocks, which means more coercion on the senate; and after you have gradually frittered away all the authority of the senate that was intended to be established on something like the lines of the American Senate after you have frittered away the greater part of its authority after you have put the whole management of public concerns in the form of what is called constitutional government that is, a government responsible to only one house you are not satisfied, and something more has to be done, which is the institution of a national referendum. After all, this concession, which Sir Philip Fysh so gratefully accepted, this magnificent sacrifice of prejudice and interest on the part of the larger colonies, is, in my opinion, a stronger and stronger assertion of right inconsistent with the constitution of a true commonwealth, and,

in all, is a substantial refusal to recognise the authority of the states as states, through refusing to recognise the right of the senate to dissent from the house of representatives; because that is to be the end of it all. After you have shorn the senate of these authorities one by one, after you have made it less and less powerful, after you have by this bill deprived it of its individuality so plainly that he who runs can we it, and there can be no mistake whatever as to the provision being thereafter you have done that, you say, having gone through all this solemn business, after first giving authority and then taking it away, or at all events a large part of it, we have one little thing more which is necessary in the event of your standing out against us with such authority as is left to you, the power of being able to send you to a national election of the whole of Australia, in which you smaller communities will have the advantage of your numbers. I do not put forward this point of view in order to obstruct the measure; but it is a point of view which will occur to a great many persons in the smaller colonies. Some of us in our enthusiasm for federation, with our belief in humanity, with our confidence that after all we will do justice to each other, might be induced, even if a constitution were established which is thought to be not on the soundest lines, to use our best influence to have it affirmed. But our influence is, after all, very limited. It is the great body of the people who have to settle these questions, and it is entirely from my feeling as to the true basis upon which any federation should exist, and, secondly, as to the method by which the popular assent should be obtained, that I take up the position I do at the present time in hoping that this amendment will be carried.
The Right Hon. G.H. REID (New South Wales)[2.24]:

I have listened to the speech of the hon. member, Sir John Downer, with great attention. I can assure him that he is quite under a delusion if he thinks that his surroundings have at all tempered the strength of his views upon the great question of state rights. I have never heard him more eloquent, more earnest, or more explicit in the view which he takes of that subject. I think we must all give up at once the idea of being able to frame what is called a perfect constitution, that we must give up the idea of arriving at a settlement which, in the opinion of everyone, will be perfect. The more time we take up in aiming at anything of the kind the less likely we are to do much good. We must get rid of phrases of what the term "federal" means, of what the term "commonwealth" means, and, to some extent, we must get rid of the veneration which my hon. friend seems to entertain for the Senate of the United States. We are framing a constitution today under vastly different circumstances, and I hope I am not too radical when I say with perhaps considerably more enlightenment than was vouchsafed to the framers of the American Constitution. I think we must all admit that during the past hundred years mankind has advanced to some extent in the perception of methods of government.

The Hon. Sir J.W. DOWNER:

That is my argument!

The Right Hon. G.H. REID:

And even in federal matters, as to improvements in a federal constitution. My hon. friend derives great comfort from the assertion that no one has ever seriously proposed to amend the Constitution of the United States, that is to say, no one within the political circle. My hon. friend is surely not so ingenuous as he wishes us to believe when he makes such an assertion. Why is it that no one within the circle of politics in America has seriously proposed to alter the American Constitution, especially with reference to the powers of the smaller, states? Because it would mean political annihilation to do anything of the kind. There is a vast body of outside opinion in the United States which condemn as monstrous the present basis of the senate-utterly monstrous, and inconsistent with any modern ideas of representation, representative government, and even federal government, perhaps. But what leader of a great party in the United States Mr. McKinley or Mr. Cleveland would seriously go before the American people with the proposition that the powers of the smaller states should be interfered with? It would mean the destruction of the man's political position, because the smaller states hold, without doubt, the balance of power in the Senate.
There is no doubt that the Senate has worked wonderfully well in past years; but as time goes on, even public opinion is coming to the conclusion that the Senate of the United States has been vastly overpraised. A more humiliating or dishonorable petition was never occupied by a representative body than that occupied by the Senate of the United States within the past few months when the details of the tariff were being adjusted, and when senators are supposed on high authority to have made enormous fortunes out of the varying phases of expectation as to how that particular tariff would be finally settled. I assert, without the slightest fear, that the reputation of the Senate of the United States is vastly lower today than it was twenty years ago, and deservedly so. One of the reproaches of that body and I think it is a reproach is that nowadays it is mainly composed of men of enormous personal fortunes. No one objects to that in itself; but it is absurd to say that a senate composed of millionaires can be said to faithfully, or in any way adequately, represent all the various beliefs and classes of a people like those of the United States. The members are none the worse for having the millions, but no one expects a house to give satisfaction to a great democracy which happens by mere accident to be exposed to that observation. So far as we in Australia are concerned to day we have a very simple task, and that is to make this constitution as perfect as we can, always bearing in mind that it will never become a constitution unless the people of the various colonies can be induced by a majority to accept it. Now it is entirely upon that consideration that I have given up a large amount of ideas since I really became earnest in this federal movement. It is not that I do not still entertain, though, perhaps, not quite so strongly, many of those views as a matter of individual conviction; but the more in earnest one becomes about the grand object itself, the more a sense of proportion asserts itself, and the more we are disposed and prepared to give up even cherished convictions under the overmastering desire to bring this enterprise to a happy conclusion. I think the amendment of my right hon, friend, Sir John Forrest, is a most calamitous one. It is throwing us completely back. We had this great fight out in a much simpler form in Adelaide.

The Right Hon. Sir JOHN FORREST:
Not the same!

The Right Hon. G.H. REID:
Pretty much the same, except that it was a broader fight than this.

The Hon. Sir J.W. DOWNER:
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The Right Hon. G.H. REID:
My hon. friend treated the matter from his point of view with absolute
fairness and force, but in Adelaide I remember the proposition over which we had the great debate was a proposition that the senate should be entitled to amend all money bills.

**An Hon. MEMBER:**

No!

**The Right Hon. G.H. REID:**

Except the annual appropriation bill. With that exception, I think it was a general power of amendment.

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**Mr. MCMILLAN:**

The present amendment leaves out the appropriation bill!

**The Right Hon. G.H. REID:**

Exactly. Practically we have come back again into the dispute we had at Adelaide.

**The Right Hon. Sir E. BRADDON:**

We have also had the question of equal representation over again!

**The Right Hon. G.H. REID:**

That is quite right, and no one can complain of it, because that is exactly what this final session is for. Perhaps, on reflection, I ought to withdraw the remarks I made in that sense, because every one is entitled at this final sitting to have a thorough reconsideration of all these important points. So that I am afraid I rather spoke without thought in the remarks I made. This particular amendment claims for the senate a power to amend bills imposing taxation. My right hon. friend, Sir John Forrest, as we all know, is a typical Englishman, as a rule. I do not know a man who is more thoroughly saturated with the proper ideas of an Englishman than is the Right Hon. Sir John Forrest. But when you come to framing a constitution he is a downright Yankee. He is always talking about the Senate of the United States. He is always talking about the great, dignified, strong Senate of America. Now, we are not framing a constitution for the American people. We are framing a constitution for the Australian people, and, with reference to the control of public moneys, and especially the right of imposing taxation, what are the principles which are thoroughly embedded in the minds of Australians today? They bear very strongly upon this proposition, and I think I make a fair observation when I say that many of those who, in this Convention, today, are prepared to take the view of the Right Hon. Sir John Forrest, if the matter were discussed in their own colonies, as between the two houses in their own colonies, would absolutely take the view which I hold. I am dealing now with the general
principles which are recognised by the Australian people. The more we keep in mind those principles and habits of thought, the more likely we are to frame a constitution which those people will accept. If the constitutions of these colonies are studied it will be found that there is no second chamber which has the right to amend a bill imposing taxation.

The Hon. A. DOUGLAS:
Tasmania!

The Right Hon. G.H. REID:
I do not know anything about the islands in the South Seas. Perhaps the fact mentioned by the hon. gentleman is the strongest proof I can give of the iniquity of such a proceeding. We all know how beautiful Tasmania is, and how promising are its mineral resources; but we have never yet heard a political writer quote Tasmania as an example of constitutional government. I am glad to see my hon. friend is here to give us the benefit of the experience of the Tasmanians, and I must correct myself under my hon. friend's observation, and say that in Tasmania it is a fact that the Legislative Council has the right of amending taxation bills.

The Right Hon. Sir E. BRADDON:
They exercise the right!

The Right Hon. G.H. REID:
But is it a right which the lower house concedes freely to them?

The Hon. A. DOUGLAS:
They make a formal protest!

The Right Hon. G.H. REID:
This little episode has enlightened me completely as to the attitude of my hon. friend, Mr. Adye Douglas, on matters of this sort. Having turned the political machine upside down in Tasmania, he cannot understand any other disposition of it. Well, we are not going to turn it upside down in the federal parliament.

We are not dealing with a legislative council now; we are dealing with a senate elected by the whole body of the people!

The Right Hon. G.H. REID:
I am referring at present, not to the federal body proposed, but to the actual state of things in the different colonies, and I am referring, therefore, to the Legislative Council and the Legislative Assembly of Tasmania. But, rather than make any reference to the country which possesses so irascible a representative, I will give up Tasmania, and refer to the other colonies. In New South Wales, Queensland, Victoria, and South Australia, and, so far as we call pierce the mist of distance, Western Australia, there is an absolute distinction in the constitutions between the rights of the house
which more directly represents the great body of the people and the rights
of the house which either represents the people in some less universal form
or is constituted by appointment.

The Right Hon. Sir JOHN FORREST:
They have not the same franchise!

The Right Hon. G.H. REID:
I do not know how that helps me at present, but I should think that my
right hon. friend, if the upper house attempted to amend any of his money
bills, would express himself in language which would entirely satisfy any
of us. We should then see the political Nelson coming down to the quarter
deck, and talking to this unfortunate body in Western Australia which
presumed to speak otherwise than as the right hon. gentleman dictated.

The Right Hon. Sir JOHN FORREST:
They have the right of suggestion!

The Right Hon. G.H. REID:
We are not speaking of that at present. I think we have heard that several
times from the right hon. gentleman. The right hon. gentleman, I think,
admits it is a farce. So that I come back to this: That with the possible
exception of one colony, not the most populous, the peoples of Australia
are accustomed to a recognition in their political constitutions of the
difference between the powers of the two houses. Upon what principle
does that difference rest? It rests on the simple well-known proposition
which springs from the notorious facts of the case, that in taxation, and
especially as taxation is known in Australia, inasmuch as the whole of the
people are subject to the taxes, and have to pay them, it is in a peculiar
sense the right of the representatives of those who are taxed not only to
prescribe the form in which they shall be taxed, but also to dispose of the
moneys which are the proceeds of that taxation. That principle is not an
Australian principle. It is an old principle of the British Constitution as we
understand it now, which took a long time and a great many battles to
establish in the old country, but which is now so firmly established in
Great Britain that the House of Lords, powerful as they are to reject a
scheme of home rule for Ireland, although millions of the electors of Great
Britain look on that as a burning question fearless as they are in dealing
with attempted innovations on the structure of the constitution pass almost
without a word, certainly without a division, measures of taxation which
seem almost directly aimed at their class, and which reduce the financial
position of the wealthy classes, of the landed estate owners, of England, to
an extent which some of them look upon as little short of absolute ruin.

Mr. MCMILLAN:
But have they not practically given up the right of veto?
The Right Hon. G.H. REID:
   Exactly. I pointed that out as an illustration.
Mr. MCMILLAN:
   But we are giving the right of veto, which they have given up!
The Right Hon. G.H. REID:
   In dealing with this question, I wish to get down, first of all, to the main
   principle of the matter, as we understand it in Australia. It is necessary,
after that, no doubt, to begin to deviate.

[P.502] starts here
Mr. GLYNN:
   The House of Lords did not give it up themselves. The Commons passed
   a resolution in 1860 that they must give it up!
The Right Hon. G.H. REID:
   I should talk all day if I were to go into academic detail about resolutions
   passed this year or that. The broad consideration remains that, in practice
   and fact, the House of Lords do not interfere with a bill imposing taxation,
   although the taxation itself is odious and injurious to the last degree to the
   members of the House of Lords as was shown in the treatment of Sir
   William Harcourt's measure, some two or three years ago.

An Hon. MEMBER:
   The succession duties!
The Right Hon. G.H. REID:
   Yes, in his general financial scheme. That is the principle on which our
   constitutions rest, and I have to say that that is a principle which the people
   of Australia-I mean the people of the different colonies would be the last to
   give up in the management of their own colonial affairs. I think that that is
   a fair representation of the case. I have, I admit, to come away from that
   state of things, and to admit that in framing a federal constitution we must
   deviate. We cannot frame the same sort of constitution as we would frame
   if it were a constitution for a unified Australia. I have never denied that.
   But the practical point is: can we deviate so far as we are asked to do today
   by the proposition now before the Convention? We must again look at the
   facts, and these facts are only facts today. In the course of time, instead of
   New South Wales and Victoria possessing the largest population, it may be
   that two colonies now possessing a small population will be infinitely
   ahead in population of those two colonies. This is to be a federation for all
time; consequently, although we today seem to be fighting the battle of
New South Wales and Victoria, we are really fighting the battle of the
people of the other colonies in days to come.
Mr. SYMON:
    And vice versa!

The Right Hon. G.H. REID:
    I do not understand my hon. and learned friend's phrase. I wish to discard the mere geographical terms which are so burning today. I want to recommend the views which I have, not as views which happen to suit the colony to which I belong today, but as views which will, infallibly, be fair, whatever the vicissitudes of population may be in time to come. Let us suppose that in times to come the positions are reversed that instead of New South Wales and Victoria predominating in population, Queensland and Western Australia predominate in population over the other members of the group. My argument will apply just as well to such a state of things as to the present case of Victoria and New South Wales.

The Right Hon. Sir JOHN FORREST:
    The right hon. gentleman does not expect that!

The Right Hon. G.H. REID:
    There is nothing to prevent it, especially if my right hon. friend continues to govern Western Australia, nothing to prevent it, because we are prepared to believe almost everything that the right hon. gentleman has said, and are not likely to go and look at his colony ourselves.

The Right Hon. Sir JOHN FORREST:
    I hope the right hon. member will!

The Right Hon. G.H. REID:
    I wish to point out to the Convention that the reasons why I and others oppose this amendment is absolutely away from the circumstances of my own colony that it is one absolutely of principle, and not only of principle, but of the basic principle of every constitution of the British type. Here, again, we come to the crucial question: Is this to be a federal constitution of the British type, or a federal constitution of the American type? As far as I can judge the feelings of the people of Australia, they would infinitely prefer a federation of the British type. I admit at once that such a federation must present new features. It is a federation which cannot be reconciled to the experience and history of the United States. But with all respect to the United States and their constitution, I believe that a federation of the British type will be much more likely to be accepted by the Australian people, and to give them infinitely more satisfaction, mainly, perhaps, because it is that particular kind of constitution under which they have been born and bred, and which they have administered in these several colonies. If I am asked, under these circumstances, to throw away this basic principle of finance as it exists in
all constitutions of the British type, and to adopt the methods of the
American legislature in finance, I have to say at once to this Convention
that I have not the remotest hope of inducing the people of this colony to
do so. We must not forget that the financial history of the American
legislature is by no means a satisfactory one. Whilst America was deriving
enormous amounts of revenue from an extremely high tariff there was no
difficulty, except the difficulty of the United States legislature to spend the
money. They had millions and millions of dollars derived from those high
protective duties which were filling the treasury until at last the difficulty
was disposed of by a brilliant stroke of federal finance—those millions of
surplus were converted into pension claims of veterans, alive or dead, or
yet to be born. I think I am correct in saying that almost each individual
case had to be submitted to this model house by means of a separate bill for
each pensioner, alive or dead. Now, this model federal legislature, with this
most dignified senate, nearly killed itself in passing thousands upon
thousands of these bills, half of them, probably, representing bogus claims.
We see in a federation where the senate is the embodiment of everything
that is stable and honorable and dignified, having equal financial power
with the house of representatives

The Right Hon. Sir JOHN FORREST:
But not elected by the people!

The Right Hon. G.H. REID:
Instead of being a check upon extravagant maladministration, instead of
preserving the American people from financial straits, having millions of
money in hand, it deliberately squandered the money and landed them in
such a position that their deficiency is now to be calculated in millions.
Instead of the senate being a protection to the states in the custody and
management of the public money, it was simply a co-partner with the other
house in a course of reckless extravagance, the result of which is that now
the American Congress have to pass a new tariff to bring in more revenue,
and the country is saddled with a pension liability of $150,000,000 a year.
Strange to say, the further they get in point of time from the Civil War the
larger the liability seems to be, the claims during the past few months
totalling a larger amount than was ever known before in the history of this
pension scheme. This attempt to have a system of federal finance based
upon the equal powers of both houses to amend taxation bills has proved a
rank failure in the case of the model example of the United States.

The Right Hon. Sir JOHN FORREST:
The United States senate is not elected by the people!

The Right Hon. G.H. REID:
I hope that the right hon. gentleman's patriotism will be shown by his
support of those who wish to leave these matters in the hands of the people.

The Right Hon. Sir JOHN FORREST:

The right hon. gentleman only wishes to leave those matters which suit him in the hands of the people!

The Right Hon. G.H. REID:

I am prepared to surrender a number of strong convictions in order to allow the senate to have equal powers with the house of representatives, so long as a pernicious attempt is not made to give the senate as constituted equal control of the money of the taxpayers of the commonwealth.

The Right Hon. Sir JOHN FORREST:

No one asked that!

The Right Hon. G.H. REID:

What does the amendment in regard to taxation bills mean?

The Right Hon. Sir JOHN FORREST:

It deals with the obtaining of money, not with the spending of it!

The Right Hon. G.H. REID:

I am sure that if my right hon. friend saw the meaning of his amendment he would not have proposed it; but surely he sees that a house which by the constitution is give

The Right Hon. Sir JOHN FORREST:

But not power to spend the money of the people!

The Right Hon. G.H. REID:

Surely it is of some importance to the people of Australia how they are to be taxed.

The Right Hon. Sir JOHN FORREST:

Certainly it is!

The Right Hon. G.H. REID:

Then, it occurs to me that the most important thing is to get the money first. There is no difficulty afterwards about spending it.

The Right Hon. Sir JOHN FORREST:

At any rate, there are two processes!

The Right Hon. G.H. REID:

So far as the people are concerned, the most important point is how are you going to raise from us the taxation of the commonwealth? How can my right hon. friend justify his position in connection with a matter of this kind? If he will come to us and say, "We will have no inequality in the commonwealth; we will all stand upon an absolutely equal footing and we will bring into the public treasury of the commonwealth as much money as you bring," we shall have equality. Let each colony agree that all shall
contribute equally to the public funds of the commonwealth, and we shall have no more trouble.

The Right Hon. Sir JOHN FORREST:
Each individual in the commonwealth will contribute an equal amount!

The Right Hon. G.H. REID:
This is not to be a commonwealth of the Charles Stuart type. If you put upon the people as a whole, the people of the five colonies, not separated by geographical boundaries, but paying their taxation as individuals in the commonwealth-

The Right Hon. Sir JOHN FORREST:
They will do so!

The Right Hon. G.H. REID:
We know that they will do so, and the right hon. gentleman is very charitable in wishing that it should be done; but I say, if you do that—if you nationalise the area, and the burden of taxation, you must nationalise the power over the public purse. The right hon. gentleman appears to wish to call the people a nation in order to take money out of their pockets, and then to call them a federation in order that the majority representing those who contribute a tithe should have power equal to the power of those who contribute most.

The Right Hon. Sir JOHN FORREST:
The right hon. gentleman wants unification!

The Right Hon. G.H. REID:
That is the fallacy of this position. It is a difficulty we can never yield to.

The Right Hon. Sir JOHN FORREST:
Then do not let us have federation; let us have unification at once!

The Right Hon. G.H. REID:
Does my right hon. friend mean that unless the senate is to have equal power over taxation bills, there will be no federation?

The Hon. E. BARTON:
He means that the constitution would not be a federal constitution!

The Right Hon. G.H. REID:
Exactly. There, again, I would ask my right hon. friend not to argue with phrases such as the phrase "federation." There is nothing in a phrase. It does not support any argument. Let us simply take the facts. There are five colonies represented at this Convention. One of these colonies has a population of 1,400,000; another of 1,200,000; another of 400,000; another-Tasmania—a population of 200,000-

The Hon. E. BARTON:
Lastly, Western Australia has a population of about 160,000. These are not phrases; they are simple facts. We propose that the federal parliament should put all these people together for the purpose of taxation. We need not go into tables about what tariffs will produce. We will take it that a tariff would produce the same amount per head throughout the federation.

The Right Hon. Sir JOHN FORREST:
We know that it would not!

The Right Hon. G.H. REID:
I am making the supposition against my own argument; but taking it as my right hon. friend likes, hot, medium, or cold, what I wish to say is that in the senate, as we have agreed that it shall be constituted, there will be eighteen senators representing the smaller number of people, and the twelve senators representing the larger portion. In other words, eighteen senators will have the right to amend taxation bills, although they represent an absolute and small minority of the whole colony.

The Right Hon. Sir JOHN FORREST:
Would the interests of the various populations differ?

The Right Hon. G.H. REID:
This is a state of things which you cannot bring any British community to. We have never lived under such a state of things, and we never shall. If you want equality in the senate, you must share and share alike. Then you will have equality, and as much of it as you like.

The Right Hon. Sir JOHN FORREST:
Per head of population, the people of Western Australia will pay more than people in other colonies!

The Right Hon. G.H. REID:
That has been recognised all through. Take the case of Sir Samuel Griffith when he was in politics. I suppose that even my right hon. friend will admit that he was almost his equal in point of political sagacity, intellect, and attachment to the rights of the smaller states. I do not say that he was his equal, but he was almost his equal. He took a very prominent part in framing the Commonwealth Bill of 1891; but staunch, fearless, able, and very successful advocate as he was of state rights, as the representative of a small population he never put forward this proposal.

The Right Hon. Sir JOHN FORREST:
I think he has changed his opinion since then, and changed it again!

The Right Hon. G.H. REID:
I am dealing with him as I knew him. I have not known him in regard to this matter since he went on to the bench. He is a keen-witted, able
advocate of the rights of the smaller states. We all know him as a skilled man of the world, and he saw that if we were to have federation this power could not be given to the senate.

The Right Hon. Sir E. BRADDON:
Not with a nominee senate!

The Right Hon. G.H. REID:
The hon. member will see that, for the purposes of my argument, it is absolutely immaterial who appoints the eighteen senators from the smaller states. They will still be appointed by the persons who live in those states. I am simply taking the facts as they are, and which cannot be altered. This is one of the points upon which we, representing the larger populations, cannot possibly give way. There are other points upon which my hon. friends opposite cannot give way. Personally, I look upon equal representation in the senate, apart from expediency altogether, as the most indefensible proposition in the world as a proposition; but, all through, I knew at once that, if I was not prepared to meet the views of those representing the smaller states on that point, the whole thing was a waste of time. I did not say anything about it. I did not go round to these hon. gentlemen and say, "Look at the concession we are making." I wasted no time about it, and did not say a word, but I stand by it now. As hon. members know, there is a remarkably strong feeling if not in the country, in the parliament of this country, against equal representation in the senate; but I did not allow that to influence me in the slightest, because I felt bound in this enterprise to remain true to the position I have taken up as a matter of common honor to this Convention, and especially after I, as we all did, put before the public of New South Wales my views on this matter. I have with my fellow representatives, a strength derived from the fact that when we became candidates for representation we plainly stated that we were prepared to concede equal representation to the states, so that I stand in a thoroughly honorable constitutional position. But it is idle for me to shut my eyes to the fact that equal representation as a proposition is indefensible, and it is only in order to secure federation that I can concede it. More than that, that is the spirit of the people of this colony. They saw from the first that it must be conceded, and they have wasted few words about it. They have raised no protest about it during all these years.

An Hon. MEMBER:
It was not considered by them!

The Right Hon. G.H. REID:
I know the people of this country are sufficiently intelligent to understand you when you make a plain declaration of opinion. I do not know how it is in other quarters. Over and over again my hon. friend, Mr. Barton, has had to run the gauntlet on this very point during the last six years.

Mr. WISE:
Half a dozen of the candidates in this colony who opposed equal representation were defeated!

The Right Hon. G.H. REID:
It is absurd to say that the question was not before the people of New South Wales. We do not want to magnify the question of equal representation. We have made up our minds that you must have it if you want federation. We do not want to labour it, or to magnify it as a matter of sacrifice. We simply want to do business. We saw this was a point that would wreck you, and we gave way to you. You must in return consider the points which would wreck us, and this is one of them. I feel that I should almost apologise to the Convention for having spoken even at this length, but I do think we have now come to a point when we should not attempt to make very long speeches. We should try to come straight to the important point, and not even wait for the peroration in order to sit down.

Motion (by the Hon. J.H. HOWE)—that this Committee do now divide—negatived:

The Right Hon. Sir E. BRADDON (Tasmania)[3.6]:
The Right Hon. G.H. Reid has spoken with absolute fairness, and in a manner that is exceedingly convincing—not convincing to the extent of making me see eye to eye with him, but convincing in that I can quite understand and follow, and appreciate all his arguments as far as they are applicable to himself and to his own colony. He does not claim, as it has been very often claimed, that the giving to the small states of equal representation was by way of concession. I say it is not a concession; it was given as an absolute right in pursuance of what was done in 1891, and continued ever since. I may say, in perfect keeping with the very admirable argument used by the hon. member, Mr. Wise, that these colonies have now a separate and sovereign existence, and the equality of the states has always been recognised at the various conventions and meetings held to discuss local matters, and that if one asked why the colonies were equal, the answer was because they were equal. We hear a great deal about giving concessions, about yielding, and so forth, in order to secure federation. We of the smaller states might very well ask what these concessions are that have been given to us, or which are proposed, to be given to us. We know,
as the Right Hon. Sir John Forrest has stated, that the smaller states have conceded a great many very valid points. In regard to some sections of the representation of the smaller states, they have conceded a good deal which should meet the cordial approval of my hon. friend, Mr. Deakin that is, they have conceded what I hold to be very precious—myself namely, that the senate should be a body representative to the very fullest extent of the popular will.

The Hon. A. DEAKIN:
That is not a concession. It strengthens the senate, and that is what you want!

The Right Hon. Sir E. BRADDON:
It is a concession, so far as some members are concerned who have an objection to popular election. I am in favour of that, so that it is not a concession so far as I am concerned; but it is a concession as far as the principles and feelings of other members are concerned. That seems to me to seriously affect one portion of my right hon. friend's address as to the powers of the senate. He says that the principle that the house which represents the taxpayers should legislate on finance is the proper principle. Surely, if, in the individual capacity of the various states, there is some difference as to the bulk of the representation, collectively the members of the senate would represent all the people from one end to the other of the commonwealth just as fully as the members of the house of representatives.

The Right Hon. G.H. REID:
How could the Western Australian representatives represent us?

The Right Hon. Sir E. BRADDON:
They would represent the people.

The Right Hon. G.H. REID:
Of New South Wales?

The Right Hon. Sir E. BRADDON:
Not the people of New South Wales, but the people of Western Australia. It would be just as much an assembly representative of the taxpayers as you could possibly conceive, and when the artificial geographical boundaries come to be removed, then I fancy my hon. friend will not dispute the fact that the senate equally with the house of representatives will represent the commonwealth.

Mr. TRENWITH:
But you do not remove the boundaries whilst you grant equal representation?

The Right Hon. G.H. REID:
The autonomy of the states remains!
The Hon. A. DEAKIN:
You retain the states as entities!
The Right Hon. Sir E. BRADDON:
We are obliged to do that for their own particular functions and business. But there is no reason why the boundaries should be lost and forgotten entirely when we come to deal with the matters of the commonwealth.

An Hon. MEMBER:
That is what we all say!
The Right Hon. G.H. REID:
That will not make the eighteen representatives of these colonies represent the larger number of the other two colonies!

Mr. HIGGINS:
If we ignore boundaries, why have eighteen representatives for the three smaller colonies?
The Right Hon. Sir E. BRADDON:
I think it has been conceded that there must be due protection of the interests and rights of the states as states. That being admitted, we now come to the question of the power of the senate in one particular, because we are only dealing, as I understand it, with the right of the senate to amending, instead of to suggest, amendments. The hon. member, Sir Philip Fysh, has asked what is the difference between the power of amending and the power of suggesting, and some one has replied that the difference is the difference between "tweedledum" and "tweedledee." If that be the only difference, if, in fact, there be no difference whatever, we are fighting about a shadow, and this principle might as well be conceded by those who are standing out against us. In the interests of federation, which we all desire to see secured, the smaller states dare not yield their opinions on this subject.

An Hon. MEMBER:
Then we had better go home!
The Right Hon. Sir E. BRADDON:
Well, we shall have to go home shortly. It is said that Victoria and New South Wales will not accept this. How will it be if the other colonies will not accept anything less than the right of making amendments? The Premier of New South Wales has pointed out a very material difference between the right to amend and the right to suggest-material in this way: that the one will throw the responsibility of rejecting a bill on the house of
representatives, while the other will throw it on the senate, and possibly may bring the senate into odium and public discredit, which we do not desire to see.

The Hon. E. BARTON:

It will have to take the responsibility for what it actually does!

The Right Hon. Sir E. BRADDON:

If you will allow it to have a responsibility for something which is substantial; but we are talking about suggestions. I know that some hon. members particularly the Premier of New South Wales are anxious to see something introduced by way of a solution of deadlocks. That is a point upon which I should like to join with him by way of concession, if I could induce him and others to join with me by way of concession in this particular-

An Hon. MEMBER:

You do not want the referendum at all!

The Right Hon. Sir E. BRADDON:

I am not saying anything about the referendum, but about some solution of the deadlock, and that solution might be arrived at by a dissolution.

The Hon. I.A. ISAACS:

That would be no solution!

The Right Hon. Sir E. BRADDON:

It might be a means of bringing a check to bear upon the senate, which would keep any reasonable senate in fair order. I merely say this to show that I am not hidebound in my opinions with regard to the bill, as adopted by the Federal Convention; but I am quite willing to make concessions where they are possible or reasonable, or where they are likely to be acceptable to the people of the smaller states; but I am not prepared to go further.

The Hon. A. DOUGLAS (Tasmania)[3.18]:

It requires a great deal of courage to follow immediately upon the Premier of New South Wales, because I look upon his speech as one of those likely to carry weight with the public outside. It was extremely interesting as far as it went; but it contained very little substance, and an immense amount of sound. His endeavour to correct me with respect to the colony of Tasmania was rather indefinite. I suppose I knew that colony before the right hon. gentleman was born. I have taken an interest in its representation ever since it was a free colony, and I profess to know something more about it than he does. The act of Parliament upon which the constitution was established states:
There shall be in place of the present Legislative Council of Van Dieman's Land one legislative council and one house of assembly in the said colony, to be severally constituted in the manner hereinafter prescribed, and such legislative council and house of assembly shall, after the dissolution as hereinafter provided of the existing Legislative Council, have and exercise all the powers and functions of the, said existing Legislative Council.

The Hon. A. DEAKIN:
A Crown colony!

The Hon. A. DOUGLAS:
It was not a Crown colony. The only clauses relating to the power of the two houses—the House of Assembly and the Legislative Council is the 33rd clause, which has never been altered. It states:

All bills for appropriating any part of the revenue, or for imposing any tax, rate, duty, or impost shall originate in the said House of Assembly, and it shall not be lawful for the said House of Assembly to originate or pass any vote, resolution, or bill for the appropriation of any part of the revenue, or of any tax, rate, duty, or impost for any purpose which shall not have been first recommended by the Governor to the said House of Assembly during the session in which such vote, resolution, or bill shall be passed.

Therefore, the powers of the two houses remain the same as in the original constitution, with the exception of the power of origination, which is in the House of Assembly. We have maintained our power in the Council from that day to this, and although the House of Assembly show by a mild protest that they do not like it, they have to submit.

An Hon. MEMBER:
Have you survived it?

The Hon. A. DOUGLAS:
Survived it!

The Right Hon. G.H. REID:
Have they survived it—that is the question?

The Hon. A. DOUGLAS:
It is like myself; I have survived everything. In considering this subject we must look at the powers of Tasmania at the present time. It does not follow, because a great colony like New South Wales wants on all occasions to be little a colony like Tasmania, that we are not in the possession of our rights and privileges the same as they are. We are free at the present moment. We have now only the Government of England over us, and are we going to vest the powers we have in this Government of New South Wales when we are free and independent in every shape and
form, and to submit ourselves to be trampled under foot by this large colony?

**The Right Hon. G.H. Reid:**

I would like to see the man who would do it!

**The Hon. A. Douglas:**

I should like to see a federation between the two big colonies. I should like to see a federation between New South Wales and, as the late Sir John Robertson termed it when we were here in 1891, the "cabbage garden." That would be a very interesting combination.

**The Hon. I.A. Isaacs:**

Many a true word said in jest!

**The Hon. A. Douglas:**

You put forward in the bill that the federation must consist of three colonies. Why do you not start with two colonies? Then we should have known what you were. Here are two colonies like oil and water, which will never mix, wanting as quietly as possible to get another colony into this little arrangement. Many years ago when I arrived in Tasmania, Tasmania was a free colony, and Victoria was part and parcel of New South Wales. There was a very little community at a place called Melbourne, which was an exceedingly dirty hole. There were about 5,000 people in the whole of that colony, and Governor Bourke wrote down—I have seen the letter in the Colonial Secretary's Office at Hobart—complaining to Sir George Arthur because he had taken possession of Victoria for Tasmania. At that time Victoria was simply an offshoot from Tasmania.

The child was father of the man!

**The Hon. A. Douglas:**

The hon. member knows nothing about it. That great and powerful colony up to 1853 was a mere sheepwalk. Then, all of a sudden, up sprang the gold-diggings; Victoria went ahead with its millions of money, and inasmuch as those millions have now vanished, it has got into its proper position. Tasmania has a very quiet mode of doing business. Our progress, however, has been substantial. We have not built up seven and eight storey buildings to have them unoccupied. All our buildings and all our improvements are used. In other places they spend their money, and do not know what to do with the building when they are erected. New South Wales no doubt is progressing, and Tasmania is progressing. Tasmania has never since the period I am alluding to—which is close on to sixty years—been in a more favourable position than it is in at this moment.
The Hon. Sir W.A. ZEAL:
Who developed your western mines?

The Hon. A. DOUGLAS:

You have had more than you ever gave; therefore, you need not complain. In 1841 Victoria formed a part of this colony, and then what happened? It found that it was badly represented in New South Wales. It was determined in some way or other to show its opinion of New South Wales and the Government of New South Wales. What did it do? Earl Grey, the Se

Mr. HIGGINS:

They accuse me of being logical!

The Hon. A. DOUGLAS:

Logic is a peculiar science to know, and the only use which the hon. member makes of it is to blind the eyes of those who do not know anything about it. Where does the logic come in in respect to the rights and privileges of the separate colonies? It does not exist. The speech of the Right Hon. Mr. Reid was exceedingly amusing; but did it contain anything like the truth or the substance of the truth? Is the senate of these colonies to be corrupt because the Senate of the United States is corrupt? The argument is that this senate must be corrupt, because the Senate of the United States at one time has been corrupt. Because the senators there are millionaires, is it necessary that millionaires should represent us in our senate? Are the arrangements made for the election of its members the same as the arrangements made for the election of the members of the American Senate? They are vastly different. The right hon. and learned member is dealing with things which do not exist and never will exist. Take the mother country. Does Middlesex rule the whole of England?

The Right Hon. G.H. REID:

Why should Tasmania want to rule us?

The Hon. A. DOUGLAS:

We do not want to rule you, and you know very well we do not want to rule you; we have not the power, and we have not the wish to do so.

The Right Hon. G.H. REID:

Six men like my hon. friend in the senate would rule the whole show!

The Hon. A. DOUGLAS:

If you have not sufficient confidence in the federal parliament why go in for federation at all? What is the meaning of federation? It would be very instructive from that point of view to compare the speeches which the Right Hon. the Premier of New South Wales made in 1891 against
federation with his utterances on the subject today. What did the predecessor of the hon. gentleman in the leadership of the free-trade party do? He advocated a federal council, and the bill instituting that council was altered to suit the views of the people of New South Wales. When it had been altered the hon. gentleman stood out of the council, and the bill was not allowed to have its proper operation. It has not had its proper operation from that day to this. Now I myself have regarded the Federal Council as a stepping stone to federation in these colonies; but it has been ruined primarily through this colony not joining it. The council has been deprived of a large measure of its usefulness by reason of the position taken up by New South Wales. Are we to put ourselves into the hands of this colony today, because it happens to suit the dominant party here for the moment to support a scheme of federation? It may mean the glorification of individuals, but it certainly does not mean the glorification of the states. I myself am not in favour of federation, except conditionally. I am certainly not such a believer in federation that I would take it on any terms whatever. If I find that this bill, as finally drawn by the Convention, is not acceptable to the people of Tasmania I shall not be at all diffident upon the subject; but I will go throughout Tasmania from one end of it to the other, and all round the coast, and will advise the electors to have nothing to do with the proposal. I know what their views upon a subject of this character are likely to be, much better than they can be known by strangers. Hon. gentlemen come to us because they wish to enjoy our genial climate, and we are only too glad to see them. As long as they will spend their money we do not care how long they remain. Our colony is free and independent, and can pay its way. One of my hon. friends has taken up a position which is somewhat peculiar, and I cannot help thinking that the climate of this colony must have had a peculiar effect upon him. He left Tasmania in 1891 with the determination that the states should have their rights, and not only that, but he was a party to the framing of a bill which contained a provision giving to the senate the power of amendment. Subsequently that part of the scheme was dropped, because he became frightened that unless that were done New South Wales would not join the federation. He modified his views accordingly. When he went to Adelaide he reformed his conduct; but he is now retrogressing again. So far as I am concerned, I intend to vote in the interests of the smaller colonies. It is all very well to talk about our having protection from the fact that we have six representatives in the senate in each colony. We know what that means. It is equivalent to telling us that you will give us wings, but that we are not to have the power to use them. In other words, you clip them. Well, let that be done, and we will have nothing further to do with you.
Mr. CLARKE (Tasmania)[3.36]:

I was one of the representatives who in Adelaide voted with the object of giving to the senate power to amend money bills, and I desire to state the reasons why I intend to give a different vote upon the question now. I have heard the remark made—I do not know whether in this Committee or outside—that we ought to support the views which have been put forward by the parliaments of the various colonies; but I do not think that is the position. We are not here to voice or support the opinions of the various parliaments which have been expressed within the last few months, however much: we may respect them; but we are here, as representatives of the people, to exercise our best judgment for the purpose of bringing about a scheme of federation which will be fair to all the colonies, and which will be dishonoring to none. We are sent here to bring about a system of federation of such a kind that when we return to our respective colonies, we shall be able to say, "We have brought back federation with honor." I think it is admitted on all hands that we must start with a system of responsible government. Although we may not for many years retain it, yet we must start with it; and, starting with it, the question arises, as was so well put in Adelaide, is the system of responsible government consistent with a system of responsibility to two houses in a federation where the two houses have co-ordinate powers as regards taxation? I admit, to a large extent, the force of the argument put forward in Adelaide and elsewhere. I admit that there is no instance of a federation in the world today under a system of responsible government where both houses have co-ordinate powers with regard to taxation; but, although that is a fact, I think that, just as the House of Lords and the House of Commons in Great Britain would soon show the constitution to be a mass of absurdities if they pushed their respective rights and powers to the utmost, and inasmuch as the British Constitution never the less works very well under such circumstances, I think, if we had a system of responsible government under federation with two houses of co-ordinate powers as to money bills, the genius of our people would surmount all difficulties and enable the two systems to work well together. But, while that would in my opinion be the case, I must look at the position of affairs at present, and I consider that, just as the granting of the principle of equal representation of the states in the senate is a practical necessity of federation, it is also a practical necessity of federation that we should give in to the views of the larger colonies on this very important question. Representatives of Victoria and of New South Wales have told us that their people will not agree to any scheme of federation in which the senate has
co-ordinate powers in the matter of amending money bills. I accept fully
the statement of these hon. members when they tell us that is the view of
their people. I admit that their statement is perfectly correct, and if that is
the case it, is useless for us to expect that those colonies will agree to any
scheme of federation where such an important obstacle is placed in their
way. For these reasons, I think it is the, duty of the representatives of the
smaller colonies to weigh the position very carefully. It is our duty to ask
ourselves, "Is the compromise that was agreed to in 1891, the scheme that
was ratified in Adelaide in 1897, one that would be fair to us, and would
bring about no dishonor on our part?" I think it is, because I assume that
we shall get the power of suggestion. If we get that, it will enable us to
protect ourselves to as large an extent as we reasonably want. It will be fair
to us, it will do us no dishonor, it will help considerably in bringing about
federation, and for these reasons I intend to support the clause it stands in
the bill.

The Hon. J.H. CARRUTHERS (New South Wales)[3.43]:

I have a very lively recollection that when in Adelaide an
attempt was made to liberalise this constitution, we were answered with the
statement that hon. members felt themselves obliged to abide by the
compromise which was fairly expressed in clauses 56 and 57. I have no
hesitation in characterising that compromise as one which has stood largely
in the way of the more populous colonies gaining any concession in this
constitution bill. To a large extent I sympathise with the Right Hon. Sir
John Forrest in the amendment he has proposed today. Although I intend to
vote against that amendment, I think it would be a distinct gain to the
people of the larger colonies if it were carried, and if we once for all started
to break down the compromise of 1891, that compromise which was
ratified in Adelaide, and which has been the stumbling block in the way of
obtaining some substantial reform. We shall be met very shortly, when
proposals are made to deal with the great question of conflicts between the
two houses, with appeals to stand loyally by the compromise expressed in
this clause, and I fear the Greeks when they are offering gifts. I have no
gratitude to my hon. friend, Sir Philip Fysh, and those hon. gentlemen who
are breaking away from the compact, so-called, with the smaller colonies,
because I feel that when the time comes to deal with more vital provisions
in the bill, they will claim that, having already sacrificed something, they
should not be called upon to sacrifice anything further. I tell them that they
have sacrificed nothing which will be any gain to the larger colonies; that
they have sacrificed nothing which will help the people to have their
purposes accomplished under the constitution itself. The people are asking
for bread, and you offer them a stone. What do the people concern themselves about these points of etiquette and procedure in the conduct of business between the two houses? What do the people of the colonies concern themselves about these legal technicalities that crop up from time to time, as to whether amendments are to be made as amendments or in the form of suggestions? What the people do concern themselves about is that which stands between them and the accomplishment of their purposes. They do concern themselves about having a voice in the government of themselves. These amendments offer them nothing which will satisfy their wants. These amendments and this compromise merely cater to a feeling which is growing up in the minds of those who participate in the politics of the country as members of one house or the other. They contain nothing which really touches those vital points that the people themselves feel. I undertake to say that, in most of the conflicts which have occurred with regard to money bills in the various Australian colonies, the people have not concerned themselves so much about the amendments that have been made, but have concerned themselves about the possibility or otherwise of having ingrafted in the statutebook that which expresses their will and their desire. The power of veto still remains, and the power of veto vested in the senate is the power that I fear, and it is the power which must result in conflict. The senate may be right, and the house of representatives may be wrong, or the senate may be wrong and the house of representatives may be right; but, when these cases occur when these two bodies come into conflict, whether they have equal powers or otherwise, what is to happen? Where is to be the remedy? When the people find their will thwarted by the obstinate attitude of one house or the other, where, then, is the outlet from the difficulty?

The Hon. A.J. PEACOCK:

Why not deal with that later on, when we come to the discussion of the question?

The Hon. J.H. CARRUTHERS:

The reason I speak now is because at this time, when we are dealing with this compromise, we are really raising a stumbling block in the way of gaining our purpose later on. The hon. member cannot be oblivious of the fact that in Adelaide, immediately after these clauses were dealt with, we were met with objections to the granting of any further so-called concessions to the more populous states on the ground that a compromise had been arrived at, and must loyally be abided by, and that compromise was expressed in these few clauses. I desire to express my utter lack of sympathy with those who
are contesting so strongly the point at issue. I would not hesitate to grant to the Right Hon. Sir John Forrest, and those who vote with him, co-ordinate powers in the two houses to give them that which they imagine to be the substance, but which I take to be the shadow as long as they would grant in return that, with those co-ordinate powers, when a conflict did occur, when the constitution was being strained by a crisis, then there should be some outlet by which the people themselves might voice their opinions, and claim, and have in reality, the right to mould their own destiny and to frame their own laws. The right hon. member objects that all the attempts which have been made in the various clauses are attempts to detract from the influence of the senate. I desire to see the senate a powerful body, a strong body; but you will get that strength by building it on strong foundations; you will get that strength by creating it as a body elected on the broadest and best suffrage possible. The weakness of the senate arises from that which we have already done in calling it into existence, not with the will of the people of the commonwealth at its back, but with the will of that inanimate thing that cannot express its own wishes, that cannot show any enthusiasm or be grateful - that inanimate thing, the corporate body of the state. The senate being so constructed has an element of weakness, which must follow it right through its existence. I do hope that, in connection with the vote on this question, there will not be attached any importance to the fact that we are having assistance from those who represent the less populous colonies; and I hope that there will be no compact made which will tie the hands or hereafter interfere with the votes of those who, putting aside technicalities, desire to have some real vital principle embodied in the bill, which in case of conflict will allow the voice of the people to be paramount.

Mr. WISE (New South Wales)[3.51]:

As a representative of one of the largest colonies, I cannot help rising to say that much of the language which has been used by my hon. friend, Mr. Carruthers, seemed to me entirely unsuited to the occasion. This is not a question of compact or bargain. We have not come here to make bargains. We have come here to frame a scheme which we conscientiously shall be able to recommend to the voters in our several colonies, and in doing that we have to take into account that there is a divergence of sentiment between the electors in one colony and those in another. Recognising that, we find that there are several matters none of them absolutely essential to the successful working of the federation upon which we may be compelled to vote in a way contrary to our own private inclination, whilst there are others in regard to which other hon. members may find themselves in a similar position. As the Right Hon. the Prime Minister of New South
Wales has pointed out, I feel certain that this question is regarded in New South Wales as a matter of great moment that it is not regarded as a light matter and I certainly disclaim for my part, and I believe I may do so on the part of almost all those who represent New South Wales, any idea that in asking any of the representatives of the smaller colonies to take into consideration our difficulties, we expect, or imagine it to be even possible, that they should claim that we should give way afterwards on my matter of bargain. We are not asking them to make a bargain, and I think that the speeches made by the hon. members, Sir Philip Fysh and Mr. Clarke, and others, will have a very great effect in this colony, and I believe in Victoria, in dissipating that prejudice which I am bound to say my hon. colleague, Mr. Carruthers, has, with others, inadvertently assisted to circulate the prejudice that there is some conspiracy on the part of the smaller colonies to attack and injure the larger colonies, The speeches made today by the representatives of the smaller colonies, and the votes that they have given, will, I hope entirely remove from the hon. member, Mr. Carruthers, the prejudice he has cherished, and, unintentionally, has helped to encourage in this colony, that there is an attempt being made by the smaller, colonies to combine against the larger colonies. We may surely rely on the patriotism of those who recognise that in the interests of Australia they may have to give way on matters on which many of the electors do not see eye to eye with them, and we hope they will be able to convince many who differ from them that they have acted in the best interests of Australian union as we are certain that in New South Wales, in spite of the opposition and the querulous complaints of some of our representatives, we shall be able to convince the people that equal representation of the states in the senate is a practical necessity of union.

The Hon. J.W. HACKETT (Western Australia):

I wish to explain that, as in the case of some of my hon. friends from Tasmania, and Mr. Symon, of South Australia, today my vote will be on the opposite side to that upon which I voted on a previous occasion. It happened that at Adelaide I was the one member of the Convention who was unable to veto upon this question and it also happened that at the Convention of 1891, held in this Chamber, I was the only one of the representatives of my own colony who voted in favour of what has been since called the "Sydney compromise of 1891," in favour of suggestion as against amendment, and I wish to explain my attitude on the present occasion. I am indebted to my hon. friend, Mr. Carruthers, for, to a great extent, anticipating one of my objections, which is that, at this stage, we cannot accept any vote of this body as a final one, or as committing us
permanently to one view or another. We do not know what is going to come before this Convention closes its sittings, and there is a great deal in what the hon. member, Mr. Carruthers, said, that a concession of more powers or of less powers to one house or the other will greatly depend on: the provisions ultimately adopted with regard to the avoidance of deadlocks. In Sydney, in this chamber, I expressed an opinion strongly in favour of allowing full powers of amendment to the senate, although from the same motive which operates with many hon. members in this Convention, I submitted my view to what I saw was the view of the majority, and felt that unless concessions were made on the part of the less populous colonies, federation was impossible for Victoria and New South Wales. But my main objection to the refusal to concede powers of amendment to the senate is that we are loading the constitution in one direction. We are forcing it to move in a course for which it may be amply suited, but for which circumstances may prove it to be totally unsuitable. I admit that we must commence with what is called responsible government, and I also admit the glorious fruits of that form of government, but I cannot shut my eyes to the fact that we are now entering upon an unknown sea. We are creating a constitution of which almost everything is undefined. We have little in the past to argue from, we have absolutely nothing in the future but the purest efforts of imagination, and it may be that it would be best for that constitution to run on the lines which have been established in England and the colonies for so many years. We must also remember that we have had fifty years' experience of the one, and it may be that we are now entering on a more fruitful career of development even than that which has attended the course of England during the last fifty, or even hundred, years. That is the main reason why I have always been doubtful about limiting the powers of the senate, for I firmly agree with my hon. friend, Mr. Carruthers, that the political genius of the English nation will discover a way out of any difficulty that may arise, and our business is to impose as few obstacles as possible in the path of its freest development. Let me say one word in regard to what has been so often, if I may use the word, flaunted in this Chamber. That is the magnificent concession made by certain hon. members of this Convention to the smaller states, in giving them equality of representation in the senate.

The Hon. J.H. Howe:
Concession?

The Hon. J.W. Hackett:
Yes, the magnificent concession that it is claimed has been made. Let me
once for all, on behalf of my own colony, repudiate that with all the energy of which I am capable. Talk of a concession, when all that we saw in it was a fundamental condition precedent as necessary to federation as the retention of the existence of our own parliaments and our own executives was necessary to the colonies.

An Hon. MEMBER:

The Hon. J.W. HACKETT:

I do not agree with my hon. friend. It is simply viewed from two different aspects. The fact remains that I am sure not one of the smaller colonies would be represented here at the present moment if equality of representation were not granted.

Mr. HIGGINS:

It seems that that ghost has not been laid yet. It will come up again!

The Hon. J.W. HACKETT:

Very likely.

Mr. HIGGINS:

I thought we settled that matter last week!

The Hon. J.W. HACKETT:

The hon. member settles things very fast; but many of the things which he settles unsettle themselves just as quickly.

Mr. HIGGINS:

I did not settle it!

The Hon. J.W. HACKETT:

I congratulate the Convention that the hon. member has not been able to settle these matters, and to settle them at the same time. The concession of equal representation may mean much, or it may mean absolutely nothing. It depends entirely upon the powers and rights which are conceded to the body which is invested with equal representation. To what purpose, is it to invite five men to a dinner, and then to muzzle three of them? Yet that is the concession which, after all, this compact as to equal representation in the senate amounts to. I am not going to labour these matters; but the two points I desire to impress upon hon. members in concluding my remarks are these. I look with no dread upon this power of suggestion. It seems to me that its value entirely depends upon the body to which it belongs. The objection I see to it at the present moment is this: that the power of suggestion being by its very terms a less important, less dignified, and less authoritative power than the power of amendment, a suggestion comes with inferior weight from a body which associates itself with a, position of inferiority by the very act of being compelled to make use of it to make its
opinions known in another place. Of course if we get a strong senate and a good senate, which again depends upon

the powers and rights which we give to that body, it will make its will known. There can be no doubt about that. After all, there may not be very much difference between making amendments in the body of another chamber and making amendments upon its own account; for after all, one body must concur in the amendments made by another body, and amendments are not made before they are concurred in. Therefore, an amendment which is simply put upon the statute book in the house of representatives would be just as valuable and just as important as if it were first proposed in the senate. That is the first remark I have to make; that I do not view with any serious alarm this power of suggestion. If the senate deserves to have the power of suggestion, and is determined to exercise it strongly, and it is found that it exercises it wisely-

Mr. SYMON:
The legislatures of the various colonies have exercised it in connection with the amendments which we are now considering!

The Hon. J.W. HACKETT:
Exactly, and although the Right Hon. Sir John Forrest rather mocks at its existence in our constitution, he is in the favourable position of having to deal with two houses which are in accord; but the time may come when the power of suggestion may be a very unpleasant scorpion in the bosom of the premier of the day. The second remark I have to make is this, and I make it with all sincerity. If it should be found that the right of amendment would stand in the way of federation, I would not weigh it in my mind for a moment before I would surrender it. If we are told by hon. members who speak with authority on behalf of the larger colonies that the substitution of the right of suggestion for that of amendment is an essential condition to their entering federation, I say, away with the power of amendment, and let us all stand by the right of suggestion.

An Hon. MEMBER:
The right hon. member, Mr. Reid, said that it was essential!

The Hon. J.W. HACKETT:
If the course of debates and events during the next few weeks or months convince me of that, I shall be found content to waive the matter in the spirit which I exhibited at the sittings of the Convention of 1891. The constitution which it is now proposed to adopt is different from that which was framed in 1891. More than one enormously important element has been introduced, and until we dispose of these, and see what form they are
likely to take, I must, at all events on this occasion, record my vote with the right hon. member, Sir John Forrest.

The Hon. H. DOBSON (Tasmania)[4.5]:

Recognising as I do that every moment of our time is precious, I do not desire to make a long speech; but, after the challenge of the hon. member, Sir Philip Fysh, to change my vote, I think I ought to state to the Convention and to the people of all the colonies why I do not feel inclined to do so. I think the right hon. member, Sir Edward Braddon, hit the nail on the head when he said that some of us might be perfectly willing to give to our hon. friends opposite, and to the representatives of New South Wales, some means, either by dissolution or referendum, of settling disputes between the two houses. But I take it that our hon. friends cannot ask us for

and I shall be found opposing my old and hon. colleague if he ventures to go through the colony with an opposite intention. We ought to have confidence in ourselves, and I feel certain that when the bill leaves this chamber it will have such elements of fairness in it that every one ought to be willing to accept it. When we talk about the will of the people, and about the wishes of a majority prevailing, we are using phrases which lead us into disaster, The right hon. member, Mr. Reid, told us that the whole of the people of this colony were in favour of equal representation in the senate. It was said that almost all the men elected to represent New South Wales went before this large constituency on that principle, and that half a dozen candidates who did not believe in equal representation were not elected. Yet we find both houses of the New South Wales legislature absolutely opposed to equal representation, which is a nice parody upon our so-called representative government, by which we are always imagining that we can find out what the will of the people is. I believe that in two cases out of five the legislature does not know what the will of the people is. I defy anyone to say what the will of the people is when there is passion and prejudice and party feeling abroad. We have found no, machine which will tell us what the popular will is. The right hon. member, Mr. Reid, asks us what is in a phrase or a name? What is in the word "federation"? Everything is in it. We are here to build up a federal constitution. Our constitution must, I take it, differ in certain elements from the constitutions which govern the separate colonies. Hon. members, when they are comparing the federation which we are now building up, with its upper and lower houses of legislature, to our own systems of two chambers, forget altogether that in some cases the upper chamber is a nominee body. I am surprised that the right hon. member, Mr. Reid, forgot that in New South Wales the upper chamber is a nominee house. In the
federal legislature, however, the upper chamber will be a popular house. There will be the same popular will behind it as there will be behind the lower chamber. The right hon. member, Mr. Kingston, and the hon. member, Sir Graham Berry—one inside the Convention and the other outside—in the days when it was proposed that the senate should be elected by the parliaments, both said that suppose the second chamber sprang from the popular will, and was elected upon manhood suffrage they would have no objection, and there could be no objection, to its having powers co-equal with those possessed by the house of representatives. These hon. gentlemen get concessions on one hand, but they give us nothing back with the other. The hon. member, Mr. Carruthers, said he did not believe in graveyards; but certain hon. members here do believe in a very large graveyard—the graveyard of ultra-democracy, which, like the grave, takes everything and gives nothing back. I desire to say to my hon. friends, who I know have to go back to their electors, as I have to go back to mine and who desire, as we all earnestly desire, to get the bill accepted by the people, that I am prepared to meet them on the vital point of having some process by which we can settle disputes between the two houses. But I am not prepared to do that if you will only give me a weak senate. If you give me a strong senate, which can keep up its dignity and have some control over the great force which is hurrying us along quite fast enough, which will be enabled to have control in some way or another over the democratic force which prevails, I shall be quite prepared to give you what you desire. I am satisfied that blunders will be made in our constitution which will not redound to our credit. Why? Because we are taking the most cumbersome, bungling method of framing a constitution that the wit of man could devise. If we could shut our doors, I believe that by 12 o'clock tonight we could settle our differences, we could adjust the balance between the two houses in such a manner as would satisfy all of us, and put the bill in such a shape that we should be prepared to send it to the country and, if necessary, stump the constituencies in favour of it.

The Hon. E. BARTON:

Then they would not look at it!

The Hon. H. DOBSON:

I think the hon. member is wrong. If we sat round the table, each man speaking for a minute, instead of half an hour, and having a conference over the matter, we could come to a satisfactory agreement, and then, if you like, we could debate it afterwards in the light of day with the press and public present, giving reasons to show, not why we compromised, but
reasons in favour of the bill.

An Hon. MEMBER:
That was tried at Adelaide!
The Hon. H. DOBSON:
Is the hon. member frightened by one or two sentences uttered by the hon. member, Mr. Lyne most improperly uttered, I think to the effect that we had been sitting in secret at Adelaide when we had done nothing of the kind.
Mr. LYNE:
So you did!
The Hon. H. DOBSON:
The hon. member used the word "secret" in such a way as to tell the electors of the colony that this had been done behind their backs, whereas there was nothing of the kind. I think the Right Hon. G.H. Reid would have done much better service if he had pointed out to the Convention exactly how the senate will work shorn of the powers of which you wish to deprive it, instead of giving that little historical account of what the Senate in America is doing. What bills will come before the senate? One of the first bills will deal with money; it will be a bill providing for the defences of the colonies. We all think that the defences of Australia have been to some extent neglected, because all have gone in for isolated, spasmodic, individual action instead of federal action. One of the first bills that the senate will have to deal with will be to provide a federal scheme of defence. Such a scheme may involve the expenditure of £1,000,000; it may involve the expenditure of £2,000,000 or £3,000,000. The senate might look upon that scheme as extravagant, and devised as much with the idea of finding work for the working classes as for carrying out efficiently a scheme of defence. The senate might want to reduce the expenditure from £2,000,000 to £1,000,000. According to what is now proposed the senate can do nothing. It must either pass the bill with all this extravagance, as it conscientiously believes, or it must throw it into the waste paper basket. Is there any one so unreasonable, conservative, or obstructive as to ask that the senate shall not have power to reduce the amount in that bill from £2,000,000 to £1,000,000 and to send it back in that shape to the lower house? In such a case if the lower house would not accept £1,000,000 it might be prepared to compromise and accept £1,500,000. It seems to me that you are framing an unworkable scheme; you are not only robbing the senate of the prestige which it ought to have, but you are taking away from it all power of concession and conciliation, taking away from it all power of giving and taking that spirit which we have here which prompts us to
give and take, and which would enable the senate to try in that way to carry out the will of the people. What is the second bill which would probably come before the senate? A bill to establish a uniform tariff, under which we have financially to live. Our existence will, to a large extent, depend upon the tariff being so adjusted, that those colonies which want protection, and those colonies which, like Tasmania, want revenue from the customs, and without it would go insolvent, may be able to get what they desire. Yet some hon. members want it to go forth to the people that the senate cannot even reduce the duty on one single item out of 300 or 400 items.

Mr. LYNE:

The Hon. H. DOBSON:

We must get revenue in some way, and it must be provided through the customs. That is one of the financial problems before us. The point is this: that, in a customs bill containing 300 or 400 items, the senate, according to this clause, cannot say that the tax on tea shall be reduced from 4d to 3d., that a tax upon machinery cannot be reduced from 10 per cent to 5 per cent. It cannot take an item from the revenue schedule and put it on the free list. That is what you call building up a senate and a, federal government with two houses which will possess the confidence of Australia. Have we not a right to take into consideration the education, intelligence, and thrift of the people? Are we to simply count heads? As Burke, said, are we to have government by the counting of heads? There is another phase of this question to be considered. Will the intelligent, the wealthy classes, the men who sit at home and say, "A plague o'both your houses; we are sick of your party politics, and will have none of them" will these men accept your constitution if you make it lop-sided, as I think you may? But if we devise some scheme by which, in its essential particulars, we shall secure that the will of the people, when it is clearly ascertained to be in a certain direction, will be given effect to if we secure that the people shall have their way after due time has been given for discussion and reflection, I think surely we have a right to claim that the senate shall be made a strong body which will command the respect of the people as well as of the lower house.

The Hon. J. HENRY (Tasmania)[4.18]:

The Right Hon. G.H. Reid, in his exhaustive speech, advised hon. members who followed him to make short speeches. That advice commends itself to me, and there is no hon. member who has a stronger objection to wasting time or multiplying unnecessary words than I have. Yet I feel constrained to say something on this subject. Although I
recognise that the conclusion is a foregone one, I feel, in reference to the vote which I shall give on the question, that the same reasons which actuated me in voting as I did at Adelaide continue to exist still, and, if possible, have additional force. The question to my mind is narrowed down to two very narrow issues. The first is: can we have federation if we, the smaller colonies, join our voting power together in this Convention, and defeat the larger colonies on this subject? The second question is: assuming that we do deprive the senate of the power to amend particular money bills, can we, under our constitution, have good government in other respects in the future? With reference to the first question, that is, whether the force of opinion in the larger colonies on this question of money bills is such that if the smaller colonies defeat them on this issue, it will seriously retard or impede federation, I am of the same opinion now as I was at Adelaide. In view of all the circumstances, in view of the feeling amongst members of the Convention and the feeling in the smaller colonies, I am quite satisfied that if those colonies join their forces in the matter thirty to twenty against the larger colonies, and defeat them on this issue, we shall seriously impede federation. With regard to the question as to the support which the larger colonies received from certain delegates of the smaller colonies at Adelaide, I may state that it was then a question as to whether it would not be better to postpone any concessions until this meeting of the Convention. After reflection, I am forced to the conclusion that the vote on that occasion was a wise one, for I am quite satisfied-and I think every hon. member who takes what I regard as a reasonable view of the matter is satisfied that had the delegates from the larger colonies gone back to their several legislatures defeated on this issue by the small colonies, it would have caused so much bitterness, that the result would have been prejudicial to the cause of federation, which I believe most of us so earnestly desire. Reflecting on that vote, I am rejoiced to find that certain of my colleagues who were then opposed to me intend now to join with me in the vote which I intend to give. With regard to the question as to whether we are likely to have good government in the future that is the paramount question after all; and I am quite satisfied that, even with a senate deprived of power to amend money bills, the people of Australia may safely enter into federation with the confidence that we shall secure for federated Australia good government for the people. It has been suggested by a delegate from Tasmania that the people of Tasmania would probably reject the constitution bill when submitted to them that they would refuse to enter the federation in consequence of the senate being deprived of the power to amend money bills.
The Hon. A. DOUGLAS:
Hear, hear!
The Hon. J. HENRY:
My hon. friend and colleague says "hear, hear." It happens that immediately on my return from Adelaide I called a public meeting in the chief centre of population on the north side of the island Launceston because I, in common with other delegates, had been much abused in consequence of the vote we gave. I submitted the whole question to the meeting, and I had the satisfaction of receiving a vote of approval of my conduct.

The Hon. A. DOUGLAS:
That is only a section of the people!
The Hon. J. HENRY:
It was a very important section of the city of Launceston. The hon. member will admit that in that city there is a considerable amount of influence so far as expression of opinion is concerned. I may also state that my colleague, Mr. Lewis, who voted with me on that occasion, also called a meeting of the Australian Natives Association, and explained his vote and position, and he also was awarded a vote of confidence for his action. I have no doubt whatever as to the result of the vote whenever it is taken; and I shall be able to go back to the colony to which I have the honor to belong, and conscientiously recommend the acceptance of the Constitution Bill, provided that in other important respects the measure is made safe. I have in my mind principally the financial clauses. The financial question is the great stumbling block to Tasmania. We are only a small colony, and we must see our way safely; but, as regards the question of the constitution, I shall have no hesitation in recommending the acceptance of the bill. A great deal has been said about the difference between suggestion and amendment. It is idle to discuss the matter from my point of view. A great deal has also been said about the relative powers of the senate and house of representatives. I do not feel disposed to enter into the various arguments. It is sufficient for me that we cannot have federation if we defeat this proposal. But we are not going to defeat it. It appears to me there are two extreme parties, not only in the colony to which I have the honor to belong, but throughout Australia generally. I regard the extreme parties as those who, on the one hand, say "There shall be no federation unless we have equal representation," and those who, on the other hand, say "We will have no federation unless the senate has co-ordinate powers in money matters in the house of representatives."
The Right Hon. Sir JOHN FORREST:
Very few say that, I think!
The Hon. J. HENRY:
There are people who say it.
The Right Hon. Sir JOHN FORREST:
No one has said it in the Western Australian Parliament!
The Hon. J. HENRY:
If I understand the hon. gentleman a right, the argument is that the senate has the right to amend money bills.
The Right Hon. Sir JOHN FORREST:
I have not said what will happen if it does not!
The Hon. J. HENRY:
I am referring to the two classes of extremists in the colony. To my mind, it is a question as to whether there is a sufficient force of moderate opinion between those two extremists to justify us in hoping we shall have federation at this juncture. After these remarks, it is quite unnecessary for me to say how I shall vote. I shall merely follow the vote I gave in Adelaide.
Mr. JAMES (Western Australia)[4.28]:
At the Convention in Adelaide in April last I recorded my vote in favour of the bill as it left the Constitutional Committee. If the amendment is carried the measure will be placed back in the position in which it was left then. I said that if I thought that when the adjourned meeting was held, by voting in favour of the principle then embodied in the bill as it stood, I should retard federation, I should have no hesitation. whatever in reversing the vote I then gave. I think if there ever was a convenient opportunity to carry out that promise it is now. I cannot for one moment follow the position taken up by Mr. Hackett, who, thinking as I do, would rather vote against the amendment than injure federation, still thinks the time has not arrived to exercise that act of concession. It seems to me that as soon as we possibly can we should dispose of all the irritating points. And if we are going to adjourn these discussions if after fighting the matter out in Adelaide we are going to adjourn it again it seems to me we shall never have the question settled. I am not going to vote in favour of the bill as it stands because I think it is defensible, on principle. Believing as I do that the demand for equal representation is a right-recogising, however, as I do that there are members in this Convention who would generously give it to us as a concession-I cannot see that any limitation upon co-ordinate powers of the houses can be defensible. Nor do I vote in favour of this bill as it stands because I think it necessary that we should deviate from the application of what I believe to be a true principle for the purpose of
securing a full and vigorous local responsible government. That, I think, is a plant which can take adequate and full care of itself, and no plan we can make will interfere with its full growth. I vote for this clause as it stands, being the compromise of 1891, because I desire to see federation take place, and because I do not want to shut my eyes to the fact that that compromise comes before this Convention approved and supported by men whose position in this movement is such that I am absolutely certain that they would not recommend the representatives of the small states to accept any compromise which would do injustice to the small states, or do wrong to the federation. For that reason, I will record my vote in favour of the compromise which comes supported by such high and honorable men.

Mr. HIGGINS (Victoria)[4.32]:

I cannot help thinking that this very interesting debate has wandered a little from the question before the Committee. The amendment before the Chair is to leave out the words "for imposing taxation and" and, as I understand it, the object of the right hon. member, Sir John Forrest, is to leave the senate in the position of being unable to exercise full power with regard to appropriation bills, but, at the same time, to give the senate power to interfere as it likes with the taxation bills, and that I understood to be the point of his objection. He wanted to concede as to appropriation bills for the purpose of working out responsible government. The right hon. member is willing to cut from the senate the power of interfering with appropriations, but he wishes to give the senate equal power as to the imposition of taxation?

The Right Hon. Sir JOHN FORREST:

As to amending!

Mr. HIGGINS:

As to amending. The question before the Chair now is, not the question of suggesting amendments, although there is no doubt that it bears very much on this particular point. The only question before the Chair at present is this question is the senate to have equal powers as to laws imposing taxation?

The Right Hon. Sir JOHN FORREST:

That is, in initiating!

Mr. HIGGINS:

Of course. The only words before the Chair are that the senate shall have equal power with the house of representatives in respect of all proposed laws, except laws imposing taxation.

The Right Hon. Sir JOHN FORREST:

I do not propose to give the power of initiation, for all that!
Mr. HIGGINS:

No, the power of initiation has been dealt with in the preceding clause; but, still, the object of the right hon. gentleman is that the senate shall have equal power with the house of representatives with regard to all laws imposing taxation, except as to origination.

The Right Hon. Sir JOHN FORREST:

Yes!

Mr. HIGGINS:

As to that, if we are to narrow the dispute down to that one point, I should like to: ask the right hon. member how he can separate the two classes of money bills, bills which impose taxation from bills which authorise expenditure? By refusing to impose taxation you can practically prevent expenditure The policy of a government with regard to expenditure must be controlled by their policy in regard to taxation. If you tell a government, "We will not allow you certain taxation," you practically tell that government also, "We will not allow you the power of expenditure in the direction in which you intimate you will expend."

The Right Hon. Sir JOHN FORREST:

You can expend what you have left!

Mr. HIGGINS:

Yes, but that is a very small thing. As a rule our experience in Australia is that the governments do not keep very much in hand. They have to look to the taxation for the year, or to borrowing perhaps, in some cases, for the expenditure of the year. Expenditure and taxation are linked together so that you cannot separate them.

The Right Hon. Sir JOHN FORREST:

Suppose they reject them?

Mr. HIGGINS:

I cannot follow that reasoning. The only question here is whether you are going to give equal powers in regard to taxation and expenditure. Having linked together the two kinds of money bills for getting money and spending money, I should like hon. members to consider just a little more fully what the Premier of New South Wales put. You are forgetting that the populations of Victoria and New South Wales are about four times as large as the populations of the other three colonies—2,600,000 persons as against 650,000 persons and that the taxation is contributed in the same proportion practically. New South Wales and Victoria contribute four times as much taxation as do all the other colonies combined.
Not individually!

Mr. HIGGINS:

I am not speaking of the state of exaltation as regards the finances which we have been reminded so frequently exists in Western Australia for the present. I trust that it will long continue; I have every hope that it will. Taken at a whole, the populations will contribute to the taxation in proportion to their numbers.

The Right Hon. Sir JOHN FORREST:

No, they do not!

Mr. HIGGINS:

I am speaking of the future. The right hon. gentleman cannot forget that he is the Premier of a colony with the most lavish revenue that ever existed in Australia in proportion to numbers. Speaking of the future, I say that the amount contributed in taxation will be pretty much in proportion to population. The extraordinary proposition which is proposed for this Convention to adopt is that those colonies which contribute in the proportion of one to four to the taxation of the commonwealth are to have the voice of three to two in the senate, and that this senate is to have an equal power in dealing with all these matters of taxation.

The Hon. H. DOBSON:

No, not an equal power!

Mr. HIGGINS:

"Equal power"-look at the words! The Hon. H. DOBSON: No!

Mr. HIGGINS:

If the hon. member were at all careful he would not only have let the cat out of the bag in regard to the object of having a strong senate but would also have looked at this clause, which says:

The senate shall have equal power with the house of representatives in respect of all proposed laws except laws imposing taxation.

The proposal now is to have equal power even in regard to laws imposing taxation.

The Hon. H. DOBSON:

No; not to increase taxation!

Mr. HIGGINS:

I have carefully indicated the qualifications with which that must be taken. The object of the right hon. member, Sir John Forrest, is to give the senate with these qualifications equal power in regard to laws imposing taxation. I was very glad that the hon. member, Mr. Dobson, was so frank with his aristocratic and conservative prejudices as to state the object for which he requires a strong senate. I hope his words will be put in big flaring advertisements round all the different colonies, so that the people
will know exactly what the object is. What struck me was, how my hon.
friends, who profess to be liberals in South Australia and elsewhere, like
the statement of the hon. member, Mr. Dobson, that the object of having a
strong senate is to check the will of the people.

The Hon. H. DOBSON:
   Nonsense! I never said that!
The Hon. Dr. COCKBURN:
   His vote is righ
Mr. HIGGINS:
   The vote is right, but the reasons are wrong. The reason for having a
senate, from his point of view, is to check the will of the people. Am I
doing the hon. member an injustice?
The Hon. H. DOBSON:
   To some extent that is right!
Mr. HIGGINS:
   The object, of a strong senate is to check the will of the people. That, I
concede, to be the position of those conservatives, who are voting in favour
of a strong-
The Hon. Sir J.W. DOWNER:
   The hon. member knows that he is not quoting my hon. friend quite
fairly!
Mr. HIGGINS:
   I do not know it, nor do I think anyone would accuse me of being unfair.
The Hon. Sir J.W. DOWNER:
   Not intentionally!
Mr. HIGGINS:
   I am sure hon. members will acquit me of any intention of being unfair. I
appealed to the hon. mem-
[P.525] starts here
ber as to whether the words which I quoted were not his words practically,
and he said that they were, that they substantially represented his object.
The Hon. E. BARTON:
   The words were that a strong senate was required to control the
democratic force!
Mr. HIGGINS:
   Quite so. The hon. member's avowed object in having a strong senate is
to control the democratic force.
The Hon. H. DOBSON:
   Not to let it go too fast!
The Right Hon. Sir JOHN FORREST:
Mr. HIGGINS:

My right hon. friend, the Premier of Western Australia, has administered the affairs of that colony by reason of the concealment of his power. He has been able to conceal the iron hoof with which he has ridden over the destinies of the colony. I am not referring to that hon. gentleman. I am referring to the hon. member, Mr. Dobson, who is a consistent conservative of Tasmania, following the lead of our venerable friend, Mr. Adye Douglas. The hon. member's object in having a strong senate is to control the democratic force. I, myself, have tried to make it as strong as I could by basing it on the will of the people, and for the purpose of carrying out the behests of the people-with a very different motive to that of the hon. gentleman. I say that we want a strong senate to carry out the people's will; but unless you base it in the manner I suggested last week you cannot have it. There is one significant fact that although members of the Convention by a huge majority last week murdered proportional representation they cannot get rid of its ghost. It is about them still. It is here, and will follow them. Hardly one member who has spoken on this question but has felt bound to refer to equal representation. I was led into a digression by the interjections of hon. gentlemen opposite. But what I wanted to emphasise was this that we are dealing at present only with the question whether the senate is to have equal powers with the house of representatives as to taxation.

The Hon. Sir J.W. DOWNER:

Is it to have the power of amending a taxation bill by reducing the amount?

Mr. HIGGINS:

It is true that the clause prohibits any increase; but the hon. gentleman knows perfectly well that you may interfere with the wish of the people by decreasing as well as by increasing taxation. The great tendency on the part of the popular houses of some of these colonies has been to increase taxation. Measures with that object have been popular. On the other hand, there has been a disposition on the part of the upper houses to decrease taxation. In those colonies, for instance, where a protectionist policy has been adopted, the tendency of the popular house has been to increase taxation, and if the hon. member means to say that the senate may not increase taxation I say, "Thank you for nothing." What I want to indicate is that you cannot give over equal powers as to taxing bills to a body which does not represent the people according to their population. I am glad to call attention to the fundamental error at the base of the argument of the hon. member, Sir John Downer, and those who, have spoken so strongly upon his side of the question. Here is the fundamental error which
happened to come out in the course of the hon. gentleman's eloquent and vehement address: "Why," he said, "are we not all here to vote according to, the advantage of our constituents?" Surely it is the very opposite.

The Hon. Sir J.W. DOWNER:
Has the hon. gentleman fairly stated what I said?

Mr. HIGGINS:
I took down the words at the time.

Mr. LYNE:
I also made a note of the words. They were: "Do our best for the states and for our own constituents!"

Mr. HIGGINS:
Exactly. I say that we are not here to do the best we can for our constituents, and I say that if anyone takes that view of our federal purpose here he takes altogether a wrong view of our mission. Our object here is to act, not in accordance with what we think at present are the interests of South Australia, Tasmania, and Victoria, but to do the best we can for the benefit of Australia as a whole without regard to boundaries. That reminds me of what the right hon. the Premier of Tasmania said. He said: "Let us in this matter of money bills obliterate boundaries. What have we to do with the population of New South Wales or Tasmania?" That is precisely what we have been endeavouring to do to obliterate boundaries. That is what we have been trying to do all the time for federal purposes. It is a nice position to take up to say, "We will obliterate boundaries when it comes to a question of who is to get the benefit of the money, but we will not do so when it comes to a question of who is to have power over the money." That position is untenable. So far as voting goes I think that from my observations hon. members will have formed an opinion as to how I intend to vote.

The Hon. S. FRASER (Victoria)[4.48]:
I did not intend to speak at all upon this question, and I will now say only a few words. The hon. member who last spoke talked about obliterating boundaries, but we do not obliterate boundaries. The states as states are not obliterated. We do not intend that they should be, because that would mean unification. It would mean going back to the condition of things which obtained when I, myself, first arrived in Australia many years ago.

The Right Hon. Sir E. BRADDON:
Not for the states; but for the commonwealth!

The Hon. S. FRASER:
For federal purposes we nationalise ourselves. If we obliterated
boundaries, it would be a very nice thing for Victoria, and all the colonies, because we should have the advantage of the £2,000,000 of land revenue in New South Wales forthwith. However, we did not expect that, and we are not at all likely to get it. It would be downright nonsense to ask for it. New South Wales is the strong colony, because of its £2,000,000 of land revenue, and she can do as she likes in regard to this taxation question. She can be lavish in her expenditure for the next fifty years, and still not be crippled in her finances. But in Victoria and in the other colonies we have to be careful with our finances. We have to be very careful in our expenditure. We find it difficult to get money from the taxpayer. We do not, therefore, intend to obliterate boundaries. We intend only to set up one nation. I cannot support the amendment of the right hon. member, Sir John Forrest, because we in Victoria would not be justified in asking the people of that colony to allow the senate, no matter upon what foundation it is erected, to amend money bills. We have not been bred in that way. Every man, woman, and child in Victoria is of a contrary opinion. I admit at once that I do not think there is any very great danger in it, because it can only operate in the direction of reducing taxation, and if you do not take the money out of the pockets of the people, the money is there. Still, I know it is no use to go to our colony and advocate that view, and I am sure it is the same in New South Wales. So that I hope the Right Hon. Sir John Forrest will not insist upon his proposal. We are grateful to those members from Tasmania who, at the Adelaide Convention, voted in the way which was so much desired, and thus saved us from actual collapse. I am glad that that view is gaining ground, and I hope that the division on this occasion will be even more emphatic than it was on the last occasion.

The Hon. W. Moore (Tasmania):

The hon. gentleman who has just sat down seemed to me not to draw a distinction between the functions of responsible government as applied to a unified government and the functions of responsible government as applied to a federal government, and that is a distinction which has not been observed throughout this debate. It is entirely different when you apply the functions of responsible government to a number of federated states joined together as we propose to be joined in this federation. No one has yet pointed out that the functions of responsible government are incompatible with federation. The United States and Switzerland afford the best types of federation of which we know at the present time. In the United States the principle of responsible government would be foreign to the working of the federal constitution. The federation of Switzerland has been framed on
almost the same lines as those of the United States, and in the case of Switzerland also the principles of responsible government have not been applied. In the work upon which we are now engaged we are endeavouring to form a federation on a principle never known before. We are endeavouring to federate a number of colonies, and to apply to the working of the finance of that federation the principles of responsible government. This is entirely new, and we cannot look back through the vista of history for any evidence or proof to show how it will work. I have no doubt that in the end we shall be able to arrive at a satisfactory adjustment; but I cannot see how the system of federal government is to work properly or advantageously, unless some power is given to the senate. I think the senate in a federal parliament should have a great deal more power than a senate under a unified form of government.

The Hon. S. FRASER:
We are giving you more power!

The Hon. W. MOORE:
But hon. gentlemen are all the time arguing that the powers of the two houses are co-equal. Now, the powers proposed to be given to the senate and those proposed to be given to the house of representatives are dissimilar in every way. Attempts have been made to weaken, to emasculate, and to destroy every power which should legitimately belong to a senate, and we are asked to go on in that direction from step to step. An attempt is being made and no doubt it will succeed to prevent the senate from amending money bills. Now, in Tasmania, in the exercise of responsible government in our own way, the Legislative Council have exercised the power of amending money bills for the last forty years, and if you were to poll Tasmania tomorrow, I do not think you would find one man who would say that the system has not worked advantageously. At this moment I should be willing to give way even on this particular point if I thought the matter would rest there. But what is to be the next move? As soon as the senate is deprived of the power to amend money bills, the next movement will be to deprive it of the power of suggestion, and, when that has been done, the next attempt will be to completely extinguish the power of the senate by means of the referendum. That is the tendency that has been evident from time to time, and I do not think we ought to give way to it. No senate in the world was ever constituted on so wide and popular a basis as the senate we propose to establish. There is to be a representation of the whole of the state, and if each representative is to be elected by the whole of the state, surely the senate should be able to exercise some power in proportion to the way in which it is elected. We are now constituting a senate for which we have no precedent either in ancient or modern history.
For these reasons I think the senate should have the necessary power to deal with money bills to a certain extent. I do not claim that it should have the power of initiating money bills. It is here where a fog or mist has been thrown around the question, and where an attempt has been made to show that in the constitution we are about to form, the two houses are to have co-equal powers. What is the fact? The fact is that the senate is to have no power of initiation. That is the first step. The next step is that the house of representatives is to be governed by the principles of responsible government. What does that mean?

**The Right Hon. Sir JOHN FORREST:**
Referendum and dissolution!

**The Hon. W. MOORE:**
Exactly. I am so pleased at the action of the larger colonies in giving equal representation, that I think we ought to meet them as far as possible, and if we had any guarantee that this would satisfy them, we might consent to go so far. But we have no guarantee of the kind, and, I dare say, we shall have to fight the matter step by step until we deal with all the points. I do not think it is necessary that I should take up any further time. I intend to vote for the amendment of the Right Hon. Sir John Forrest for the reasons I have given. I voted for the same amendment in 1891, and again in Adelaide, and I shall do so now. I would not do so if I thought that concession on this point would bring a final settlement. But in the absence of any proof or desire to meet on common grounds, I shall feel it my duty to vote for the amendment. I am an ardent federationist, and am very desirous that these colonies should be federated; but I cannot understand the attempts that are made from time to time to weaken the powers of the senate. We are creating, a senate on the bed-rock of liberal representation, and on a principle never known before in history. Surely such a senate should have some little power. We do not give the senate any power of initiation, and it is to have no control over money bills beyond a mere veto. I hope, nevertheless, that we may come to a decision with regard to federation. I believe it will be for the good of all Australia, and for every one of us. As far as my own colony is concerned, it was never in a more prosperous condition, and we can look forward with hope to the future. We would like to work harmoniously with the other colonies for a common destiny for that great object we all came here to endeavour to accomplish.

**The Hon. E. BARTON (New South Wales)[5.1]:**
I intend to vote against this amendment, and to adhere in this clause to the provisions that were agreed to in 1891, and again agreed to in 1897 at Adelaide. The arrangement of these clauses come to in 1891 has been
spoken of repeatedly as "the 1891 compromise." Well, except in the sense that you cannot make a federal government without compromise that a federal government is a compromise in itself, it is, perhaps, a misnomer to apply the term "compromise" to these clauses; but they were carried by a majority of five or six in the Convention of 1891. When I speak of these clauses as "the compromise of 1891," and urge their acceptance now, I must not for a moment be understood to say that because they were agreed to in 1891 they ought to be accepted now. It is my opinion that they should be accepted now, because they are a reasonable arrangement—not because a former convention adopted them for we should be forgetting the true purpose for which we were sent here if we were to say that because our predecessors, sitting six years ago, came to the opinion which is expressed by these clauses, therefore it is our duty to accept them now. That is a doctrine to which I am not to be accused of subscribing.

The Right Hon. Sir JOHN FORREST:

We do not say that at all!

The Hon. E. BARTON:

I do not say that anybody here has asserted it; but I think it was argued in Adelaide, when some of us voted as we shall now, that the compromise of 1891 should be adhered to, and we were afterwards accused in this colony of having supported that compromise simply because we slavishly followed the opinions of 1891. That is a false accusation, and I think that I should take the earliest opportunity of refuting it. The reason why these clauses were supported in the form in which they now stand which is essentially the form of 1891, was because it seemed to those who supported them that they embodied the best adjustment of the question of money powers that could be arrived at, having regard to the necessity of conserving the principles of federation on the one hand, and having on the other hand the necessity of conserving, as far as possible, the principles of responsible government. It has been urged by you, Sir, and with very great force, that either federation must kill responsible government or that responsible government must kill federation; but I do not think, after all, that the putting of an argument of that kind in so strong and direct a way should altogether deprive us of the hope that we can make such an adjustment between the federal idea and the spirit of responsible government as will enable a federation to continue without undue in-road on the rights and individualities of the states, and will also enable responsible government—that is, government responsible to one house of the legislature—to be continued with the force and life with which we know
it. "The compromise of 1891," as it has been called—and as I say, perhaps wrongly called has been very well described by Sir Samuel Griffith, and I will quote from his opinion, expressed after the adoption of those clauses in 1891. He also calls it a "compromise" I take it, again, in the sense that the idea of compromise is inseparable from the idea of federation, that it must be a compromise between a system of national government and a system vital to federal government. He says:

I think it is a very reasonable compromise, and that all those in the Convention who really desire to see a federation of Australia brought about might fairly accept it or something like it.

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, speaking of the constitution as a whole, containing clauses practically identical with these. That is the opinion of a very high authority I think an authority whose knowledge of this question and whose earnestness in its advocacy everyone of us admires, and I take it that Sir Samuel Griffith's opinion may be regarded with comfort by those hon. gentlemen, coming from the smaller colonies, who would rather expose themselves to attack. from these who have not sufficiently considered the question else where, than run the risk of causing this great movement to be abandoned simply because, of difference of opinion on this question. I was a little disappointed, because of my very great respect for him, to hear my hon. and learned friend, Mr. Dobson, talk of controlling the democratic force. It is true that the phrase has been explained by my right hon. friend, Sir Edward Braddon, as meaning "guide the democratic force." When I heard the phrase it seemed to me to imply something more than that kind of guidance which a representative of the people exercises with a full sense of his responsibility. We must have regard for opinion out of doors. Public opinion in favour of this scheme is only a translation of goodwill for this scheme, and it is upon the goodwill of the people of the various colonies giving up, in some instances, ideas which they have cherished, on finding a constitution which they can in the main adopt it is an the goodwill of the people of these colonies that we must rest this federal movement, otherwise it must utterly collapse. I should be the last to mention a word in the nature or the sense of a threat; but surely some regard, and strong regard, must be had for the position of those two colonies whose populations number between them some 2,500,000, or very nearly
2,500,000 out of the total population that is represented by the gentlemen assembled in this chamber. I say seriously—not in any sense of what is called "bluff," and I am sure I shall be acquitted of speaking in that sense—I say seriously that if you were to grant power to the senate to amend taxation bills, the result of your granting that power in this constitution would be a failure of your scheme. I do not say that in the least degree with the view of influencing any hon. member's vote, except thus: that I must appeal to his regard for this cause if he thinks it is a high one, and if he thinks it is his duty to the citizens of Australia to accomplish it. Those of us who represent those two colonies know that, with such a power inserted in this constitution, we may bid good-bye to the endeavour to induce our electors to accept the bill. Of that I am as confident as I know that I stand here.

The Right Hon. Sir JOHN FORREST:
You must educate them up to that point!

The Hon. E. BARTON:
We have educated them up to a certain point. We have educated them so far as to understand that in a federal government there must be some adjustment between the rights of the states as separate entities and the individual rights of the units of the people. We have educated them, I think, so far as to understand that, and so as to see that an adjustment of those rights, of some sort or other, is an essential to a federation; but we have not, cannot, and shall not try to educate them to the thought that the adoption of a federation embodies the abandonment of that system of responsible government which we consider to be the natural outcome of true democratic feeling that feeling which, conservative as some of us may be considered in some places, it is our duty to conserve. That, we must think of; that, we must abide by; and that, at any rate, is an explanation of the action we shall take in supporting these clauses; but I am indeed glad to find that that feeling, and the knowledge of that position, actuate many of those hon. members who are not representing New South Wales and Victoria, and who see that unless that spirit, and the feeling and opinion of those great numbers of people are in some measure acceded to, resting as they do on the system of government which they have found just and good, the scheme is doomed to failure. I said at the very outset that I did not threaten. I leave expressions of that kind to gentlemen who are not unused to threats. But it is my duty to the Convention to explain, as far as I can, the position of the country which I represent, and I solemnly say that I believe I express the feelings of that country most truly. We cannot accept the amendment if to accept it is to put back federation. That is the one, the
last, the convincing argument against the proposal, the argument which in
the end must prevail. I believe that the people of this colony, and the
people of Victoria, will accept the principle of the equal representation of
states in the senate; but I believe that the principle will not be accepted if
you give such powers to the senate as will make the system of responsible
government, as we understand it, utterly unworkable. I think that that is the
true adjustment of this position, and the adjustment which is really
expressed by a combination of clause 9 with this and the preceding clause.
The Premier of South Australia tells me that, without safeguards of this
kind to ensure the living force of responsible government, the constitution
would not be accepted in South Australia. For that I cannot personally
vouch, of course; but I accept the right hon. gentleman's statement as
strengthening my contention.

The Right Hon. Sir JOHN FORREST:
The Premier of South Australia is the only member of the South
Australian delegation who will vote against the amendment!

The Hon. E. BARTON:
Well, he happens to be Premier, and has a majority in the legislature of
South Australia.

The Right Hon. Sir JOHN FORREST:
Both houses of the South Australian legislature carried resolutions in
favour of this proposal!

The Hon. E. BARTON:
The right hon member, Mr. Kingston, happens to have majority in the
Legislative Assembly.

Mr. SOLOMON:
Not on this point!

The Hon. E. BARTON:
I am not speaking of this point. That has no effect, and does not turn me
from my course at all. I am perfectly aware what resolutions were passed
in the South Australian legislature. I simply intend to point out that we
have added to the statements of the Premiers of New South Wales and
Victoria, that of the Premier of South Australia, notwithstanding the fact
that the South Australian legislature has suggested certain amendments in
the bill. The right hon. member, Mr. Kingston, is still in power, in the only
way in which a prime minister can remain in power, namely, with a
majority behind him, and being in that position I take it that he is able to
gauge public opinion in his colony. Therefore his statement adds weight to
the opinions advanced by the representatives of New South Wales and
Victoria. I should like further to revert to an observation of the hon.
member, Mr. Dobson. He practically told us that we were wasting time in a
discussion of this kind, because if we sat here with closed doors, making speeches of a minute's duration or a little more, we might quickly come to an agreement embodying a genuine scheme of federation which would be accepted by the people outside. I grant that if we sat with closed doors we could more quickly come to an arrangement on this subject than we can by the process of debating in public, because some of us would not then need to make such long speeches; but if we were to follow the process which the hon. member regards as so much superior to the present one, the difficulty would be that the constitution, which might be the most valuable one upon earth if once accepted, would be so much waste paper, because no population in any of these colonies would look at it, or approach it, except for the purpose of kicking it. How is it expected that the free people of this country are to have the adjustment of a constitution made behind their backs, and without knowing what debates had taken place in the framing of it? I grant that you can have select committees to set out formal propositions for the Convention: but it will be the duty of the Convention to debate these propositions. This debate must take place in the open light of day. If we did not debate the matter in this way, how absurd it would be for us, with our experience of public life, to think for a moment that we could induce any free people to accept our work. Now, if we are to have two houses, and intend to act on the principles of responsible government, and to conserve those principles, we ought not to put into the hands of the senate the power to utterly destroy the financial policy of a government. That is the position which would arise here. I grant you that destruction may be worked in some cases by veto; but the course of vetoing is undertaken upon a much greater responsibility than the course of amending; and a second chamber would consider ten times before it vetoed, though only once or twice before it amended.

An Hon. MEMBER:

No doubt about that!

The Hon. E. Barton:

Of course there is not. The difficulty which besets my hon. friend is that he proposes to put into the hands of such a body the right to adopt a course about which it will not feel so much responsibility; but by repetition of which it may work more destruction. That is the danger. Let us put the matter in this way. We are told that the amendment is only an amendment to give the senate power to alter tax bills.

The Right Hon. Sir John Forrest:
To reduce them!
The Hon. E. BARTON:

Yes, to alter them by way of reduction. Of course we are confidently left to suppose that as the power to amend appropriation bills is not to be conceded to the senate, therefore their power is confined to the amendment of tax bills. But what is the result of amending a tax bill? Take the position of an administration which has to raise the funds necessary for the government of a colony. Its requirements are so many thousand or million pounds; but if the raising of £300,000 or £400,000 of this amount is embodied in its taxation proposals, and these proposals are cut down by the senate to one-half, what becomes of the appropriation bill? Can any one say that the appropriation will not have to be reduced to the same extent? That amount of money cannot be spent, unless hon. members think it wise to involve the federation in a course of deficit at the start. If you give power to amend tax bills, to that extent you give indirect power to cut down the expenditure. A government cannot live within its means if, when you cut down the taxation it proposes to levy and which has been agreed to by the other chamber, it does not in a corresponding way reduce its estimate of expenditure. Therefore, the power to reduce tax bills is virtually a power to reduce estimates. This cannot be got away from. If you put into the hands of the senate the power to amend tax bills, to the extent to which they cut down proposed taxation once agreed to by the other house, they do cut down expenditure authorised or to be authorised by the estimates and appropriation bill. To give power to do the one is to give power to do the other. Anyone who knows the way in which the government of these colonies is carried on must see that with a general policy that surpluses are to be avoided prevailing—and I wish that the policy were equally to avoid deficits—with a policy which says that it is the right thing for a treasurer to avoid surpluses, the general course is to equalise revenue and expenditure as far as possible. When the course of allowing the second chamber to amend a tax bill is once agreed to, the result must be that the power of enforcing that amendment will also be the power of reducing the expenditure as well. So that to nominally withhold the power in the constitution will have no effect. If you give the responsibility to the lower house, you cannot grant this power to the upper house. If you are going to constitute a system of responsible government in which the responsibility of the ministry will be shared between the two chambers, in which the ministry will have one leg in the grave and the other out of it—if you are going to do that sort of thing then you will probably put the ministry in the position of that gentleman-of
course not in one of these colonies—who had two wives, an old and a young one. The gentleman, like some, of us, had hair slightly streaked with grey. The old wife used to busy herself in pulling out all his black hairs; his young wife used to busy herself in pulling out all his grey hairs. The result was that the unfortunate husband was rapidly made bald. That would be, metaphorically speaking, the position of a government which endeavoured to carry on responsible government with responsibility to two houses instead of to one. If then you are to have responsibility to one house, and to one house alone, you cannot give the senate this power. If you do so you will put the government in the position of the elderly gentleman of whom I have spoken. I do not want to detain the Convention at great length, but I should like to say something about the fewer of suggestion. The power of suggestion which we propose to grant, and not the power of amendment, differs from the power of amendment very seriously in this respect, that it places the responsibility upon the right shoulders, and the whole of this question is a question of responsibility. The question of amending taxing bills is a question whether you will have the government responsible to two chambers or to one. I may be forgiven for the sake of shortness for quoting some words which I used in Adelaide, which I think are pertinent on the present occasion. I then said:

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 (South Australia) 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 forced 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.

So I say there is a difference between the power of suggestion which we propose to give and the power of amendment. The difference in the position is that if a power of suggestion is exercised the responsibility will rest on the right shoulders. That is to say, if the senate takes upon itself the responsibility of making a suggestion, and, if that is not agreed to, of vetoing a measure, it will have to take the full responsibility of its action. Whereas if you give the power of amendment, if that amendment is disagreed with by the lower house, and is insisted upon by the house which originated it, the government have no alternative but to lay the measure aside. They have to take the immense responsibility of negating the very policy which they have put before the country. To put that responsibility upon them is not true constitutional government.

The Hon. H. DOBSON:

Will not the government throw the responsibility on the amending house in that case?

The Hon. E. BARTON:

They cannot do so entirely. The people may turn round and say: "You brought it in this measure; you knew that we wanted this policy; the house of representatives supported you in passing it; if you did not get all you wanted, why did you not take all you could get? We wanted this system of direct taxation in substitution for protection (or it may be to get rid of direct taxation by establishing protection). We empowered you to do this
thing. You brought in a bill to do it, and when the bill was amended, instead of getting all you could, you threw the bill under the table." Does not that put upon the ministry, and the house that supports them, a responsibility which, under no system of fair play, ought to be placed on their shoulders? I submit that is so. I do not wish to weary hon. members, and I would not have spoken at such length if I did not think it my duty to address myself to clauses so important as these; but I do impress upon this Convention that they should pursue the same course as was taken in Adelaide. I believe that the system proposed in this bill is one which, notwithstanding objections in some quarters, can, with proper safeguards be assented to. It may be as some hon. members have urged, that there should be put into it some provision to deal with deadlocks; but with proper safeguards I think the provisions of this bill can be accepted in each colony. There is a line of demarcation where, notwithstanding objections, the great advantages to be gained by federation will be deemed a sufficient reason for overlooking those objections. Let us adopt this course. Let us stand by this clause as it is, and by doing so we shall have made the longest step yet taken in the direction of gaining the great and noble end we are here to attain.

Mr. GLYNN (South Australia)[5.27]:

As I was one of the South Australian members who, at the last sitting of the Convention, helped to shape this part of the bill as it now stands, and as that course was not indorsed by either of the houses of Parliament in South Australia, and knowing that you, sir, who occupy a deservedly high position as an authority on federation, have endeavoured to point out the danger of taking away this power of amendment from the senate, I trust I may be excused for detaining the House for a few moments in explaining my reasons for standing by the vote I then gave. Besides, if there is anything which should induce an hon. member to offer his opinions on this occasion, it is that this is probably the last meeting of the Convention. We are now engaged upon a most serious task; we are moulding the destinies of a nation. Although we may have before us the promise of a future which will fulfil our noblest aspirations, we must be careful that we do not leave impressions on the public mind as to the effect of a particular line of policy which may wreck the chances of that future. We have heard from the Right Hon. Sir John Forrest a very strong speech from the point of view which he has taken. I was exceedingly sorry to hear the hon. member say that the evident object of the representatives of the large states was to curtail and cut down the powers of the senate, and eventually practically to propose the sweeping away of that body. We had an opinion of the same kind.
reiterated by one of my colleagues, Sir John Downer, because he told us that the more we gave—the more we weakened the senate—the more was asked from us. Then we had the Hon. Mr. Moore, of Tasmania, stating that be feared the larger states, and that it was incumbent upon him to fight step by step rather than give way upon the question of conferring this power of amendment upon the senate. A conclusive answer to the statements of these hon. gentlemen is the fact that the compromise with regard to equal representation in the senate was made with the aid of the votes of the representatives of the largest colonies; and the Victorian Assembly, notwithstanding it was said that the concession had been made prematurely, affirmed the principle of equal representation in the senate. Their action upon that point was indorsed by societies through Victoria, formed principally with the object of achieving federation. I believe the vote given in this Convention during the last day or two by several of the Victorian delegates on the principle of equal representation was indorsed by the Victorian branch of the Australian National League; so that the allegation that if we give way now we are paving the way to ask for further concessions, does not stand the test of experience. Again, we have had from Sir John Downer - and it shows how mistaken historical analogies usually are - a repetition of an argument from analogy which, though of force as regards equal representation, is utterly inapplicable to the question of granting the upper house power to amend money bills. He pointed to the case of the confederated states. Those states undoubtedly kept up the power of amending money bills, but they went further. They gave the power of vetoing appropriations to their presidents. The constitution of the confederated states went even further than that. It took away from Congress the power of imposing protective duties - and the reason was the same in all cases - because they knew that up to that point the popular house had abused its powers of taxation. They sought for a check upon it. They thought they had found it in continuing the power of amendment of money bills to the upper house, and in imposing the additional checks of vetoing money bills, and in tying the hands of the Congress as to the power of imposing protective duties. The analogy does not apply, therefore, at all, and is utterly inadequate. Again, what do we find in America? The right hon. member, Mr. Reid, properly said that we cannot point to a single case of a consolidation constitution of the British type, in which the power of amending money bills is given to the upper house. But if we go to America what do we find? We find in many of the state constitutions, as well as in the Constitution of the United States itself, the power of amending money bills exists, and that power has been granted since 1864 in all cases where recasts of the constitutions have taken place. One of the reasons was to
impose a check on the abuse of taxation by the lower house—a check, by the
way, which the right hon. member, Mr. Reid, has shown to be utterly useless, owing to the way in which the Senate has fallen in with all the abuses of taxation during the last two years by the House of Representatives in America. But another reason exists, and it is one of great significance. In America they have not the principle of responsible government. The power of amendment was given to the Senate, because there was no ministry in parliament responsible for the estimates or for taxation power. Consequently they endeavoured to make up for this deficiency by giving a sort of checking power to the Senate. I am sustained upon that point by Mr. Bryce. Mr. Bryce, in his work on the American Constitution, states that where the estimates are in the popular house cut down, they always rely on the Senate replacing items which ought to be kept in. Under the British Constitution we know the ministry responsible for the estimates has to shift in such a case but there is no possibility of setting things right in America unless the senate has the power of amendment, or of replacing in the estimates items which have been struck out. Mr Bryce, explaining how it was that the power of amendment was given to the Upper House in America, said:

If the House cut down the estimates, they return it to the Senate, and beg it to restore the omitted items. If the Senate fail them, the only resource left is a deficiency bill next session.

The Hon. I.A. ISAACS:
That really was because at the time the American Constitution was formed the exclusive right of the House of Commons in financial matters had not been thoroughly established!

Mr. GLYNN:
It is at all events a justification. Mr. Bryce goes further than saying it is merely a justification; he says it was one of the reasons for this power being granted in all state constitutions. Therefore, my allegation on that point was correct. But Bryce goes on to the point out that you cannot possibly have co-ordinate powers wherever there is responsibility to either one or two houses. We know that that applies to the British Constitution. We have at times the responsibility of the two houses, and we know this responsibility has led to continuous changes of ministries. He 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 creature of either or both, nor unless both were in touch with the sovereign people.
I go a step further, and I say that we cannot justify, as a matter of expediency, the denial of the power of amendment to the upper house. Why is it that the state should have this power? Is it not for giving expression in matters of taxation to their federal ideas. Is not the assumption that they have state interest separate from the consolidation interest, which must be expressed by giving this extraordinary power? There are, really, in matters of taxation no state interests at all. Taxation is really a consolidation matter. If a taxing bill were introduced into Parliament, the separation of the states would not be between large and small states, but the combination might include—for instance, under a protective tariff—South Australia and Victoria. Therefore, I fail to see where there is any necessity for the protection of state interests by giving this power of amendment. I believe that if this concession is not granted, we shall very largely endanger the prospects of federation, and for that reason I shall stick to the vote I gave in the Adelaide Convention.

The Hon. Dr. COCKBURN (South Australia)[5.38]:

I am exceedingly anxious to get on with business, and I deplore the tendency to make long speeches. I do not think that I have taken up five minutes of the time of the Convention, for the very reason that I want to see business proceed. I do not say that I have anything to complain of those who have felt it absolutely necessary to enter into very long disquisitions of their views, but I protest that hon. gentlemen like Mr. Higgins, who discourses as much as anybody in the Convention, and possibly more, should taunt into speech those who, like myself, want to come to a vote as quickly as possible. The hon. member said he could not understand looking most pointedly at me how a liberal from South Australia could possibly vote with such conservative members as some of those who are going to be on the same side of the division as myself. I should like to know how he, who is always running a tilt against the Legislative Council in Victoria, can justify the vote he is presently going to give alongside the embodiment and chief champion of that house, Sir William Zeal. Let him explain his inconsistency, and then I think he will have a right to ask me to explain mine. I only desire to say one or two words. I have no reason to explain my vote at length, because I am going to vote the same way this time as I voted in 1891, the same way as I voted in 1897, and the same way as I shall always vote—in the interests of liberalism; because I regard the maintenance of the state entity as the safeguard of democracy. The hon. member talks about the senate as if it were going to be a rigidly conservative house. How can a house that is elected by manhood votes be a conservative house? The
thing is too preposterous, and the hon. member must know it. There was an
interjection from another hon. member from Victoria that because the
number of votes of some of the states in the senate was to be larger than
that of others, therefore it could not be representative of the popular will. I
would ask how that would apply to the case of the Legislative Assembly in
Victoria, where I understand the number of votes in some districts varies
from 4,000 to over 20,000.

The Hon. A. DEAKIN:
Not the votes, but the number of residents!

The Hon. Dr. COCKBURN:
The senate will be just as democratic a body as the house of
representatives, and will be the special safeguard of democracy, because it
will be the house which will be specially elected for the protection of
autonomy, home rule, and the government of the people in the affairs they
understand best.

An Hon. MEMBER:
The hon. member is going to vote in the same way as Mr. Dobson!

The Hon. Dr. COCKBURN:
The hon. member is tempting me to make a speech, but I will disappoint
him. I am not going to speak on that subject. I only say that I will give the
same vote in the interests of democracy as I have given on so many
occasions. I believe in the government of the people by the people; but I
think those on the spot best understand the conditions which suit their
requirements, and the senate will be a house, a democratic house, elected to
protect the opinions of those on the spot best understanding their
requirements, and believing in local government, home rule, and
autonomy, I will vote again as I did before.

Question-That the words "laws imposing taxation and" stand part of the
clause-put. The Committee divided:

Ayes, 28; noes, 19; majority, 9.

AYES.
Abbott, Sir Joseph Lewis, N.E.
Berry, Sir G. Lyne, W.J.
Brown, N.J. McMillan, W.
Brunker, J.N. Peacock, A.J.
Carruthers, J.H. Quick, Dr. J.
Clarke, M.J. Reid, G.H.
Deakin, A. Symon, J.H.
Fraser, S. Trenwith, W.A.
Fysh, Sir P.O. Turner, Sir G.
Glynn, P.M. Walker, J.T.
Henry, J. Wise, B.R.
Higgins, H.B. Zeal, Sir W.A.
Isaacs, I.A.
James, W.H. Teller,
Kingston, C.C. Barton, E.

NOES.
Briggs, H. Henning, A.H.
Cockburn, Dr. J.A. Holder, F.W.
Crowder, F.T. Howe, J.H.
Dobson, H. Lesko, G.
Douglas, A. Lee-Steere, Sir J.G.
Downer, Sir J.W. Moore, W.
Gordon, J.H. Solomon, V.L.
Grant, C.H. Venn, H.W.
Hackett, J.W. Teller,
Hassall, A.Y. Forrest, Sir J.
Question so resolved in the affirmative.
Amendment suggested by the Legislative Assembly of New South Wales:
Sub-clause I, lines 3 and 4. Omit "the necessary supplies for the ordinary annual services of the Government;" insert "any part of the public revenues or moneys."

The Hon. Sir P.O. FYSH (Tasmania)[5.47]:
I think, sir, there is a further amendment suggested by the Tasmanian Assembly, but after the vote which has been taken I certainly shall not press that amendment.

The CHAIRMAN:
This is the amendment suggested by the Legislative Assembly of New South Wales.

The Hon. E. BARTON:
That is practically the same thing!
Amendment negatived.

The CHAIRMAN:
It is further proposed by the Legislative Council of South Australia to amend the paragraph by striking out the words
but the senate may not amend any proposed law in such a manner as to
increase any proposed charge or burden on the people.
   Amendment negatived.
   Sub-clause I agreed to.
   The Hon. E. BARTON (New South Wales)[5.47]:
   There may be some further discussion on this clause, but we cannot take it, as we are not going to sit after tea tonight.
   Progress reported.
   Motion (by Mr. BARTON) proposed:
   That leave be given to sit again tomorrow.
   The Hon. F.W. HOLDER (South Australia)[5.48]:
   I wish to ask the leader of the Convention if he will state plainly when he proposes to take two very important matters-clause 52 and the clause relating to the powers of the executive?
   The Hon. E. BARTON (New South Wales)[5.49]:
   I am perfectly willing to consult the feeling of the majority of the Convention as to the order in which we take important subjects. It is suggested that, tomorrow, the various suggestions which have been made to deal with conflicts between the two houses should be taken. That may take us some time tomorrow-possibly it may take us all day but, as we shall sit tomorrow night, we may reach some of the matters which the hon. member speaks of. I take it that by the end of tomorrow we shall probably have dealt with the constitution of each house, the powers in regard to money bills, and the provisions as to conflicts between the two houses; and we might well then take the legislative powers of the two houses and consider after that whether we shall go straight on with the bill in the ordinary way, or take the clauses relating to the executive.
   The Hon. A. DEAKIN:
   When shall we have the Finance Committee's report?
   The Hon. E. BARTON:
   I am not aware what the Finance Committee are doing, and, therefore, I can give no answer to my friend's question. But if the right hon. the Premier of Victoria is likely to leave on Saturday, I would suggest to the Finance Committee-and I think I can rely upon the right hon. gentleman's influence, under the circumstances, as a member of the committee-that they should take some means of accelerating their meetings in some such way that we shall have the financial clauses discussed before my right hon. friend leaves.
   The Hon. Sir R.C. BAKER (South Australia)[5.51]:
   I would point out to the leader of the Convention that the preferable course would be to finish the constitutional questions. For instance the

[P.539] starts here
relations of the executive to the two houses is a most important question, and I should like to have an opportunity to address the Convention upon that question. I would suggest to the hon. gentleman, therefore, that we should finish the constitutional questions first before proceeding to consider the legislative powers of the houses.

The Hon. E. BARTON (New South Wales)[5.52]:

Really, I am not particularly conceited whether we take the executive clauses or the legislative clauses first. If my hon. friend, Mr. Holder, would be content to see the clauses taken in the order now suggested, I should be quite satisfied.

The Hon. F.W. HOLDER:

I merely wished to know the order in which the clauses would come on!

The Hon. E. BARTON:

That being so I should be content to let the provisions as to the executive of the federation come on immediately after the question of deadlocks has been dealt with. I may mention to hon. gentlemen that, as was stated some days ago, it is proposed to sit tomorrow night, as well as in the daytime, and that a similar course will be taken on Friday.

Motion agreed to.

Convention adjourned at 5.53 p.m.
Wednesday 15 September, 1897

Petition-Notice of Motion-Finance Committee-Commonwealth of Australia Bill.

The PRESIDENT took the chair at 10.30 a.m.

PETITION.

The Hon. E. BARTON presented a petition from the Australasian National League, praying that when considering the clauses of the bill in detail, the Convention would make such amendments as would provide for the recognition of the Deity; for a system of effective voting in the election of the senate; for the limitation of the taxing powers of the federal parliament so that direct taxation may only be imposed in the event of war; and for the retention of the right of appeal to the Privy Council.

Petition received.

NOTICE OF MOTION.

Mr. MCMILLAN gave notice that tomorrow he would move:

That the minutes of the proceedings of the Finance Committee appointed at Adelaide be printed.

FINANCE COMMITTEE.

The Hon. J.H. HOWE (South Australia):

Seeing that this Convention appointed a committee to deal with the financial problem, I should like to ask the Right Hon. G.H. Reid whether that committee has met; or, if not, when it intends to meet, to deal with this important subject?

The Right Hon. G.H. REID (New South Wales):

In answer to that question, I ask when the Convention will give us time to meet?

COMMONWEALTH OF AUSTRALIA BILL.

In Committee (consideration resumed from 14th September, vide page 539):

Clause 55. Appropriation and tax bills (vide page 481).

Paragraphs 2 and 3 agreed to.

Amendment suggested by the Legislative Council and Assembly of Tasmania:

That the following new sub-clause follow paragraph 3:-"The law which appropriates the supplies for the ordinary annual services of the government shall deal only with the appropriation of such supplies."

Mr. WISE (New South Wales)[10.34]:

In supporting this suggested amendment, I would like to point out that it
seems to have been accidentally omitted from the 1891 bill, and the importance of it is rendered obvious when one notices that in more than half of the constitutions of the states of America this clause has been inserted as a constitutional amendment, owing to the grave and increasing difficulties arising from the practice of tacking to appropriation bills measures not appropriate to such bills. In a few sentences if I may refer to a very valuable collection of comments on the American constitutions, published by the Johns Hopkins University-I may make my meaning clear. At page 29 of that article it is pointed that from 1867 forward the practice of legislating on appropriation bills became more and more common, mainly as a matter of convenience. The number of bills introduced into Congress is so large sometimes reaching 8,000 or 10,000— that it is almost impossible to obtain a hearing for any measure. But the appropriation bills must be passed, and it has become very common to place on them provisions enacting necessary laws which otherwise could not be reached on the calendar. Judge Reagan, of Texas, said in the House of Representatives that, between 1862 and 1875, 387 measures of general legislation had been passed as provisions upon appropriation bills. Ten years ago, the practice had become so objectionable that General Grant, in his message, December 1, 1873, advised an amendment of the Constitution which would prevent it, and this recommendation was recently renewed by President Arthur in his message of December 5, 1882. The House of Representatives also recognised the faulty nature of the practice and amended its rules so as to forbid legislation on appropriation bills except when it is germane to the subject of the bill and in the interest of economy.

President Hayes, in his message in 1879, also deals with this matter. He says:

The practice of tacking to appropriation bills measures not pertinent to such bills did not prevail until more than forty years after the adoption of the constitution. It has become a common practice. All parties when in power have adopted it. Many abuses and great waste of public money have in this way crept into appropriation bills. The public opinion of the country is against it. The states which have recently adopted constitutions have generally provided a remedy for the evil by enacting that no law shall contain more than one subject, which shall be plainly expressed in its title. The constitutions of more than half the states contain substantially this provision.

It seems to me that those words, written with authority—not only the authority of thinkers, but also the authority of practical statesmen, who
have filled the highest posts in America—ought to convince us that we should take measures to guard against a danger which might become very serious.

Suggested new paragraph agreed to.

Paragraph 4 agreed to.

The Right Hon. Sir JOHN FORREST (Western Australia)[10.37]:

I desire to ask the leader of the Convention if the intention of this sub-clause is that the senate shall have power to reject or amend a proposed law of this kind?

The Hon. E. BARTON (New South Wales)[10.38]:

Not a law providing for the ordinary annual expenses.

The Right Hon. Sir JOHN FORREST:

Expenses other than the ordinary annual services?

The Hon. E. BARTON:

The intention of this sub-clause, I take it, is this: The senate is not deprived of the power of amending appropriations, except in respect to the ordinary annual services of the Government. In order that it may have that power in full efficiency, it is intended by this subclause to confine the annual appropriation act to such matters as relate to the ordinary annual services of the government, so that appropriations apart from that may be dealt with in the ordinary way.

The Right Hon. Sir JOHN FORREST:

Loan bills, for instance?

The Hon. E. BARTON:

It may be so.

Paragraph 5 agreed to.

Clause, as amended, agreed to.

Clause 56 (Recommendation of money votes).

The CHAIRMAN:

Several amendments have been suggested on clause 56; but the question arises whether they are not inconsistent with clause 54, which we have passed. Under clause 54 it will be necessary that messages should be sent to the

senate from the governor-general in some cases, because of the addition to the clause which we have made at the suggestion of Tasmania. It seems to me that we cannot now amend the clause as suggested, and therefore, unless otherwise desired, I shall not put the suggested amendments.

Clause agreed to.
The CHAIRMAN:
I understand that it is the wish of the Committee to now deal with the new clauses which make provision for the avoiding of deadlocks. I really do not know which of the suggestions that have been made to this end I should put to the Committee first.

The Hon. N.J. BROWN:
May I suggest that, if an amendment has been suggested which would bring the definite question whether any provision for the meeting of deadlocks is, in the opinion of a majority of this Committee desirable, it should be put first. There are some members of the Convention, adopt whom I am one, who desire to oppose in every way any suggestion in the shape of a referendum other than that, if any provision at all is necessary, which has been suggested by the Parliament of Tasmania.

The CHAIRMAN:
I was about to say that I have come to the conclusion that it would perhaps be advisable to put first the new clause suggested by the colony of New South Wales. Upon the first paragraph of the suggested new clause 57 a test vote may be taken as to whether there should or should not be a referendum. That paragraph commits us to nothing, because, as will be seen, it does not bring into operation any particular scheme.

Dr. QUICK:
Do I understand you to say, sir, that a division upon this question should be regarded as a test vote upon the referendum, or in regard to making provision against deadlocks? I think the first suggestion would be a rather restricted mode of debating the clause. This paragraph may be applicable either to a provision for a referendum or for a dissolution of the senate. Therefore I suggest that a division should be accepted as a test vote upon the general question whether there should or should not be a provision against deadlocks. Then the Convention can at a subsequent stage work out the problem as to what is the best mode of giving effect to their wishes.

The CHAIRMAN:
The hon. member is quite right. I ought to have said deadlock instead of referendum. This paragraph is consistent with almost any scheme suggested.

Amendment suggested by the Legislative Assembly of New South Wales:
Insert new clause to follow clause 56:-57.(a.) 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
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.

The Hon. J.H. CARRUTHERS (New South Wales)[10.45]:

I do not intend to detain the Convention at any great length in support of
this proposal, because I take it that our time is rather limited, and we desire
in as short a space of time as possible to come to some final determination
upon what may probably turn out to be the crux of the whole constitution. I
have always from the moment that I contested a seat in this Convention
placed above all other questions with regard to the constitution that which
provides some means for getting an ultimate expression of the will of the
majority of the people. Although I have opposed equal representation in
the senate, I have always admitted that I would oppose it until the
constitution provided some safety-valve. I say now that if a safety-valve is
provided at

this stage there will be found no stronger supporter of the bill, though it
provides for equal state representation, than myself. But I have always
hesitated to give my support to the principle of equal state rights before
seeing in cold type in the bill itself a proposal which would deal effectually
with the deadlocks which are bound to occur when you place power in the
hands of two bodies elected upon a totally distinct basis. I take it that there
will be no objection to my referring incidentally to the various proposals
which have been made with this object, in order that I may justify my
advocacy of one proposal rather than of another. Therefore, in the course
of my remarks I intend to refer incidentally to the proposal for a
dissolution, and to compare the efficacy of a provision of that character
with the proposal which has emanated from the Assembly of New South
Wales, and with the proposal which has emanated from the Victorian
Parliament.

Mr. WISE:

I wish to take your ruling, sir, as to whether it would not be a more
convenient course to debate, as you suggested from the chair just now, the
question whether means should be provided for preventing deadlocks,
without discussing the various methods which have been suggested to that
end. I understand that your object inputting the amendment paragraph by
paragraph was, that a vote should be taken on the first paragraph, which is
common to every scheme suggested, which would enable the sense of the
Committee to be ascertained as to whether it is necessary to provide any
means for avoiding deadlocks. Otherwise, it seems to me, we shall have
great confusion, and, perhaps, waste of time. I ask you, therefore, to rule
whether hon. members will be in order in discussing the various means
which have been proposed for avoiding deadlocks. Perhaps an expression
of opinion from you would guide the Committee as to which would be the
most convenient course.

Mr. SYMON:
I hope the discussion will not be limited in the way suggested by my hon.
and learned friend. It is true that upon this paragraph you cannot take any
definite vote as to whether we should have a dissolution of the senate
provided for under certain conditions, whether we should have that alone,
or in conjunction with a subsequent referendum, or whether we should
have the referendum alone without a previous dissolution; but we might be
here a month if each of these matters were the subject of a separate debate.
It would be better to leave it open to us to express our views freely upon
the possible methods of avoiding deadlocks between the chambers, and
then the precise method to be chosen need not be debated again. With great
defence to the views of the hon. and learned member, I think it would be
better if we were to debate the whole question now as fully and as fairly as
we can, dealing as briefly as possible with each of the methods proposed,
before we decide whether they shall be taken concurrently or separately.

The Right Hon. Sir G. TURNER:
I agree with the hon. and learned member, Mr. Symon, that the wiser
course would be to have a general discussion upon the whole matter,
because there may be some members of the Convention who are now
opposed to any means of preventing deadlocks, but who, after a full
discussion, may see that some modification of the schemes which are
proposed would be acceptable. I feel that if we are to be limited in this
discussion we shall be somewhat in the dark; but if we have an all round
discussion now it will be for the advantage of all of us.

The CHAIRMAN:
The procedure adopted in this Convention has been to take some clause,
or some words in a clause, as a test concerning the largest and most
important questions in the bill. I do not think I would be doing right to
depart from

that practice, and, therefore, I shall permit a general discussion upon this
question of deadlocks and referendum upon this paragraph.

The Hon. J.H. CARRUTHERS:
I take it, therefore, that I will be quite in order in referring to the various
proposals which have been submitted, especially if I refer to them incidentally. The burden of my speech will not have reference either to authorities or precedents, but rather to contemporaneous history. I think it will be far better if we come down to arguments which will commend themselves to the people of this country by reason of their practical experience, and the sentiments which they hold. I take it that the feeling is a growing one; that there is a consensus of feeling that in the constitution as framed there is bound to be conflict between the two houses.

Mr. SYMON:

No, we do not admit that!

The Hon. J.H. CARRUTHERS:

I take it that that opinion is one that is strongly growing, and we see evidence that there is no doubt about it. It is a contingency that a wise man would provide for so as to frame a constitution which will bend and not break. It would be a terrible state of affairs in future if we provided a constitution so rigid, that unconstitutional means would have to be adopted, by the people to give expression to their wishes. Surely wise men entrusted with the task of framing a constitution, to endure for all time for these great Australian colonies, would provide some constitutional means by which, in the face of inevitable conflict which is all the more inevitable here than elsewhere, on account of the amount of freedom which our people possess-legislative deadlocks may be ended, and the people themselves may give expression to their opinions. I have heard an opinion expressed that there is not so much fear with regard to the actual occurrence of deadlocks as there is a fear arising from the feeling of the people, who we that the constitution if; so framed as to take from themselves the power of expressing their will. A grievance will be created. We know that if we create a grievance, even an imaginary one, it is apt to rankle in the minds of the people. It is apt to promote agitation, to promote discontent, and generally to prevent that happiness which comes from a satisfied people. There is no doubt that the agitation, which is at the bottom of these recommendations, is one that is well grounded; that a grievance is being already felt. That grievance will be intensified if this Convention refuses, by any reasonable course, at grievance, or to attempt to remedy it.

I am one of those who have been extremely hopeful of the prospects of federation in this colony. The hon. member, Mr. Wise, expressed an opinion here that I am one of those who are giving way to the prejudices of this colony. I am always hopeful that New South Wales will in the voting lead in favour of federation; but whilst I have that hope, and being largely actuated by the desire to see that end accomplished I have always had this one fear that federation could be destroyed, and might be destroyed only by
the Convention itself, and not by the people. As long as federation proceeds on the lines of trusting the people it is safe with the people, but the moment that federation is based on mistrust of the people then federation is in danger. I have never so distrusted this Convention as to fear that it would give the deathblow to the aspirations of the people we represent. I feel quite satisfied that if we make a fair, adequate, reasonable provision that will be sufficient. I emphasise the words "reasonable provision," because I want nothing that would tend to excite the fear of any reasonable men; but if reasonable provision is made, allowing the will of the people to

effectually find expression, and to exercise its voice and power, the constitution will be one that will be acceptable to the people of this colony. If no provision of that character is made, then the people of this colony will express themselves as being content to wait until some reasonable provision is made for such a thing in the constitution. I fear that the opposition to this proposal largely comes from a conservative feeling. I use that expression knowing the full meaning of the term, with no desire to reflect on the different views held by a large proportion of members of this Convention; but I fear there will be a conservative opposition to any proposal for providing against deadlocks. I should like to point out to those who may have any conservative views, that we are always told that the senate is the body whose powers are being curtailed. We are always being told that these concessions and claims are all attacks upon the senate. I do not regard them as attacks upon the senate; but I regard the senate to be elected under this constitution, as being possibly and probably the more democratic of the two houses. I do not regard the senate as the bulwark of the constitution against the encroachments of democracy, and the advance of the tide of liberalism. I regard it as more than possible that the democratic house of the federation will be the senate, for this reason: that, if there is any wave of popular feeling, any sentiment arising from a conflict which largely moves the masses of the people in which house will the wave exercise the greatest influence? Surely, in a house elected by the people of the whole colony, rather than in the house elected by various constituencies where local feelings, requirements and desires, and local likes and dislikes will have full sway. I undertake to say that if during the maritime strike of 1890 we had this constitution in force, and the two houses were elected by the people, one of those houses would have been captured by the wave of feeling which passed all over Australia, and that it would not have been the house of representatives. It would have been the senate. With election by the whole colony as a constituency, and with one
man one vote, that election is likely to go in one way. Waves of popular excitement will have fuller force, and will be given fuller effect to in the senate. The localism which will come into play in the election of members of the house of representatives will do much to break down the unanimity of the expression of popular opinion, but it will not have full play in the election of members of the senate. Therefore, I feel that those who may have some lingering ideas that it is necessary to hedge in the senate with restrictions, and that it will be a conservative institution, may disabuse their minds. The qualification of one man one vote, with single constituencies, will have the effect of making the senate the radical house of the two. I do not base my desire to have the referendum, or other provisions for a deadlock, on any plea or pretext of governing one house more than another. I contend that the house of representatives is just as likely as the senate at times to attempt to thwart the popular will it is just as likely to be in the wrong as the other, and the people will take up the side of the house which happens to be voicing their opinions. I do not care which house it may be which is standing against the tide or current of public opinion, that house should not have the power ultimately to mould the destinies of the commonwealth. I am aware that a large number of people favour a dissolution as a remedy. I am one of those who believe that the power to dissolve both houses may be very effectual as a means of preventing deadlocks, not of ending them; that this dissolution, threateningly held over one house or the other, may have the effect of preventing a deadlock, of prevent-
committed to their charge. Therefore, the result of an appeal in a case of that kind will be that, instead of the deadlock being ended, we will have the deadlock continued, each side fortified by what it will take to be a ratification of its conduct, a ratification of its vote, each side encouraged to persist in the attitude which has led up to the deadlock, and the commonwealth will have to endure for years to come, until there is another dissolution, or until there is a change of popular opinion, and state opinion—we will have to endure the continuance of that evil which a dissolution is proposed to end. As a means of influencing the legislative bodies to prevent deadlocks from occurring, a dissolution may be a very valuable thing; but as a means of ending them, I attach no importance whatever to it. The proposal of the Victorian legislature is practically a referendum, in which again the states are recognised, and the bodies whose representatives have entered into conflict, an appeal is made by referendum, not to the great mass of the people of the commonwealth, but to the people representing the states again.

Mr. HIGGINS:
It is not a referendum at all!

The Hon. J.H. CARRUTHERS:
Exactly. We will have no ending of the deadlock by a referendum of that character. We may have a vast majority of the people of the commonwealth voting for the proposed law, and yet that majority must give way to a minority who happen to represent a majority in the various states, that is a majority in a majority of the states. And we may see, as a result of the referendum, that a majority of the people will have to put up with their verdict being set aside by a vote of a minority of the people. Better to have no referendum at all than that, because that will only intensify the feeling in the minds of the people that the constitution is one which inflicts upon them a wrong, and that they have to endure a grievance. If the people are asking for bread do not offer them a stone. Better to make no provision rather than to make inadequate provision. Better to let time, with the growth of popular opinion, cause the experience which will institute the remedy rather than to offer an inadequate remedy at the present moment. The proposal made by the New South Wales legislature is broadly one in which there are safeguards.

An Hon. MEMBER:
The South Australian proposal!

The Hon. J.H. CARRUTHERS:
I do not want to go through all of them.
An H It is the alternative one!

The Hon. J.H. CARRUTHERS:

The Tasmanian proposal is one which commends itself very much to my mind. I was astonished to find a proposal of that liberal character coming from that colony, not that I feel that no liberal proposal will come from that colony, but it is one in which the evidence is given of a desire on the part of that colony to have some provision in the constitution which will end these deadlocks, and not a provision which, necessarily, would favour that colony. I think it will be universally admitted that the proposal of the Tasmanian Parliament cannot, by any means, be characterised as one likely to favour Tasmania more than any other colony; it is one which is more likely to sacrifice the interest of the state of Tasmania than otherwise. Therefore, it should be a matter for congratulation that a proposal of that kind has emanated from that colony. The New South Wales proposal is one which is safeguarded by many provisions showing the reasonable character of it. First of all a proposed law must be passed or dealt with in two sessions of the same parliament, that is two sessions not merely with an interval of a day between them, not merely sessions rushed forward by a government in order to carry out its purpose, but two sessions with a reasonable interval between them; and opportunities are provided for due deliberation and a conference between the two houses until at last the matter is remitted to the electors of the commonwealth, and if a verdict is given against the proposed law, it cannot be reconsidered for a period of three years. Having regard to the broad question of the referendum, I hold that the people are more to be trusted by an appeal of this character than they are by an appeal which takes the form of a general election. At a general election the issues will always be clouded. Party conflicts occur, and in many cases men, not measures, are considered. In our local contests, and I dare say the delegates from all the colonies will concur in what I say in this respect, men are returned, not so much on account of the measures they support, as on account of their personal popularity. We have men, belonging to the same party, who on great questions hold divergent views. Yet we cannot say that the views held by a majority of their constituents are divergent. With the referendum, we have the possibility of a clear-cut issue being submitted to the people, not with an election going on, not with any of that agitation which, perhaps, at a general election, causes men's reasons to be overclouded; but after full discussion has taken place in the legislature, after a discussion, not of a sudden or short nature, but extending over a protracted period. When the press and the statesmen of the colonies have had full opportunity to shed light on the question to the
people, when the fairest and fullest discussion and utmost deliberation have
taken place, then the people themselves will have the opportunity to
express their opinion on that one question without the distracting
influences of party politics or of personalities. Experience in other
countries where the system is in operation in fact the experience which
comes to us in our own colony where we have had some operation of this
system in various matters goes to show that the quiet reasoning and
thought of the people finds expression on an appeal by means of the
referendum. I have no fear in my own mind that the referendum will ever
be used as an engine for violent or revolutionary measures. I believe the
voice of a nation is largely framed by the firesides of the homes of the
people, and not by the clamour of those whom we may call noisy agitators.
It is not always noise and sound that expresses the will of
the people. Experience shows that in Switzerland the referendum has been
always rather against the agitation which was supposed to be the popular
political agitation. It has always been the reasonable, calm judgement of
the people, who in their own methodical manner, in their own homes, and
by discussion amongst their neighbours, have formed their opinions and
expressed them calmly and reasonably. A referendum of this character is
proposed by the legislature of New South Wales. It will allow the
expression of the will of the majority of the people only after reasonable
efforts have been made to arrive at a conclusion between the legislative
bodies, without any undue haste or exciting influence, and we shall have
nothing to fear from its results. I say, in conclusion, that if we cannot trust
the people as the final arbiters of the destiny of the commonwealth, then
the time is nor ripe for federation. It is useless for us to attempt to federate
a people whom we are not prepared to trust with the ultimate shaping of
their own destinies, and it would be better for us to wait until that time
comes than attempt to temper federation by any mistrust of the people. As
Gladstone once said, all true reforms spring from the people. The people
are generally truer exponents of the march and trend of civilisation than are
politicians. Surely in cases of conflict, when the people have to endure the
wrong of unwise and bad laws, the people may be trusted to have a voice
in the shaping of those laws when their representatives fail to agree. I hope
the result of our deliberations will ingraft upon the constitution some
proposal which will satisfy the people that there is safety in it—that there is
no attempt in any way to form a constitution so rigid that it must break
against the will of the people. I am satisfied the reasonable voice of the
Convention will result in some satisfactory solution, and if that solution is
arrived at there will be found no heartier and more enthusiastic advocate of
the bill than myself; and on every, occasion, both in the Parliament of New South Wales and before the people, I shall be found advocating the adoption of the bill as it leaves the Convention.

Mr. MCMILLAN (New South Wales)[11.13]:

I feel that we have reached a very important stage of our proceedings, although I, personally, would not have been one to have brought up this question of deadlocks in any shape whatever. It seems to me, however, that the advantage of this preliminary debate is to thoroughly study the conditions surrounding the bill as we have it at the present stage, and the principles which must underlie any proposal of deadlocks whatever. I hold that the bill as constructed has, to a certain extent, gone as far as any bill possibly can go to obviate the possibility of deadlocks. On the other hand, I am not so foolish as to say that deadlocks are not possible that differences between two houses will not occur, and will not go to an extreme point of tension. At the same time, we must recollect that all responsible government, all constitutional government as understood by British people, is based upon the same principle and the same feelings which have actuated the members of this Convention—mutual conciliation, mutual compromise and patriotism on the part of all; and we must be very careful when we have got a constitution framed, which has a number of checks, which deals fairly with all the rights and privileges of states and populations—we must be very careful when we have got a nicely adjusted and well-balanced constitution that we do nothing that is not absolutely necessary to introduce into it those mechanical arrangements which may be used, not when the necessity arises, but to create that very necessity. There is such a thing as manufacturing a deadlock; and we must

be careful, too, that we do not destroy those checks upon government—those checks which every people, if it is wise, will have upon any popular legislature, which may under a certain set of circumstances be as tyrannical as any Czar of Russia. We must recollect, as I said, that we are dealing with a constitution based essentially on the British Constitution, and the British Constitution, as we have it now, has practically in its essential working, only one veto. That is to say, the Crown has practically given up its power of veto, and the only checks you have upon unwise legislation, upon the sudden passion of any particular house, is the check of another house under a system of bicameral government.

The Hon. I.A. ISAACS:

And the principle is that they must give way at a certain point!

Mr. MCMILLAN:

I am coming to that. When I had the honor of attending the Convention
of 1891, and also when I was speaking in Adelaide, I referred very incidentally to the character of the senate as a second revising chamber, and I found that met with very little consideration at the hands of some hon. gentlemen; but I was glad to see that my hon. friend, Mr. Deakin, in his speech, laid great stress upon that view of the senate as a second revising chamber. In the United States of America every law has to run the gauntlet of three forces: It has to go through the House of Representatives, it has to go through the senate, and it has finally to run the gauntlet of the President. I am quite aware that there is a machinery there to prevent any absolute deadlock between the President and the houses of parliament, but there is nothing to prevent a deadlock between the two houses of parliament. Therefore, as we have no supreme, almighty president, such as they have in America, but the representative of the constitutional sovereign the only check we have on hasty legislation, the only check which the people of the country have upon the tyranny of the house of representatives, is the check of another chamber; and we must be very careful that, while allowing for those extreme cases, we do not do anything to weaken that great necessary check on our government.

The Hon. I.A. ISAACS:
Who is to say whether it is or is not tyranny in a number of instances?

The Hon. A. DOUGLAS:
The ministry of the day!

Mr. MCMILLAN:
We have in this constitution of ours I think wisely—but in contradistinction from that of the United States of America increased the term of the house of representatives to three years. Hon. members are aware that in the United States of America the term is only two years; they are practically reduced to two sessions extending over about fifteen months. Now you might have such a state of affairs as that a house at the end of two years—we have had a case of that kind in our colony might so change from a variety of circumstances, whether corrupt or not I will not say—that the result might be that, having one year yet to run, it might absolutely misrepresent the public opinion of the country. We must be very careful that, even if the two houses come to a deadlock you have some provision at any rate that is one of the first principles I want to see introduced—for a dissolution of the lower house before anything is done to deal with such a state of affairs.

The Hon. I.A. ISAACS:
And the upper house, too!

Mr. MCMILLAN:
I will come to that afterwards. In the proposal of the New South Wales
legislature we have this: that you can have a bill passed through one session of Parliament, the same bill may be passed through another session, and before there is a dissolution it has to go to the referendum.

The Hon. I.A. ISAACS:
   It does not necessarily go to the referendum at all!

Mr. MCMILLAN:
   Not if the two houses ultimately agree. It is the last resort.

The Hon. I.A. ISAACS:
   It is not automatic!

Mr. MCMILLAN:
   I understand that you come to your final resort before the ordinary means of dissolution.

The Hon. I.A. ISAACS:
   You may come to it!

Mr. MCMILLAN:
   The hon. member says that he would rather trust the people with the referendum than have an ordinary dissolution. Now, we hear a great deal about this trusting of the people. I trust the people as well as does the most extreme democrat here or elsewhere; but I find that the most difficult thing in the world is to get at the opinion of the people. We know that even in the election for this Convention it was very difficult, and had it not been for certain circumstances to which I shall not refer, we should probably not have had one half the number of votes recorded which were recorded in this colony. I would much rather trust to the lapse of time, to the friction of public opinion, and the introduction of new life blood into the chamber after a dissolution, for arriving at some reasonable compromise in the matter in dispute, than resort to this hard-and-fast principle of the referendum, sending to the people, perhaps, a complex piece of legislation which not one person in a thousand understands. We must recollect this and it cannot be too clearly understood that with the exception of some remote state in the United States of America, which the erudition and research of the hon. member, Mr. Isaacs, has discovered, this principle of referendum has not been the means of arbitration between the two houses of parliament. I am referring to the ordinary individual, who has not ransacked all history on the question; I am speaking of the man in the street, and I say that in all the cases we have before us dealing with the referendum as a principle the principle underlying it is this: not that the people should come in to arbitrate between the two houses, which are supposed to agree between themselves, and to be able to compromise, but
that the people are to have the final veto, if so desired, in all legislation, whether agreed to by the two houses or not. I want us to be perfectly certain of what we are doing in this matter. I hold that it is a reasonable attitude for those who think that this bill might go to the country without any solution of this deadlock difficulty, to stand in the position of saying, "We cannot conceive, at the present moment, of anything which would contravene the principles of constitutional government as we understand them, and we leave it to those who desire some rigid mode of dealing with this question to solve the difficulty for us." As far as I am personally concerned, I am quite willing to give my adhesion to anything that would be an ultimate safety-valve, so long as it cannot be used as a scourge by one house against the other; but there are certain principles which must be adhered to in any scheme which is proposed. Now, what are the general conditions surrounding deadlocks? In the first place, there is some question on which there has been a large amount of debate, and perhaps of conference, in which there is some underlying principle upon which one house thinks it cannot compromise any more, and you have this question to be decided ultimately by public opinion. Now, if you want the question decided by public opinion, if it be such a difficult question that level-headed men in the two houses cannot come to some compromise upon it, it is essentially such a knotty question that it will require time to elucidate and unravel it. In dealing with questions between the senate and the house of representatives,

we are too much inclined to imagine that we have before us the House of Lords, or the Legislative Council of one of these colonies. I say that there is no analogy between the two cases. If you were going to deal with the British Constitution, and if you were going to sustain the House of Lords, you would not give it any veto at all; it represents only a class. We must have all the elements of delay. Therefore, it does seem to me that, as a matter of delay in getting at public opinion, and before going to any extreme step outside the ordinary constitutional methods in this system of dealing with deadlocks, we should first have it assured, before it is put into operation, that the lower house shall be dissolved. It is said, "Is this not a clumsy way of dealing with the matter? Is it not hard to dissolve a house of assembly which is doing good work simply because it is at issue with the upper chamber upon one particular point?" I revert back to my original principle, that you must take it for granted that legislation will proceed upon ordinary lines that the members of both houses will do their duty, and that this device is only to meet extreme cases, and, as a rule, it will be some innovation in regard to which it will be better either to hold the matter over
for a general dissolution, even though you put the country to a trifling expense, than to bring into operation the drastic elements connected with a deadlock cure. Now, I do not think I have any more to say on the principle of the matter—the only matter which it will be very difficult to decide in dealing with the question from a federal point of view—and I have only dealt with it up to the present from the point of view of a second chamber, as a check upon legislation. But it will be a difficult question to decide from a federal point of view, because the question is, how are you going to test public opinion? Are you going to test it by the opinions of the states as states, or are you going to reduce it to a popular vote? If you reduce it to a block popular vote, what do you do in effect? It maybe justifiable under the circumstances. You may say that you must have some safety-valve in this constitution, but that safety-valve is only used by destroying the principles of federation. You simply say, "This federation is a beautiful scheme; but it is essentially artificial, and being so artificial there is a possibility of danger arising in this direction. and if we are going to leave a safety-valve by which to escape from this danger sooner than have a revolution because that is the way I look at it; I look at it that there is a certain stage at which we may arrive, under some possible circumstances in which we must either, according to these gentlemen, appeal to the popular vote, or we must have a dissolution of the federal union—if you come to that point, then it depends to a great extent upon the grouping of these entities and their particular characteristics. You might have this position: that after a while there might be more population in one state than in all of the rest put together that is a possibility and the popular vote might be simply the vote of one colony. That is a thing you have most carefully to consider.

Mr. HIGGINS:
Do you ever find the population of one colony all of one way of thinking?

Mr. MCMILLAN:
Then you must recollect this, that the possibility of danger, which is foreseen by many, is the danger of a conflict essentially on a matter of what is called state right. You must be very careful in dealing with that danger, because if you manufacture a system of deadlock, which will absolutely kill the principle of federation, the very putting into force of that deadlock might lead to revolution. Therefore all I want to guard against, all I want to impress upon this Convention—and it comes from one who does not pretend to a very deep philosophical study of the question all I want to impress upon those who have sufficient originality to propose a scheme, which I have not, is that it must be so framed as to include delay,
so framed that it will not abandon the checks on government which we are creating in the main part of this bill, so framed that it will be able, when you get the vote, to get at the real opinion of the country, and in every way surrounded by prudent and wise restrictions, so that it will be felt by the states as entities that you are only doing this as a last resort, and as one of the necessities inherent in an artificial federation.

Dr. QUICK (Victoria)[11.35]:

The observations of the hon. member who has just sat down are of a most valuable character, and are no doubt entitled to the greatest weight. He himself admits the great necessity for some provision for settling deadlocks, because he suggests that some safety-valve ought to be provided in this constitution, and then, instead of endeavouring to solve the question, he went on to raise difficulties, and sat down without proposing any solution at all. It reminds one of the hon. gentleman's treatment of the financial difficulty, which he pronounced as an insoluble problem. Now he pronounces this question of deadlocks almost an insoluble problem.

Mr. MCMILLAN:

Oh, no, I do not—that is not fair!

Dr. QUICK:

I think the Convention is entitled, from a gentleman of his ability and experience, and a gentleman who assumes to lead the Convention, to more than that.

Mr. MCMILLAN:

I would remind my hon. friend that I did not give any concrete view of my opinions; but I am inclined to accept a double proposal that has been made-first, the proposal of my hon. and learned friend, Mr. Wise, by which you will get a dissolution of the senate-and that is going a long way from my principles—a dissolution of the senate in case of a deadlock, followed ultimately, if the result left you exactly where you were, by a national referendum.

Dr. QUICK:

I am very glad indeed that I have elicited from the hon. member that very instant expression of opinion. I have always attached great weight to the views of the hon. gentleman, and I think we were entitled to an explicit statement of his opinion, and not merely a criticism of the opinions of others. With reference to myself, I have, unfortunately, been accused of being an ardent federationist, and, indeed, a federationist at almost any price. Well, I beg to deny that accusation. There are three great conditions upon which I have been for some time past advocating federation, and upon which I have been prepared to advocate it here and support it in the country. The first condition is that the parliament of this federation should
be elected upon a popular basis, and I should not be willing to accept any federal legislature which was not created upon the vote of the people. The second condition is that the senate of this federal parliament should not have the power of amending money bills, and the third is that there should be provision in this constitution for the settlement of disputes and deadlocks between the two houses. I draw attention to this fact: that this constitution which we have now created, or almost created, has resulted in the formulation of an upper house or senate, or second chamber, which will be based upon the popular support, which will be founded upon a franchise equal to the franchise of the so-called popular chamber.

The Hon. S. FRASER:

More than equal!

Dr. QUICK:

It cannot be more than equal, because the senate is now to be elected on the same basis as the house of representatives.

The Hon. S. FRASER:

No!

Practically the same. I say that by so doing we have done quite right. I know of no method by which we ought to create a senate or an upper house, except by providing that it shall be duly elected by the people. For my part I do not believe in a nominee house, and I do not believe in an upper house elected on a partial suffrage. But, unfortunately, the necessity for yielding to that important principle inevitably brings into existence two houses which are practically co-ordinate, with the exception of equal control over money bills, and that leads to this result, that having called into existence two strong houses, and especially a senate the like of which will not be found in any constitution that is in existence, or has ever been in existence in the world, we ought to make provision for great, important, probably historical, occasions when those co-ordinate houses may be brought into serious conflict. I do not suggest that such a conflict would arise on trivial occasions. No doubt on matters of minor importance those two co-ordinate or equal houses would be able, and ought to be able, to settle their differences without resort to any novel machinery in the constitution; but, still, we must contemplate the possibility on great occasions of grave and important disputes arising between the two houses. Now, in an ordinary constitution, where we have an upper house not elected by the people, or not elected on the same basis as the lower house, that second chamber would be disposed to yield to the pressure of the
lower chamber elected upon a popular basis; but here, where we are creating a senate which will feel the sap of popular election in its veins, that senate will probably feel stronger than a senate or upper chamber which is elected only on a partial franchise, and, consequently, we ought to make provision for the adjustment of disputes in great emergencies. I may be said that this is a novel expedient—a novel experiment—that we are now proposing what does not exist in any previous constitution. Should that prevent us from resorting to any machinery or to the adoption of any provision to meet the great emergencies of the constitution which we are creating? Surely we are here as reasonable constitution-builders, and we ought not to be appalled by the fact that no previous constitution contains an exact equivalent, although I am not at all sure that such a provision does not exist, because I believe that something of the kind does exist in the Constitution of South Australia, in a modified form.

An Hon. MEMBER:

Dissolution?

Dr. QUICK:

A modified dissolution. I am not discussing the details of the various methods, but some method—some principle. Therefore, I say that we ought to approach this question unembarrassed by the reflection or the suggestion that we are now asking to introduce novel expedients and new experiments, because I say that this constitution is without parallel in the history of federal government at any rate, without parallel in the constitution of a senate. We are creating, as I said before, a popular senate a senate which will, probably, be stronger than the Senate of the United States stronger not, perhaps, in its actual powers, or in its actual functions, but stronger in its creation, stronger in its origin, and in its title to the exercise of power—and, consequently, it might feel even more disposed to resist the house of representatives on a great occasion than would the Senate of the United States, which is nominated by the legislature. Any body, any legislative chamber elected by the people will necessarily feel stronger than a body or a senate which is not elected by the people, and that fully justifies resort, in this constitution, to, some special provision. Consequently, I strongly support the view put forward by the hon. member, Mr. Carruthers,

that some provision of a reasonable character ought to be made in this constitution for those great occasions which we are considering; and in this I confess that I am not actuated by my own views alone. Probably, if I had a strong view in this direction, unsupported by the public outside, and
unsupported by the various Australian legislatures, I would be disposed to waive that view; but whatever view I have had throughout this federal contest, or throughout this federal movement, it has been fortified and strengthened ten fold by the expressions of public opinion which have taken place in four of the Australian colonies since the adjournment of the Convention. Any suggestion that was made at the Adelaide Convention in favour of the settlement of deadlocks has been fortified, I say, by the Australian legislatures, and we cannot ignore the almost unanimous concurrence of those legislatures. We do not have to rely on the opinion of the parliament of New South Wales, or of Victoria, or even of South Australia, because the Legislative Assembly of Tasmania has gone to the extent of admitting that some provision ought to be made in this constitution for the settlement of deadlocks.

The Hon. N.J. BROWN:
No

Dr. QUICK:
I say emphatically, yes.

The Hon. A. DOUGLAS:
Only if amendment is needed!

Dr. QUICK:
I need scarcely draw attention to the amendment that appears on this paper, suggested by the legislature of Tasmania a very important suggestion. I am not minimising it, but am mentioning it as evidence that the Legislative Assembly of Tasmania thought that some such provision ought to be made.

The Hon. Sir P.O. FYSH:
That if there is to be such a provision, then this should be the one!

Dr. QUICK:
I do not regard that "if" is very important. It is quite plain that the Legislative Assembly of Tasmania saw, and a very careful perusal of the debates has driven me to the conclusion that the Legislative Assembly of Tasmania felt absolutely convinced, that some provision would have to be made in this constitution for the settlement of deadlocks, and they have submitted a proposal which they thought would be accompanied or surrounded by the least difficulties or dangers. I am not trying to minimise the suggestion, but am mentioning it as evidence of the overwhelming development of public opinion in favour of some such provision being made in this constitution.

The Right Hon. Sir JOHN FORREST:
Where is the overwhelming development?

Dr. QUICK: I must say that I have been strongly influenced by the
opinion expressed, especially in the legislatures of New South Wales, South Australia, and Victoria.

The Hon. Sir W.A. ZEAL:
Not Victoria!

Dr. QUICK:
Most decidedly, Victoria.

The Hon. Sir W.A. ZEAL:
The Legislative Council of Victoria were against it!

Dr. QUICK:
The legislature of Victoria, representing the people of Victoria, has submitted two important suggestions.

The Hon. Sir W.A. ZEAL:
Not the Legislative Council!

Dr. QUICK:
No, the Legislative Assembly. Of course I would not expect any suggestion of the kind to come from the Legislative Council of Victoria, because it has always resisted any settlement of deadlocks. But I do not wish to be drawn into a discussion with my hon. friend.

The Hon. Sir W.A. ZEAL:
But the hon. gentleman said the legislature of Victoria!

Dr. QUICK:
I think that I have said enough to suggest to the Convention that something ought to be done. I do not advocate it merely on theoretical grounds. I will be willing to waive any opinion that I have formed on the subject on theoretical grounds, because in helping to build this constitution we have to deal with real political forces outside this Convention.

Mr. SOLOMON:
Why should the hon. member try to manufacture any public opinion outside?

Dr. QUICK:
I have done nothing of the kind. At the Adelaide Convention I did not say a single word about deadlocks, because, whilst willing to vote for any reasonable provision that could be brought forward, I was waiting for the development of public opinion. I did not do anything to create public opinion; but I am bound to confess that a strong body of public opinion has been created in these colonies, especially in Victoria and New South Wales, which leads me to despair of being able to carry this constitution unless it contains some machinery of a reasonable character which will enable us to settle deadlocks. For my part, I am not wedded to any
particular scheme. I am willing to accept any reasonable proposal that will enable an adjustment of difficulties and disputes between the two houses to be made.

Mr. MCMILLAN:
It was very kind of the hon. member to ask me for a scheme!

The Right Hon. Sir G. TURNER:
The hon. member, Mr. McMillan, might retort, and ask the hon. member, Dr. Quick, for his scheme!

Dr. QUICK:
Well, I will tell the hon. member, I have been very much impressed by the scheme put forward by the hon. and learned member, Mr. Isaacs, and I have been willing to accept that.

Mr. MCMILLAN:
Well, then, I will not ask the hon. member to state his!

Dr. QUICK:
I will vote for the scheme proposed by the hon. and learned member, Mr. Isaacs, and also that suggested by the Legislative Assembly of New South Wales.

The Hon. J.H. CARRUTHERS:
Vote for all of them!

Dr. QUICK:
And I will also be willing, to vote for a double dissolution, as suggested by those two legislatures.

Mr. SYMON:
Will the hon. gentleman accept a double dissolution as final?

Dr. QUICK:
I am willing to accept a double dissolution as final, if that is all I can get; but, undoubtedly, I shall vote for the referendum in the various forms in which it has been recommended by the legislatures of New South Wales, Victoria, and South Australia; and, if I cannot get the referendum, I shall be willing to accept a double dissolution.

The Hon. N.J. BROWN (Tasmania)[11.50]:
Having done some violence to my opinions with regard to one important matter in connection with the powers of the senate, the power to amend money bills, I am one of those who are not disposed to still further whittle down the powers of a body which may be viewed as a most necessary part of the constitution. Had the power to amend money bills been given to the senate as originally proposed, I think it is extremely probable that I should be found voting with those who think it necessary that some measure should be adopted to prevent disagreement between the two houses. But the power to amend money bills having been taken from the senate, it
appears to me that there can be no reasonable cause assigned for still further interfering with that body as proposed.

The Right Hon. Sir G. TURNER:

The senate will have power to reject a money bill!

The Hon. N.J. BROWN:

Yes; and that suggests to me a point to which I will refer presently. The hon. member, Mr. Carrouthers, surprised me very much by referring to the two bodies which we are creating as resting upon a totally different basis. I think those were the words he used. Now, surely, it is recognised upon all hands that it has never yet been proposed in any constitution, in any part of the world, that there should be two houses resting more definitely and decidedly upon the same basis.

Mr. HIGGINS:

The hon. member will have eight votes in the senate as against our one!

The Hon. N.J. BROWN:

I think the hon. member had better not raise that question again. He might rest satisfied with his defeat upon the point, and accept the fact that there is at all events a preponderance of opinion in the Convention in favour of what is absolutely right and fair in the matter. I will just say, however, that supposing under any circumstances which may be imagined five men, two large men and three small men, found themselves upon an island, and they wanted to come to an agreement to settle everything as to which there might be a difference of opinion between them by argument and reason, the three small men would be justified in desiring that it should be laid down as a preliminary principle that they should at all events be allowed to live, the two big men being powerful enough to pitch the three small men, and three or four other small men into the sea if they choose to do so. That is my reply to the hon. member's interjection. I wish now to refer to a statement made by the hon. member, Mr. Carruthers, as to the feeling which has prompted this demand for a provision against deadlocks resting upon the experience of the people of this colony, and he referred specially to the people of this colony. He alluded, of course, to the differences which have occurred from time to time between the Legislative Council of New South Wales, and the more representative house of assembly. Similar disputes, as we know, have occurred in all the colonies from time to time; but I have wondered from the very, commencement of these discussions that the popular delusion, that the senate which we are about to create will be similar to any of the legislative councils now in existence in these colonies, has been not only not denied by those who know better, but has been fostered and promoted by public speakers and by
writers in the public press. The people who have not the time to investigate these matters so fully as others who have studied these constitutional questions, have been absolutely misled and misinformed, and, if I may use the word without offence, to some extent gullied into the belief that the senate will be, like some hostile foreign body, engaged from day to day in Plotting against the liberties and the rights of the people. But what is there more absurd than to suppose that a senate such as we are about to create, elected by the free votes of the people of the whole of the Australian colonies, would be composed of men who would act in that way?

The Hon. S. Fraser: They would not dare to act in that way!

The Hon. N.J. Brown: It would seem as though a few hon. members of the Convention, and many people outside, expect that the senate will be composed of madmen, or lunatics, or tyrants, instead of being composed, as we may fairly expect, it to be, of reasonable men. This being so, seeing that the demand for some provision against deadlocks is based so largely upon misunderstanding and delusion as to the position which the senate will probably take up, and seeing that it is based upon a misunderstanding of the constitutional position of the two houses of legislature, I hope that instead of fostering and encouraging the feeling that a provision of this kind is necessary, steps will be taken to remove it, so that the bill will recommend itself to the people of the colonies generally without any such provision. The hon. member, Mr. Carruthers, pointed out that the senate would in its nature be democratic that he believes that if at the time of the unfortunate maritime strike it had been necessary or desirable to dissolve it, the great wave of violent feeling which then made itself felt all over Australia, would have found expression in the return of men favouring the views of the more violent amongst us. Seeing then that according to the hon. member's own admission the senate will be so amenable to public opinion, surely we might rest content with the provision that makes it necessary for half of the members of the senate to go before the country every three years, because in that way public opinion upon any important matter will make itself felt in the senate. I also deprecate very much the idea which is favoured in some quarters that, supposing it is necessary to appeal to the people on any question in dispute between the two houses, a time when the people are inflamed by passion and prejudice should be the time at which that appeal should be made. If anything of the kind is decided by a majority of the Convention to be necessary I hope that ample provision will be made for
time to intervene, so that it will not be the hastily formed and unreliable public opinion, so called, which will find expression, but the matured judgment and common-sense of the people generally. There is no doubt that the demand for mechanical means for settling disputes between the two houses must have the effect of removing the responsibility for legislation from the shoulders of the representatives to the people themselves, and to that extent it would be mischievous in destroying the sense of responsibility in the representatives of the people, I should like to correct the hon. and learned member, Dr. Quick, in regard to his statement about the amendment suggested by the Tasmanian Parliament. I voted against that amendment. I was not sorry it was carried. It wa

Dr. QUICK:
I have read the debates in Hansard!

The Hon. N.J. BROWN:
I think I speak with more authority than does the hon. member on that point, because I had several conversations with Mr. Inglis Clark on the subject. He has more than once assured me, on the grounds that I have endeavoured to lay before the Convention and I admit that he would have stated them more clearly, and with more force, than I can that he does not think any remedy against deadlocks is required. But if such a remedy is decided to be necessary, if a majority of the Convention thinks that the suggestion should be submitted, for my part I will have very much pleasure in supporting it. I was very glad, indeed, to find that all that is desired is to have the electors of the various states consulted on matters of dispute. I am very glad to find that the hon. member, Mr. Carruthers, has expressed approval of that suggestion. If a majority of the Convention decide, and I hope they will not decide, that anything of the kind is necessary, I shall be compelled to support the suggestion which has come from the Tasmanian legislature.

The Hon. Sir J.W. DOWNER (South Australia)[12.21]
I listened with much instruction to a speech made by the hon. member, Mr. Carruthers, and that made by the hon. member, Mr. McMillan. Whilst listening to the hon. member, Mr. Carruthers, I have always recognised the difficulty of defining what is a tory and what is a radical. I always thought that hon. gentleman was called a radical. Some people occasionally say I am a conservative in my tendencies.

An Hon. MEMBER:
So say all of us!

The Hon. Sir J.W. DOWNER:
I am pleased to hear the hon. member say so.
The Hon. S. FRASER:

There are six species in Australia!

The Hon. Sir J.W. DOWNER:

Now I find, after listening to the hon. member, Mr. Carruthers, that the danger of the present constitution is that the result will be to establish a senate more radical than the house of representatives.

The Hon. S. FRASER:

That is quite possible!

The Hon. Sir J.W. DOWNER:

That is what he said. The hon. gentleman, Mr. Carruthers, developing the tory instincts which are always latent in your radical, who becomes a tyrant the moment he gets an opportunity, immediately shifts his ground, and shows what our true relative positions are, and I find that I am the radical and that he is the conservative. I am not a bit anxious myself about this senate being too radical under the provisions of this bill. I am not at all satisfied that the public opinion which gets inflamed, but generally locally inflamed it is generally a fire confined to a town or two, and the blaze does not extend to the whole state I am not afraid that this blaze, however fatal and destructive in its local operation, will extend throughout the whole commonwealth. I am satisfied that the better and calmer atmosphere which you get by spreading the area of selection, will produce results, not so destructive as, from a radical point of view, my hon. friend, Mr. Carruthers, seemed to think. Again, I was delighted with the speech of the hon. member, Mr. McMillan, because he supplied us with every argument necessary to show the absolute needlessness of any of these provisions. He did more than that; he came to a conclusion diametrically opposed to his arguments, and after showing us, with conclusive logical reasoning that delighted every man in this Convention, that this provision went to the very root of the federal principle, and, whilst preventing inconvenience, caused the destruction of the constitution, he concluded by saying, at last, that he would support a general referendum to the whole people. Do not hon. members see that here we have a fair instance of the way in which the larger populations might, under certain circumstances, treat the smaller ones? Here we have a man of the highest character showing us that we are clearly in the right, showing with a force of reasoning not to be surpassed in Australia, that the position we have maintained throughout is the logical and true position, but then saying, "You had better give in, and you must give in, and I am going to vote for the very thing which I have shown you logically you ought never to agree to."
An Hon. MEMBER:-

The Hon. Sir J.W. DOWNER:
He finished up after all this by telling us that, although we are right, still we have to give in. Why? Because the larger colonies want it.

An Hon. MEMBER:
They do not!

The Hon. Sir J.W. DOWNER:
I do not say that everybody is unreasonable. Now, let us consider the basic principle of all this. The federation is to represent the states, and to represent the people. You have to get an agreement of both before you arrive at a conclusion. On that lies the foundation of federation. Alter that, and you have something or other, but it is not federation. Now, what is proposed here is to create deadlocks for the purpose of destroying the constitution. That is the substantial proposition before us, because, depend upon it, that when you give an invitation of that kind you will have it accepted. The states are to remain in their entirety. They are not to be interfered with, they are to have their sovereign rights, and to speak as states; and the people are to speak as the people. Therefore, if the true principle underlying federation is carried out, the rights of no one are infringed upon.

The identity of every state is preserved. But if you tell the house dominant in numbers that they have at the back of them the power to make numbers the only criterion, and to reduce the smaller states to absolute dependence upon their will, where is your federation, and where is your safeguard that this will never be resorted to? Hon. gentlemen may say, "We will surround it with many safeguards."

Mr. SYMON:
If it is never to be resorted to, why put it in?

The Hon. Sir J.W. DOWNER:
If it is a piece of humbug, why put it in?

The Right Hon. G.H. REID:
You do not want a man to commit murder, but you make a law providing that he shall be hanged if he does!

The Hon. Sir J.W. DOWNER:
Some people will be hanged, anyhow. I will take the various proposals which have been made. Suppose this wore the proposal, in the event of a disagreement and not being able to come together, dissolve both houses, and when they meet again, in the event of there being an absolute majority
of the representatives, or a certain proportion as has been proposed, and a refusal by a majority or a certain proportion of the senate, then have a referendum. I admit that you surround yourselves by these methods with considerable safeguards, that is to say, you make the power of the referendum to the people ultimately exceedingly difficult. Still you have got it there. If you are to have under this constitution a government such as is known to us under the term of a constitutional government, I admit that they may take immense risk in taking that course, and they will never take that course unless they know that they have a majority of the people at the back of them. But supposing you have your responsible government with the populations of the larger colonies entirely agreed and enthusiastic, what will they trouble about the intermediate difficulties when they know that in the long run they can have their own way, and reduce the federation practically to a consolidated body? In fact, they will be bound to have it if there is a strong view held by the majority of the people of the larger colonies in favour of it. Suppose that New South Wales and Victoria feel very strongly on some subject which the rest of Australasia feel equally strongly against, and suppose that you put all these provisions in antecedent to having an actual referendum, I admit that it means a lot of trouble, time, and expense; but would your responsible government which, after all, will be in the end responsible only to the majority of the people of Australia under the constitution as proposed bother about that? They would say, "Oh bother the expense; don't let these smaller populations dominate you; do all that is necessary." And I submit that, with all these precautions, they would land us truly in much delay and trouble in legislation and much expense in carrying out the views of the commonwealth; but protection of the smaller states in the end would not come from it at all. Sir, the very essence of a federation, as nobody pointed out so well as my hon. friend, Mr. McMillan, is this very condition which is now sought to be interfered with. A good deal has been altered even up to the present time. The position is getting weaker and weaker, and the anxieties of the smaller colonies are being more and more increased.

Dr. QUICK:

You got an important amendment made this morning in your favour!

The Hon. Sir J.W. DOWNER:

If we now have to tell the colonies that, although they have got the appearance of being able to act as states as well as being able to act as populations, in substance that power has been taken from them, and the population can dominate them at any moment when the executive chooses to so resolve.
I am afraid that we are making a new constitution which may work well, but which will not be federation, and which will not be at all the bill we were sent here to consider and pass. It is painful for me to look forward to the possibilities of conflict between the two houses. I believe that to anticipate them will be to create them. I believe that to make cumbersome provisions for the purpose of dealing with them will be to make provisions which will cause that which we wish to prevent. Whilst if we leave the constitution to its own legitimate working, representing the people as people representing the states as states, and requiring the concurrence of the people and of the states, there will come into the administration of public affairs a mutual thankfulness and conciliation which, so far from creating unpleasantness, will produce affection and this deadlock bogey, which is only raised for the purpose of making the stronger bodies dominate, will never have occasion to be called into existence, will never have birth. I sincerely hope that none of these provisions will be accepted. I think that by legislation of this means we will create the very thing we wish to avoid, and if we are to begin with trusting each other the trust must be founded first of all on a fair and reasonable basis between the colonies in which the position of every state is to have all due respect, and there must be nothing within the four corners of the constitution which might make this conjunction, for certain purposes, of independent states a wiping out of the smaller and a merging of them in the larger.

The Hon. F.W. HOLDER (South Australia)[12.18]:

I am very glad that we have on this occasion plenty of time to discuss this important question. I Adelaide it was brought up at a some what late stage of our proceedings, and there was practically no time for discussion. We had three or four votes, and the voting was not such as it would have been had there been time for that full debate which the question deserves. On that occasion I voted with the hon. and learned member, Mr. Isaacs, who tabled a proposition which I thought then, and which I have thought since, was well calculated to meet the difficulties which it was intended to provide against. I am glad that we are discussing this matter at length now, because I can conceive that there is no more important question which can or has come before us. We are creating a huge machine to provide for the government of over 3,000,000 of people today, and no one knows how many millions of people as time goes by, and it seems to me absolutely important, not only that we should consider the construction of that machine, that is only a small part of it but also that we should consider with even more care the way in which it will work after it is constructed. He would be mad, indeed, who spent much time in designing an engine
who left out of his consideration a safety-valve which would provide for that machine doing its work, and continuing to exist once it was made. It seems to me that on this occasion what we are dealing with to-day is just that provision for a safety-valve, without which all our care in the construction of the legislative machine may be absolutely thrown away, and after we have taken the utmost care to construct it some crisis may arise, when the whole thing will be destroyed. It has been said by some that a deadlock is a mere bogey. If it were a bogey it might be disregarded, but the possibility before us is a danger which is not imaginary, but real. Have we not all seen in our different states from time to time deadlocks arising, sometimes over most important matters, at other times over less important matters, between the two houses of the legislature? And if they can arise there as I think was put by the hon. member, Dr. Quick,

just now—where one house represents only a portion of the people, whilst the other represents all the people, how much more are they likely to when not only one, but both houses rest "broad-based upon the people's will." It seems to me that the powerful senate we have striven to constitute is much more likely to be involved in conflicts with the other branch of the legislature than such an upper house has been, as we have seen, in the various colonies in the past. If the danger be real, if it be imminent, as I believe it to be, how important that we should provide some way out of this difficulty which public opinion does not create, but which the facts of the case absolutely necessitate! The question of state rights was raised. Whilst I am an advocate of state rights, I must confess that I was very much interested in Adelaide, and have been since, by a speech made early in the debates there by the hon. and learned member, Mr. O'Connor, when he drew a distinction which seemed at the time to be somewhat subtle, but which has grown in my thoughts since a distinction between state rights and state interests. I want for a moment or two to dwell upon that distinction to show that whilst deadlocks may arise on questions of state interests they can hardly arise on matters of state rights. We provide for state rights by the equal representation in the senate of all the colonies. We provide for the protection of state rights by the express provision that only certain powers shall be handed over to the federation, and that the residue of the powers shall be in the hands of the separate states. We provide for state rights in this manner; but when we come to matters of state interest to take the highest possible question upon which a dispute between the two houses may arise we come to matters on a very much lower plane. But disputes, I think, will more frequently arise on a lower plane than this they will more frequently arise on some matter of mere temporary and passing
importance, or on questions not involving state but national interests. Take, for instance, one which it appears to me might arise at an early date. Supposing the first elections to the senate were carried out as they almost certainly will be on the ticket principle that the whole of the senators returned by New South Wales represented free-trade, and that in the other colonies, too, a proportion, more or less, of free-traders were returned. Is it not conceivable that very early in the existence of the commonwealth, not even on a question of state interests, but on another matter, in which separate states were not concerned at all, but sections of all the states, there might be a serious dispute between the two houses. If the one house the house of representatives passed a tariff to a large extent based on protectionist principles, and the majority in the senate threw the tariff out, that would absolutely dislocate the whole of the affairs of the commonwealth, and would throw into confusion the government for the time being.

The Hon. S. Fraser:
If the protectionists returned a majority in the one house would they not return a majority in the other?

The Hon. F.W. Holder:
Does the hon. member not see that in such a matter as that to which I have referred the grouping of the electors would be of great importance? On most questions the mere grouping is a matter of minor importance, but on such a question as that I can conceive that the difference in grouping would make all the difference in the policy of the two houses.

The Hon. H. Dobson:
Does the hon. member contend that the question of protection is not a state right question? Half the bill depends upon it!

The Hon. F.W. Holder:
I can conceive that there might be a difference in a tariff-protective or otherwise-which might affect state rights. I may mention one, because it occurs to my mind, not as the most important, but as suiting the interjection of the hon. member. Supposing it were proposed to place salt on the free list. It will be understood that as that is a large industry there, the inclusion of salt in the free list might seriously prejudice South Australia. It may be supposed that the inclusion of that line in the free list would be of no advantage to us; but still only in that way could state interests come in. On the broader question of free-trade and protection, without reference to particular items, it seems to me that state interests, much less state rights, could not come into consideration in any way. But supposing such a question as that were one upon which a dispute
arose between the two houses—is it not of extreme importance that we should provide against such a contingency; that we should provide that the whole legislative machine should not be thrown out of gear; that the whole action of the government should not be paralysed by a dispute on a matter concerning which state rights could not, as far as I can see, come up at all? If the question of free-trade and protection were a cause of dispute, the only possible way to settle it, I think, would be by the referendum. It seems to me that that would be a perfectly fair question to submit and if the people of the commonwealth decided to adopt the principles of free-trade, so it ought to be. If, on the other hand, the majority of the commonwealth preferred the principles of protection, certainly the will of the majority also in that case should prevail.

The Right Hon. Sir E. BRADDON:

Would that majority pass the tariff?

The Hon. F.W. HOLDER:

If a dispute occurred between the two houses the only court of arbitration to which it could be referred for settlement would be the people of the commonwealth. I cannot conceive that there is any other body which ought to arbitrate, or which ought to be set up to determine, such questions. Still further dwelling on the point which was suggested by some one, that the provision of ways to overcome deadlocks provokes deadlocks, I want to call special attention to an act of Parliament passed in South Australia in 1882. Before that time we had had several deadlocks. On various public questions, not always of first importance, there have been disputes between the two houses, and in 1882 an act was passed which provided for the settlement of these differences. That act provided chiefly as follows:

Whenever any bill or any act shall have been passed by the House of Assembly during any session of Parliament, and the same bill, or a similar bill with substantially the same objects and having the same title, shall have been passed by the House of Assembly during the next ensuing Parliament, a general election of the House of Assembly having taken place between two such parliaments, the second and third reading having been passed in the second instance by an absolute majority of the whole number of members of the said House of Assembly, and both such bills shall have been rejected by, or fail to become law in consequence of any amendments made therein by the Legislative Council—

it shall be lawful for the Governor to do either of two things: He may either dissolve both houses—the lower and the upper house—and send them to their constituents, and let the constituents determine the whole question, or he may and this is the alternative simply issue writs for an additional one-third number of the members of the Legislative Council. There being
twenty-four members in that body, he may issue writs for an additional eight members. I suppose the idea was to parallel, as nearly as possible, what would be done in the House of Lords when a difficulty arose which could be cured by the addition of certain members to that body, or what would have been done in New South Wales where, if a difficulty arose, it might be cured by the addition to the nominee council of certain additional nominee members.

The Hon. I.A. ISAACS:
To a certain extent what is done in Canada!

The Hon. A. DEAKIN:
And was done in New Zealand!

The Hon. F.W. HOLDER:
To a certain extent that has been done in Canada, and what, my hon. friend, Mr. Deakin, reminds me, was done in New Zealand. That was the idea, I suppose, which suggested this addition of one-third to the number of members of the Legislative Council. Of course, this one-third would be got rid of by no vacancies which might occur being filled till the normal condition was restored. I have shown that in 1882 provision was made against deadlocks. On the theory suggested by some hon. members since 1882, we ought to have deadlocks almost without number at least one a session. What are the facts? The facts are that since 1882 we have not had a single deadlock. On one or two occasions there have been some symptoms of trouble, but the symptoms have rapidly disappeared and the trouble has never come. Now, does that not absolutely dispose of the suggestion that in attempting to provide against deadlocks you create deadlocks? Does it not prove that the safety-valve on the engine does not create a disaster but rather provides against the possibility of such an occurrence even when danger arises?

The Hon. S. FRASER:
It depends on the provision!

The Hon. F.W. HOLDER:
I imagine that this Convention will make such provision as will not provoke but prevent such difficulties as we are accustomed to call deadlocks. I will pass on to consider the methods by which we might overcome disputes between the two houses. It has been said that the difficulty might be overcome by a dissolution. I quite agree with the remarks of one hon. gentleman who said that the possibility of a dissolution might often prevent but could not cure deadlocks. I agree with that observation. But I go further. I would remind hon. members of the
conditions under which they are elected to parliament. I need only remind parliamentarians of those conditions. I need not argue a point so self-evident. A dissolution of the assembly takes place. A new house is returned. I ask, "Is it possible to say what are the views of the electors?" Is it not always impossible to say what they are? Do we not know that personal considerations, past services, local questions, a new bridge, a town hall, a railway line that all these things come in? Is there ever an election taking place upon one single issue? Are not all elections complicated by the introduction of several issues? Besides, members are elected for three years, or for some other term; but is it not known by the voters when they vote for the members so returned that besides the main question that maybe before the public at the time, there is the parliamentary policy during three or four years to be considered? All these matters come into consideration, in addition to personal and local matters, in deciding for whom electors will vote. It is, therefore, in my view, absolutely impossible to ascertain the will of the people on any particular question by any election of members of parliament. If it be provided, as I hope it will be, that a dissolution of both houses will be possible, even that may not deal with the matter. Let there be a double dissolution. Suppose that the question of free-trade and protection is the rock upon which the legislative machinery has come to grief. A dissolution takes place, and members come back again. It is quite possible that they may come back in nearly the same, if not in quite the same, proportions, as before the dissolution. How much further on are you? Do you not see that all the difficulties are accentuated from public agitation, from the speeches which are made, from the feeling which is evolved, from the antagonism between

the two branches of the legislature? All these things constitute a more serious menace to the state than there was at the beginning, and the whole federation is in greater, not less, danger. In a large number of cases it may be in greater danger as the result of a double dissolution. Thus it is necessary, to my mind, that you should provide for something further than a double dissolution. I, personally, am in favour of the referendum upon other questions besides the settlement of deadlocks, and it will not be surprising, therefore, that since I am in favour of the referendum for the settlement of other matters that in so serious a case as that under consideration, in this very serious difficulty, I should also be in favour of it. It seems to me that the people whom we more or less faithfully represent, of whom the two houses of parliament are more or less a faithful reflection, are those to whom the appeal should be made in any difficulty, to ascertain whether or not parliament does truly reflect their view. And the
view of the people can be obtained intelligently only through a referendum. I am not afraid that the referendum will be too largely availed of. In the first place, there is the cost to be considered. We have had some experience in connection with the election of this body of what an election over the whole of Australia will cost. I have not looked at the figures recently; but, speaking from my memory of them, I do not think it is likely that the cost of a referendum would be less than £50,000. Now, is it at all likely, putting down the cost at anything like that sum, that any government, or either house of the legislature, would thoughtlessly or heedlessly force a referendum? I think not. It would be a step taken only from extreme necessity, taken under the pressure of a serious danger to the existence of the state itself.

The Right Hon. Sir G. TURNER:
Or threatening the existence of the government!

The Hon. F.W. HOLDER:
Practically, the only thing which would justify the referendum would be a crisis threatening the existence of the commonwealth itself; when it might be the only alternative to a civil war. And, even if we could be certain of such a crisis arising only once in a century - if we could be sure that no such crisis would arise within the next hundred years, still, it would be a wise thing to put into the constitution a provision to guard against so serious a danger, so terrible a contingency. I come now to the final point with which I have to deal - that is, the questions upon which the referendum will take place. It seems to me that a broad distinction must be drawn between matters affecting the constitution - that is, any change of it - and matters well within the four corners of the constitution. I regard the constitution which we are now framing as a deed of partnership between the colonies which come in - the compact upon which we agree to federate, in consideration of the terms of which the various states makes a certain surrender of the powers they at present possess. I would not consent, under any circumstances, to agree that any change in the constitution should take place without a referendum requiring a majority not only of the people but of the states. It seems to me that it is essential to the very existence of federation that a distinction should be drawn between these two things. If, for instance, we provide for a majority of the people only, without reference to whether a majority of the states concur, such an alteration of the constitution might be made as might upset the whole federation. The equal representation of the states in the senate might be upset, and the whole basis of the federation might be entirely changed. The whole conditions might be seriously disturbed by such a decision. But if we provide, as I certainly hope that a large majority of hon.
members will provide, that any proposal for an alteration of the constitution shall require before it can take effect that it should be assented to by a majority of the people and by a majority of the states also, we shall safeguard all those matters within the definition of the hon. member, Mr. O'Connor, of "state rights"-all those matters within the description of being constitutional, and having to do with the compact under which we federate. But as to the other matters, such questions as disputes between the two houses which involve no rights or interests of the states, which do not carry with them any menace to any state, no matter how small or large, in these matters we should be prepared to let the great federal idea which has brought us together here, and which we are striving to perfect, prevail, and I would be content to accept in a settlement of such a dispute between the two houses the vote of a majority of the electors within the commonwealth.

Mr. SYMON:
That destroys the federal idea altogether!

The Hon. F.W. HOLDER:
I am glad my hon. friend has made that suggestion, because it gives me an excuse for taking two or three moments more which I should not have occupied without good excuse, because I feel that I have already trespassed for some time upon the attention of the Convention. But the interjection of the hon. and learned member demands an answer, and I am prepared to give one. He says that to do what I have just suggested would endanger the very existence of the federal parliament as such. My answer is that the state rights, of which I am an advocate, are guarded within the terms of the constitution itself, and the preservation of that constitution I have already stated my determination to insure. The state rights are preserved first, as I have already put it, by the reservation to the various states of all powers not expressly handed over to the federation, are preserved next by the absolute maintenance, except by the consent of the majority of the states themselves, of the constitution in its present form in the form under which we federate and that in these matters which are within the four corners of the constitution, which in no way threaten its existence or impair its efficiency in these matters simply of dispute between the two houses, it seems to me that we do not endanger the federation.

Mr. SYMON:
The federal idea, I said!

The Hon. F.W. HOLDER:
Nor do we impair the perfectness of the federal idea by consenting to such an arbitrament in the case of dispute between the two houses as that of reference to the whole people. At any rate, that is the view I hold, and
while I very much dislike the threats of which we have heard too much on both sides, while I very much deprecate statements which sometimes we hear from one side of the house and sometimes from the other, sometimes from the larger colonies and sometimes from the smaller, that if we do not get this there can be no federation while I very much deprecate that kind of thing, still I recognise that the smaller states have obtained what is not a concession, but a right-equal representation in the senate and as we have obtained other things for which we have fought, and fought strenuously, while we have given in several instances to the larger states matters which they could not have got without us and I want to be clear about that point; I want to point out that in this Convention, if the smaller states desired to do it, if they were imbued with the spirit with which sometimes they are said to be imbued the spirit or determination to thwart the larger states whenever they had the power if we had so desired we might have thwarted the larger states. We are thirty out of fifty here, and if we had been imbued with the spirit attributed to us we could have said at the be-

[P.565]ginning, and adhered to it right through, "We will do this and do no other, and you shall submit to our behest all along the line "-I say we could have done that, for we had the power, and we had the numbers too. We have not done it. We, the smaller states, have striven to be fair and reasonable throughout.

The Right Hon. Sir G. TURNER:
Have not the larger states done the same?

The Hon. F.W. HOLDER:
They have. I am simply speaking in deprecation of the contention on one side or the other that this must be done or there will be no federation. I am saying that the concessions which have been made again and again by the majority to meet the larger colonies have in every case been made by the hearty concurrence, and more than than that, by the very votes of the representatives of the smaller colonies; and that being so, I think we might fairly lay aside these jealousies and contentions as to the larger and smaller colonies and look at these matters, which are purely disputes upon questions which will sometimes be questions of etiquette only, and on other occasions will not trench upon state rights or state interests-I think we might leave these matters to the arbitrament of the whole body of the electors, no matter where they live, and be content to accept the verdict of the majority, whether that majority live on this side of the continent or on the other, no matter wherever they may be.

The Hon. S. FRASER (Victoria):[12.44]:
I listened with great attention to the remarks of the Treasurer of South
Australia, and I was very sorry to find that in some respects he agrees, and, I think, without reservation, to a referendum, and that be referred to the matter in the way of a concession. Surely, we are not going to have a referendum on questions of tariff and matters of that kind? If we are going to apply the referendum to such subjects there may be endless strife. Are we going to ask the whole of the people of the commonwealth of Australia to crush out what might be considered by the people of South Australia as a state right? Surely that is not intended? I do not believe in mechanical means for doing away with deadlocks. I do not think there is any necessity for it. I have been in the Parliament of Victoria for a great many years. I was a member of the Assembly for many years, and have now been in the Council for many years, and the only deadlock we ever had in our Parliament was the Darling grant deadlock. I do not call it a deadlock when the Upper House, as at present constituted in Victoria, rejects an Export of Products Bill.

An Hon. MEMBER:
   Or a Factories Bill!
The Hon. S. FRASER:
   Or a Factories Bill.

An Hon. MEMBER:
   You get your own way!
The Hon. S. FRASER:
   We do not get our own way. I hope we are just as reasonable as an equal number of members in the other house. I do not say that we are better; but, at any rate, we are older, as a matter of fact, and we ought to have more experience. I do not call disputes on ordinary matters of legislation deadlocks. I call a deadlock a dispute such as that which arose over the Darling grant in Victoria. On that occasion I supported the popular view of the case. The proposal was to make a grant to the then governors nice, courteous gentleman, willing to do what was right in every respect, who had under him a remarkably powerful government, of which the late George Higinbotham was Attorney-General, and the late Sir James McCulloch, then Mr. McCulloch, Chief Secretary. The popular view was to grant the Governor £20,000—a monstrous proposal.

An Hon. MEMBER:
   The hon. gentleman supported it!
The Hon. S. FRASER:
   I did, and I have regretted it ever since.
An Hon. MEMBER:
Was it carried?

Another Hon. MEMBER:
It was passed by the Assembly of Victoria!

The Hon. S. FRASER:
The Imperial Government would not allow the Governor to accept the grant. I cannot remember now the exact nature of the correspondence, but the Imperial Government put their veto on the proposal forthwith, and very properly so. We need have no hesitation in calling a spade a spade, and in my opinion that proposed grant was nothing more nor less than a bribe to the then Governor, coerced, I think I may use the word, by a powerful executive government.

The CHAIRMAN:
Does the hon. member think he is in order in discussing the Darling grant in connection with this question, except by way of illustration?

The Hon. S. FRASER:
I only refer to it by way of illustration, and I was saying that the rejection of an ordinary measure by an upper house or senate should not be regarded as a deadlock. At that time the Government confessed judgment, and in that way paid the public creditor. To submit a tariff or any such matter to a referendum of the people is, in my opinion, utterly destructive of responsible government. Under this Federal Bill which I hold in my hand, as passed by the Adelaide Convention, we have constituted a senate to be elected for a term of six years to be voted for by the whole people of the states the whole people, nothing more nor less and I agree with the hon. member, Mr. Carruthers, that it is quite on the cards that the senate may be more democratic than the house of representatives, and for the simple reason that the house of representatives are to be elected by sections of the people, and being elected by sections of the people, they will naturally, of necessity, represent the true opinions of the sections.

The Right Hon. Sir G. TURNER:
Very few democrats will contest the senate election; they will not have the means to do it!

The Hon. S. FRASER:
My colleagues from Victoria profess to be democrats. I think that the Attorney-General is a democrat of democrats. I believe in the sincerity of
the hon. and learned gentleman, of course; but I say that it is quite on the
cards that the senate may be more democratic than the house of
representatives, and it may possibly be the means of a remedy in certain
cases. I do not say that I would object to a double dissolution, perhaps it
depends on how the discussion may end; it may go in the direction of some
modification of the proposal of the hon. and learned member, Mr. Isaacs,
or a still greater modification of the views of the Tasmanian Parliament.
But I would point out that this senate is to be elected for a term of six
years, half of the members of the senate going to their constituents every
tree years, of necessity, to the whole people. We are dealing now with the
whole people. We are not dealing with the house of lords, who represent
only a section of the people, and who may, from want of knowledge and
other reasons, vote against the true interests of the people for a time; and
when we have a senate resting on the bedrock of manhood suffrage the
senate representing the whole manhood, and in some colonies the whole
womanhood also, of the country—I cannot conceive a case where there
would be a necessity for mechanical means to get rid of deadlocks. I
cannot conceive of such a case, because the natural referendum comes
round every three years at the furthest, and supposing that a deadlock
occurs, as I said at Adelaide, after the expiration of one or two years of the
term of the existing parliament supposing that it arises during the currency
of the three years of the term of the senate—the executive of the day bits
only to wait a year or two, years or thereabouts to settle the deadlock by
the natural constitutional means of this act. We have not given the senate

An Hon. MEMBER:

The Hon. S. FRASER:

Yes, I voted for that; but I do not know that I would have voted for it if I
had been certain that we were going to have the referendum. I did not think
that we would do anything so dangerous. I voted for that because our
people would not accept the bill were we to go back to our colony with a
provision in the bill giving the senate power to amend taxation bills. But I
say. again that we have not given the senate powers enough to do any
harm. Their powers are, for good, their powers are for the further
consideration of bills, and therefore I fail to see why there is any necessity
to coerce the senate and to bring them under a referendum such as is now
desired. The referendum that is in practice in Switzerland is an entirely
different thing; it is a conservative device. Only after both houses have
dealt with a matter can it be referred to the people; and frequently they have decided against it. The hon. and learned member, Mr. Isaacs, has produced a statement showing the matters that have been dealt with in America on the referendum. Are they not trumpery? Are we to trouble the people with trumpery matters such as a constitutional amendment increasing the sessional days, and various trifles like that?

The Hon. I.A. ISAACS:

The Hon. S. FRASER:

That is only in a state!

Mr. SYMON:

A unified government!

The Hon. S. FRASER:

Yes, a unified government. Are we going to unify this federation of ours? As sure as we give the referendum to the federal government, so surely shall we make it a unified government. The hon. member, Mr. Douglas, referred yesterday to the fact of a member of the House of Lords being returned to the Legislative Council of New South Wales in the olden days to express disapprobation of the then existing state of things. It is not possible to go back. The people of the Australian colonies would rise up as one man if we were to unify them again. There is no doubt about that, and we must consider the true federal principles. I maintain that the proper way of settling deadlocks is a conference between the two houses the same in the future as in the past. We have only had one deadlock in Victoria, as I said before. We have passed through that ordeal. No trouble has arisen, or is likely to arise in the future. There is much less likelihood of trouble arising in the future with a senate erected on the bedrock elected by the whole people and with a house of representatives elected by the voice of the people. You would have only a short time to wait; then why provide any mechanical means which would destroy the federation we are about to create? I will oppose any kind of a referendum. I do not say that in the last resort I might not agree to a double dissolution, because I think that, in that case, the house of representatives would take very good care that they were on very safe ground before they said that it should be resorted to. I do not
know that I need say any more, except that the argument

that Tasmania would have eight votes to each one of the other colonies
does not apply to all in a national sense. Take a hundred men in Tasmania-
the first hundred you could find in the streets—and a thousand men in
Victoria—the first thousand you could meet—and I would almost venture to
say that the opinion of the majority of the thousand in the city of
Melbourne, and the opinion of the majority of the hundred in Launceston—or
you might say in Brisbane or Adelaide—would be the same. The opinions
of the people are as truly expressed in the voice of a small average number
as in the voice of a large average number of them, and it is the opinions of
the people you want to find out. There is no especial magic in numbers,
and in the one case you get the true opinions of the people just as much as
in the other. Therefore, I hope the Committee will rise to the occasion,
and will decide, as we must have something, to accept the Tasmanian
suggestion, or some modification of the proposal made by the hon. and
learned member, Mr. Isaacs, at Adelaide, and discussed by us there.

[The Chairman left the chair at 1.2 p.m. The Committee resumed at 2
p.m.]

The Hon. Sir JOSEPH ABBOTT (New South Wales)[2]:

I am one of those who sincerely and truly believe that deadlocks of
themselves are no evil to the countries where they occur. I think that
deadlocks, as a rule, that is, such deadlocks as we have had under the
British Constitution, have the effect of creating good public opinion, and
that while those which have occurred—though we have not had very much
experience of what might be called deadlocks in any of the Australian
colonies, except Victoria—may have been inconvenient to the administration
of the day, they gave no inconvenience to the people of the colony in
which they occurred. Notwithstanding this opinion, I cannot shut my eyes
to the fact that out of doors there is a very strong public sentiment that the
possibility of deadlocks occurring in the future under a constitution so rigid
as this will be—because it is likely to be more rigid than the British
Constitution—should be prevented, and in deference to that opinion I am
prepared to vote for some method which will enable a direct expression of
the will of the people to be obtained. I am not in a position at the present
time to say what system I would favour, whether the referendum or the
dissolution of the senate, though I am more inclined to favour the latter. I
want to see it made almost impossible for there to be any interference with
the senate by the ministry of the day. I suppose that, under any
circumstances, the ministry of the day must, to a certain extent, control
these dissolutions; but if it were possible to bring about a dissolution, and
to send the senate to the country without the interference of the ministry of the day, I would have no hesitation in voting for a provision which would have that effect. I do not want to allow the senate to be dominated by the ministry of the day; but I want to see that body dominated by the people of the country. The difficulty which suggests itself to me is that the ministry of the day may attempt to dominate the senate. That, I think, is very undesirable. If the people desire to dominate the senate, they should have the right and the power to do so; but how can it best be provided that they should have that power? Can it be done best by the referendum, or by a dissolution of the senate? I am inclined to think that the principle which has apparently worked so well in South Australia, would be likely to work equally well under this constitution.

The Hon. I.A. ISAACS:

There is no equal representation of states there!

The Hon. Sir JOSEPH ABBOTT:

There is not!

The Hon. I.A. ISAACS:

That is the whole difficulty!

The Hon. Sir JOSEPH ABBOTT:

Suppose the house of representatives is sent to the country, and it comes back and reaffirms the principle upon which it was sent to the country, would the senate dare, in the face of the fact that its members would know that they would have to go to the country if they rejected the measure, refuse to pass it? What has been our experience even with regard to the House of Lords-and I suppose that, under no circumstances, could we create such a conservative body as that? Have they ever failed to give way to public opinion when that public opinion was clearly expressed? The very last time they had a conflict with the House of Commons-I think so far back as 1866-

An Hon. MEMBER:

The Commons passed their resolution in 1860!

The Hon. Sir JOSEPH ABBOTT:

That was the last time that the House of Lords had a real conflict with the House of Commons.

Mr. SYMON:

There was a dispute in connection with the Home Rule Bill, and the House of Lords was victorious. The country supported them!
An Hon. MEMBER:
That was not a financial question!

The Hon. Sir JOSEPH ABBOTT:

Well, I will take the last budget introduced in the House of Commons—that including the death duties. Such duties were never before imposed upon the wealthier classes in England; but the House of Lords recognised their true position. They recognised the fact that, inasmuch as the Commons had determined to vote for the imposition of these duties, it was their place to give legislative effect to them. About thirteen or fourteen peers spoke upon the question, and with the exception of Lord Herschell, not one lord ventured to defend these duties. But they recognised that the House of Commons must be dominant upon such a question, and when we establish a senate such as we propose to establish under the bill, is it not to be supposed that it will ultimately recognise its duty to the country at large? Although I am one of those who believe that the deadlocks which we have had have not been injurious to the country, that they have created public opinion, and have made the people alive to their interests and their duties, I am quite prepared to place a safety-valve in the constitution which will have the effect of making the senate answerable to public opinion. But I will not give any vote which in my opinion will allow the ministry of the day to dominate the senate.

Mr. LYNE:
Will not the hon. member be doing that if he gives the ministry the power of dissolution?

The Hon. Sir JOSEPH ABBOTT:

To some extent that may be so; but you first of all get public opinion by dissolving the house of representatives. Having done that, I do not think you dominate the senate if the senate refuses to accede to what is the expressed opinion of the country. In a general election, I think, there is no domination of the senate if they are told that they also must go to the country and obtain the opinion of the people.

The Hon. I.A. ISAACS:

Does the hon. member mean the public opinion of the bulk of the population?

The Hon. Sir JOSEPH ABBOTT:

Certainly. Any other opinion would not be worth having.

The Hon. I.A. ISAACS:

The hon. member holds that the senate must yield to that?

The Hon. Sir JOSEPH ABBOTT:

I do. I hold that the senate must yield to the determination of the house of representatives sooner or later. If it is necessary to send the senate to the
country, it ought to be sent to the country; but not until the house of representatives has gone to the country.

The Hon. I.A. ISAACS:
Suppose the smaller states send back a majority to the Senate in opposition to the house of representatives? There would still be a deadlock?

The Hon. Sir JOSEPH ABBOTT:
How do you solve a deadlock when it occurs under a referendum?

The Hon. I.A. ISAACS:
That settles it!

The Hon. Sir JOSEPH ABBOTT:
Not at all. I can see no difference. There may continue to be a deadlock, if you call it a deadlocks when the ministry of the day do not got their will, If that is a deadlock, you may have deadlocks under a referendum as well as under a provision for a double dissolution.

The Hon. I.A. ISAACS:
Not under the system proposed by the hon. member, Mr. Holder!

An Hon. MEMBER:
You settle the deadlock by giving one party to the dispute a determining voice!

The Hon. Sir JOSEPH ABBOTT:
Although I strongly believe that we have had no deadlocks in these colonies which have been disastrous to the interests of the people, although, on the contrary, I think that many of these deadlocks have been very beneficial, I should like to mention an instance which occurred in the New South Wales Parliament within my own time. I remember when the Legislative Council was condemned for rejecting a bill which was passed almost unanimously by the Legislative Assembly. That was not five years ago, and yet a few weeks ago the Assembly rejected the very same bill. I think that these delays, instead of being disastrous to the country, are beneficial.

The Hon. J.H. GORDON (South Australia)[2.9]:
I should like to place before hon. members in plain terms the consequences which I believe would flow from the proposition put with so much ability by the hon. member, Mr. Holder-a proposition so absolutely destructive of the whole federal idea that, coming from one of the hon. member's ability and influence, I view it with very great alarm. Let us examine it, and in a, very few words put it in plain terms. Of course the
whole power of legislation is distributed between the federal parliament on the one hand and the federal states upon the other. These two embrace the whole area of legislation; but the hon. member divides that portion of legislation which belongs to the lot of the federal parliament into two classes. First of all, in the one class he puts all questions which are constitutional, and he designates as such those affecting state rights; and in the second class he puts questions which affect state interests. With regard to questions which are state rights, that is to say questions of the constitution, what member from the smaller colonies ever dreamt of referring them to a referendum?

**The Hon. F.W. HOLDER:**

The New South Wales Parliament did!

**The Hon. J.H. GORDON:**

The New South Wales Parliament suggested a great many things that they never expected the other colonies would concede—they would never dream of a federation on such lines. What would be the result if the larger colonies, by their overwhelming mass vote could out vote every other colony? Three months after the federal parliament met we should have proportional representation or, perhaps, no representation at all. The whole scheme might be subverted, might be turned topsy-turvy, and we should be at the mercy of the larger states. Any hon. member who looks at the matter in a reasonably fair way could never expect the smaller states to come under such a constitution.

**An Hon. MEMBER:**

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**The Hon. J.H. GORDON:**

Until a constitutional question arises the federal high court is the defender of the constitution. The hon. member need not elaborate that. We never dreamt of entering a federation in which constitutional questions were to be referred to a mass referendum.

**The Hon. I.A. ISAACS:**

He never said that!

**The Hon. J.H. GORDON:**

No; the hon. member made that distinction; but the inference from his argument was that because we are protected on the one side we might give way on the other. I would point out, however, that there is no advantage gained from looking at the question from that point of view, because constitutional questions were never seriously conceived by any member of
the Convention to be allowed to be referred to a mass referendum. The
hon. member says with regard to all other questions he is prepared to take a
mass vote. What does that mean? Simply unification upon the whole of the
subjects of legislation which are delegated to the federal parliament—that
and nothing else. What are those powers? The raising of money by
taxation—the regulation of trade and commerce, defence—in fact nearly all
the questions which are of major importance to the people. Nearly all
questions of universal and vital importance to the people of this continent,
are referred to the federal parliament. As to the whole of this immense area
of legislative power, my hon. friend says he is willing to refer it to the will
of the majority. I ask where is the federal idea in that case? It is simply
unification with regard to all these powers.

An Hon. MEMBER:
No doubt!
The Hon. J.H. GORDON:
The hon. member agrees with me, although coming from one of the
larger colonies, and he takes a very fair view of the question. The hon.
member, Mr. Holder, although explaining the matter with his usual
masterly lucidity has not fully considered the bearing of his contention. If
so, he writes himself down an absolute adherent of unification with regard
to all these powers. The hon. member suggests, although he puts the
proposition baldly, that we should put in some initial difficulties, some
preliminary stages of caution and check, between the occurrence of the
dispute and the reference to the people; but they do not really matter. They
can be brushed aside like cobwebs. If in the end the will of the people is to
prevail, what is the use of the Senate raising any question at all? Why have
a dissolution, or any other check? If when the question is referred to the
people, the will of the people is to prevail, where is the voice of the states?
Mr. SYMON:
Smothered!
The Hon. J.H. GORDON:
I admit some scheme must be evolved to meet the difficulty of
deadlocks; but now I am only criticisms the proposal of the hon. member,
Mr. Holder. I ask hon. members to put the thing into plain terms. Stripped
of all the eloquence with which the hon. member adorns his utterances it
means nothing more nor less than unification almost pure and simple with
regard to all the powers delegated to the federal parliament.
The Hon. F.W. HOLDER:
Only as an alternative to revolution!
The Hon. J.H. GORDON:
Exactly and, if it comes to that, the two larger colonies now have power to say to the smaller colonies, "We will annex you as territories," and bar the power of England we should have to submit. At present we are simply arranging the terms of federation by consent on both sides, and the arbitrament of war is not to be considered at all. If we look at the proposition plainly and simply, can any hon. member dispute the proposition that it means nothing more nor less, in the last analysis, than unification with regard to all those powers which are delegated to the federal parliament?

An HON MEMBER: With regard to everything?

The Hon. J.H. GORDON:
We have a little autonomy left with regard to some matters.

Mr. SYMON:
Where?

The Hon. J.H. GORDON:
In the matters not delegated to the federal parliament; but I admit they are very small mainly municipal powers. The whole of the questions which vitally affect the lives, liberties, and well being of the people of this continent are delegated to the federal parliament.

Mr. HIGGINS:
Certainly not!

The Hon. J.H. GORDON:
Certainly yes. There are very few powers indeed, outside the powers in clause 52, which are of great importance.

The Hon. I.A. ISAACS:
That is a strong reason for not having a deadlock!

The Hon. J.H. GORDON:
Yes; but a still stronger reason for not having unification when entering upon federation. This will be no federation. I concede what my hon. friend did not state, that between the point of dispute between the two houses and the reference to the people he intends to propose some precautionary checks, some delays. Of what value are they if in the last reference, which is not very far off, the will of the majority is to prevail? The senate may as well come down at once, just as the coon in the tree says, "Don't shoot, I will come down." If death is inevitable he has to come down.

The Hon. R.E. O'CONNOR:
Not altogether; only half of him comes down

The Hon. J.H. GORDON:
If I divided the hon. member into two parts, and especially if I took the
upper part of him, of what value is the hon. member? The hon. member is so logical and straightforward in all his reasonings that I put it to him, if the mass referendum is to decide these matters, whether the effect is not unification?

The Right Hon. Sir G. TURNER:

What is the opposite of that?

The Hon. J.H. GORDON:

A reasonable scheme such as that proposed as a stroke of genius by the hon. member's colleague, the Hon. I.A. Isaacs. I believe I was the only member from the smaller colonies who supported him when he proposed a scheme of a double referendum, one to the people and one to the states.

An Hon. MEMBER:

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The Hon. J.H. GORDON:

I am sorry the hon. member so far departed from his original attitude with regard to state rights. The double referendum is a statesmanlike and reasonable suggestion. I will even give way to the hon. member to this extent. If there are only six colonies voting in states and they are three to three the law should pass. That, I think, would be a fair concession.

An Hon. MEMBER:

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The Hon. J.H. GORDON:

The hon. member, with all his charm of personality, is rather an extremist. I am trying to arrive at a reasonable compromise which may be accepted. I put it with all the strength of which I am capable, that the proposition of the hon. member, Mr. Holder—which for a moment, I confess, under the spell of his eloquence, took my fancy, because I actually went to him and made a suggestion that would improve his proposal—is fatal to a federal constitution. You may as well say at once, "Take the whole; trust to the larger colonies," if a mass referendum in the last event is to control the situation. But the outlet, the cure for this, is the suggestion of the Attorney-General of Victoria—the double referendum. I am willing, when there may be three colonies voting on each side, to agree that the law should pass.

The Hon. I.A. ISAACS:

The majority of the people in that case to prevail!

The Hon. J.H. GORDON:

Yes, I think that would be fair. That, I believe, is the only reasonable and feasible suggestion which has been made. It is one which
embraces the desire of representatives on both sides, of both the larger and the smaller colonies.

The Hon. I.A. ISAACS:
And to have a dissolution of the house of representatives!

The Hon. J.H. GORDON:
A dissolution of the house of representatives contemporaneous with the dissolution of the senate, if necessary.

Mr. SYMON:
Then a majority of the states and a majority of the people!

The Hon. J.H. GORDON:
Exactly. I am willing to agree that where there are three states voting on each side the law should pass.

Mr. SYMON:
That is giving it all away again!

The Hon. J.H. GORDON:
I do not think it is. I think it would be a fair concession. I think no one wishes to blind his eyes to the difficulty which is presented to hon. members. We cannot shut our eyes to the fact that the smaller colonies, with their comparatively sparse populations, may be in the position of putting the iron hand on the larger colonies. I think i

The Hon. R.E. O'CONNOR (New South Wales)[2.22]:

There is no portion of this constitution in regard to which my mind has been so much exercised as the question we are now considering. I held for a long time very strongly the opinion that there was no more reason why we should have a deadlock insoluble by the ordinary processes which take place in unified states under this constitution than under the ordinary constitutions under which we live in the several colonies. But reflection and consideration of this matter convinced me that the analogy of the settlement of disputes between two houses of legislature in a unified form of constitution is altogether misleading in the constitution with which we have to deal. My hon. friend, Sir Joseph Abbott, made some very strong observations from his point of view as to the position which had always been taken up by the House of Lords with regard to the House of Commons. I do not think we can draw any analogy from the settlement of disputes between those two bodies. In the first place, the powers of the House of Lords are powers which it is well recognised existed always as supporting the powers of the people expressed in the House of Commons; and the process of the growth of the Constitution has been a continual assertion of real power by the Commons, and a continual bowing to that authority on the part of the Lords. But, altogether apart from that, which is
a consideration arising out of the constitution of the House itself, there is a
difference which, it seems to me, is unexplainable, between the manner in
which deadlocks are solved in unified governments and the manner in
which they would be solved under a constitution of this sort. What is it that
solves a deadlock in the case of a difficulty between the two houses, say, in
New South Wales and Victoria? It is this: That the question at issue
between the Upper House and the
Lower House is a question in which the whole community has an interest.
The Upper House or the Assembly may represent the views of some
particular section of the community, but it is a section of the same
community, and it is to the interest of the whole community that the
question should be settled. The settlement of that question is a matter for
the whole community and so public opinion which is the solvent of all
these difficulties in a unified state gradually comes to the aid of the party
which has reason on its side, in accordance with the view of the majority of
the people, and gradually the party standing out feels the pressure of that
public opinion and gives way; and it in only because of the pressure of that
public opinion in the unified state that the party holding out does give way.
If the section which was supporting it disappears, there is no backing left
for the opposition, and that disappears also. But in the case of a federation
you are brought face to face with a totally different condition of things.
The whole position is brought out by an interjection which my hon. and
learned friend, Mr. Isaacs, made just now. He asks: Suppose you do have a
dissolution of the senate will not the same members be sent back to the
senate? I think there can be no question that if the difference of opinion
between the states is of such a serious character as to render necessary a
dissolution, the probabilities are that the same public opinion which has
backed up the states in the attitude they have taken will send back the same
members who have taken that attitude. It will only be in cases of very
extreme difference of opinion depending upon the interests of particular
states, that you will have the senate standing up in such a way as to make it
impossible to agree with the house of representatives, and, in these very
cases, the members of the senate who have taken up that attitude will be
backed up, on a dissolution, by the public opinion of the states whose
interests they particularly represent. It appears to me that there is that
essential difference between the two cases. What do you mean by the
settlement of deadlocks? You mean that the deadlocks will be solved by
the process of public opinion, which always enforces, in a self-governing
community, that the will of the majority shall prevail.
The Hon. I.A. ISAACS:
And if necessary by a penal dissolution!

The Hon. R.E. O’CONNOR:

Yes. But in the case we are dealing with now, you have two sets of public opinion. You have the public opinion which upholds the house of representatives solid and inflexible; you have the public opinion of the state, which supports the senate equally solid and equally inflexible. If you come to a condition of that kind, then you are face to face with a very dangerous position of things. Although I am strongly opposed to any of these mechanical processes of bringing to a conclusion that which should only be concluded by discussion and the arbitrament of reason, at the same time I say that you may be brought face to face with a position in which these solvents will not be applicable. What is the position then? The position is one of danger, not only to what has been called here the federal principle, but to the union itself. You are face to face then with that position which brought about the terrible appeal to arms which took place in America. I do not suppose for one moment that any resort of that kind could be possible in this community of Australia. But if there was a public opinion totally adverse on some matter of great state interest between the nation and the states which constituted it, you would be face to face with a position the outcome of which I do not see very clearly, unless we adopt some process by which deadlocks may be solved. An appeal is often made to the example of America, where undoubtedly you have a senate with larger powers than our senate possesses, and in other ways no doubt a more powerful body, because it has executive functions as well. There is no doubt that somehow or other questions of difference between the two houses do settle themselves; but I think it is well worthy of reflection whether the settlement of those questions arises from the nature of the constitution itself, or from that immense machinery of party government under which the American system is worked. All who know anything of American politics know that the system of parties which was brought into existence, not for the purpose of legislative work, but for the purpose of the election of the president, and which is now in existence for the purpose of the election of president every four years, and which is maintained by the interests which thousands of office-holders have every year in the perpetuation of the system-I say that system dominates every other consideration in the United States; it dominates not only considerations of policy but considerations of state interest right through the states. The party machine dominates, governs, and uses the Constitution in such a way as to have become really a more important part of the working of American
institutions than the Constitution itself almost. The existence of that strong party organisation no doubt has brought about a settlement of this question—that is to say, that a dispute between the two houses is not allowed by the two great parties to turn upon any question of local interest. Party organisation and party strength over shadows that, and the only questions which arise between them are the questions of party; and as the base of these parties is not the state, but the whole union, questions are solve in the same way as any other questions between two houses in a unified state are solved. Therefore, the example of the United States, which is so often cited, appears to me to be altogether without analogy in this matter, because of the considerations I have pointed out, Is there any analogy in the case of any other community? It appears to me that there is not. It appears to me that the fact that responsible government does not exist in any of those communities, and that there is not an appeal to the people in other communities as there would be under this constitution, makes an essential difference in the solution of difficulties between the two houses. Thus we are really brought face to face with an entirely new position; and I think it is just as well, when we are dealing with questions of this kind, that we should recognise that there may be a danger in following an historical analogy too closely. Although we may very well draw lessons from history, and may very well be warned by what has taken place in other countries, we should be very careful to remember that we are here embarked upon an experiment which is absolutely novel. I say that the experiment is absolutely novel for these reasons: I quite agree with what the hon. member, Dr. Quick, said to-day, that this is beyond question the most democratic, and, therefore, the strongest second chamber which exists in any constitution that we know of. And it is that very circumstance which some hon. members rely upon, as making the probability of conflict with the other chamber less likely, which seems to me to point not only to its being more likely, but to the conflicts being of a more difficult and insoluble character; because to the statement of the house of representatives, "We represent the people of the nation, elected on the broadest possible basis," the senate will probably answer, "We represent exactly the same voters; we represent exactly the same electorates; if you have a right to hold to your opinion, we have equally a right to hold to ours." Therefore, there is no position such as the

House of Commons may take up in regard to the House of Lords, or the assembly may take up in regard to an upper house in any of the colonies, which comes to our aid in the settlement of this matter. The question we have to consider is this: is it better for us to recognise that these difficulties
may arise, that a position of insoluble political complication may arise, and to make some provision for it, or to take a leap into the dark, with this new constitution, with these great forces which we bring into operation, and to trust to reason and to compromise and to those other forces which bring disputes to an end in ordinary cases in unified communities. I say that a trust of that kind, under all the circumstances which we have before us, would not only be dangerous, but would be an altogether reckless disregard of our duty in providing for the future. We are bound to look at the probabilities in the working of this constitution, and if we see that there are chances of imminent danger, if we provide for no process for the getting over of these difficulties, then I say that we are bound to make such provision. Recommendations have been made for getting over this difficulty, and I say at once that I am altogether opposed as a general rule to the process of the referendum. I am altogether opposed to it certainly in the case of a unified state, and I am opposed to it in the case of this constitution if there were any other way out of the difficulty. I am opposed to it for this reason—I state my grounds of opposition now, in order to emphasise my approval of the suggestion which I will make hereafter: that it relieves the representatives of the people from that responsibility of the discussion and the comparison of views, and the give and take of compromise, which are necessary in all legislation. I say that in all legislation it is for the benefit of the community that there should be difficulties placed in the way of a hasty decision. It is in the interests of the people themselves, and of all legislation, that strong views should be taken on both sides of a question in order that the consideration may be put from every point of view, and that the people in the end may get the benefit of the united views which they may get from that conflict. But to say that the process of this referendum is to take away all responsibility of bringing about that result from representatives is wrong, and for this reason: If there is a difference of opinion between the two houses, and hon. members of one house know that they will have to face their constituents—if there is a dispute with the other house the country will have to decide between the upper house and lower house as to which view is the view which will be supported by them. Then there is a responsibility placed upon the members of the house which will be dissolved to take care that every consideration is put, that every point is yielded by them which they can possibly yield, consistently with taking the right course, and nothing is left undone which may bring about a settlement. But where there is no responsibility of that kind, and where the whole question can, without very much discussion, be left to the arbitrament of the people themselves, then, I say, we make easy this process of handing over the responsibility of decision to the people
themselves, and take it from the shoulders of their representatives, who ought to discharge that duty. It is for that reason that I should be altogether opposed to the immediate application of this process of the referendum. Now, I was very much struck by the suggestion, at the beginning of this debate, of Mr. McMillan, which seems to me to contain the germs of a settlement of this matter—at all events, so far as my view is concerned. I have said that I am strongly opposed to the referendum for the reasons I have pointed out, if any other mode of settlement can be adopted. I do not see that any other mode can be adopted but an application of the referendum. But I think means should be taken to insure, before its application, a certain amount of discussion under that sense of responsibility which a dissolution entails, and which is necessary before the settlement of any question upon a proper basis. Therefore, I say that if you provide that, before the referendum takes place, there should be a dissolution—if you like, of both houses at the same time; that being, I think, Mr. Holder’s view—that there should be a dissolution of the two houses, whether at the same time or at different periods, it would insure that before the referendum was applied there would be the fullest and freest discussion in the community. Every means would be taken to ascertain whether the opinion of the community could be ascertained without taking a referendum; and when these measures have been adopted and have been found ineffectual, then, and then only, would you resort to this final means.

The Hon. J.H. GORDON:
What becomes of the individuality of the states in that case?

The Hon. R.E. O’CONNOR:
The effect of a dissolution before the referendum would be this: in the first place, as my hon. and learned friend, Mr. Wise, reminds me, there would be an education of the people upon the particular question at issue, and upon the views held by the senate and by the house of representatives, and that would meet one of the dangers and one of the difficulties of the referendum itself. One of the difficulties of the referendum is that not only is it a difficult matter for the people to decide a question; but that often they have not before them the means of deciding it. In the case of a general election it is necessary that candidates should go about the country in their own interests, in the interests of their own candidature, explaining fully the views they hold upon the particular question at issue. In the case of the referendum it may be the interest of the government who are supporting or proposing a particular view; it may be the interest of some few members who are opposing that particular view, to represent the opposite case to the
people; but there is no interest in any one to give the same explanation, or to provoke the same discussion upon the question at issue in the case of a referendum, as there is in the case of a dissolution; so that you would have, first of all, in the dissolution the question thoroughly explained, and beyond all that, you might be quite certain that the dissolution either of the senate or of the house of representatives would not take place until every available means of arriving at a settlement had been tried and had failed.

The Hon. J.H. GORDON:
It would be a dissolution of state rights!

The Hon. R.E. O'CONNOR:
The hon. member need not be afraid of my shirking the question. He says that there would be a dissolution of state rights. That is putting in another form the proposition he stated concisely before—that, as regards any matter within the scope of the federation, the application of the proposed relief means unification. I say that, in the last resort, it does mean unification, as far as the settlement of the particular question is concerned.

The Hon. Dr. COCKBURN:
Sensible men do not struggle when the last resort is assured!

The Hon. R.E. O'CONNOR:
Although the hon. member put the case concisely in that way, he will pardon me if I say that he put the proposition somewhat extravagantly, and for this reason: Supposing you are brought to the position of things that I have indicated, in which there is an absolute impossibility of coming to a decision upon some question of vital importance—there being an absolute impossibility of appeal to any authority which can settle the question—

An Hon. MEMBER:
Let it wait!

The Hon. R.E. O'CONNOR:
Supposing, it will not wait? There are of ten questions which will not wait. Suppose that is the case, you would then be put in this position: that a population representing, perhaps, the voters and taxpayers of three-fourths of the commonwealth, would have to wait until it suited the views of the remaining quarter of the voters and taxpayers to come round to a particular decision. I say that if you are brought face to face with that position there must be some decision, or the union cannot possibly remain. It cannot be that in a question of the most vital importance to the whole of these communities three-fourths of the voters or taxpayers of Australia will stand quietly by to be dominated by the votes and opinions of one-fourth. I admit
frankly to my hon. friend, that in the last resort the proposal does mean, if a vote has to be taken, unification; but I would point out this to him—that in any case of the application of any of the powers of the constitution you might be brought to an extraordinary state of things if they were used unduly, unreasonably, and improperly. It is in the power of the upper house of any of our colonies to refuse bill after bill sent up to it by the Assembly. It is absolutely within the power of the governor to refuse to assent to measure after measure as passed by both houses of parliament. There is nothing to compel him to give the assent. What is it, in the face of these theoretical powers, which keeps the constitution working? What is it that enables constitutional government to be carried on? It is that it is worked by persons capable of self-government, who have before them one interest, the interest of the whole community, who have continually upon them the pressure of public opinion of the whole community, upon whose will, and subject to whose judgment, the whole business of administration and government is carried on in a free community. I say to the hon. member, therefore, that although in case of this ultimate remedy having to be applied, there might be unification, it never would be applied so long as by a process of reason and compromise, and the exercise of that aptitude for self-government which would exist in this commonwealth as in all similar communities, a settlement could be arrived at—until every other means had been tried and had failed, It would not be until then that this ultimate remedy in the constitution would be resorted to.

The Hon. J.H. GORDON:

And federation extinguished!

The Hon. R.E. O'CONNOR:

When the hon. member remembers that, in the ordinary working of the constitution, the senate, representing the states, has equality of representation; when he remembers what the powers of the senate are; when he remembers that the process by which the house of representatives is to be elected secures that there shall be always a certain proportion between the number of the senate and the number of the house of representatives, I say, that for the ordinary working of the constitution, with the power in the hands of the states as exercised in the senate, that is quite sufficient, under all circumstances, to preserve in every possible way the rights of the states. If you are brought face to face with the condition of things I have described, then it means either that you must adopt the principle of unification, or you must run a very great risk of the union being dissolved. Although I have a strong objection to any such process as the referendum, which I have always opposed in its application to a unified state, it is because I wish to see a successful federation, it is because I wish
to see federation carried, it is because I wish to see this constitution launched in a way which will not only be complete on paper, but which will work in consideration of all the forces brought to bear upon it, and which it must develop in itself—it is for these reasons that I have come to the conclusion that we must adopt some such method as I have suggested, and which, while not interfering with the strength and the individuality of the states under ordinary circumstances, will place somewhere in the constitution a power, and the only power, which will prevent ultimate disunion instead of union.

*The Right Hon. C.C. KINGSTON (South Australia)*[2.52]:

I understood we came here for the purpose of framing a federal constitution, and not a constitution which provided for the unification of the Australian nation, at the sweet will and pleasure of either of the contracting parties. We have been told now that such is not the case. The draft constitution has been before us time after time, and now, at the last moment, we are told deliberately, by a representative of New South Wales, Mr. O'Connor, that he thinks it essential to the establishment of a scheme of this sort that the deliberately expressed opinion of the states, through their representatives, should be set at nought at the desire of the house of representatives and those whom it represents.

*The Hon. Dr. COCKBURN:*

Wiped out!

*The Right Hon. C.C. KINGSTON:*

Wiped out entirely. All I can say is, and I think, in a matter of this sort, we ought to speak plainly, that I am against that. I am against that in every shape and form. I shall not only be found recording my vote against it here; but I take, at this moment, the responsibility of saying—and I am bound to do it in fairness to those whom I represent—that, if that scheme is carried, I will take the responsibility of stumping the country in South Australia—throughout the length and breadth of the land—to secure its rejection.

*Mr. HIGGINS:*

There can be stumping on both sides!

*The Right Hon. C.C. KINGSTON:*

I have no doubt whatever what the result will be in the colony from which I come. It may be considered a matter of minor importance, but I take upon myself to say that I have done all I could in this Convention for the purpose of securing a scheme acceptable not only to the colony from which I come, but to Australia generally, and I ask that there may be something in the shape of reciprocity towards the state which I have the
peculiar privilege of representing here to-day. I do not think there is a great probability of deadlock. So far as we have gone we have framed a constitution of which we have very good reason to be proud—the most democratic federal constitution that has ever been presented to the acceptance of a free and enlightened country. Now, the question arises: have we left it in this state that it is necessary to make some such artificial provision for deadlock as is now suggested, to give, as it seems to me, to one party to the federation, the nation, the right of over riding the deliberately expressed will of the states in a matter in which they have a right to speak? Something has been said by my hon. friend, Mr. Holder, in regard to the propriety of giving this right to the nation in matters in which state interests are not concerned. I do not know how you can possibly draw the line of demarcation between the two things. If I did, I should only be too delighted to provide that where state interests were not concerned the state should not have a right to obstruct the will of the nation. But I cannot do it. The most we can do is this: to confide to the care of the federation those matters which can be best managed by the federation in the interests of the nation, and of the states combined, and to leave other matters to the states themselves. Federation means practically government and legislation by agreement between the representatives of the nation and of the states, sitting of course in different chambers. Is it likely that there will be a clashing between the states and the nation? I do not think so. I think it is highly improbable, when we recollect that the states and the nation will be practically the same, that the franchise will be the same, and that the houses in which these two bodies are represented differ only in this, that they vote in different groups.

The Hon. I.A. ISAACS:

Why equal representation, if that argument is right?

The Right Hon. C.C. KINGSTON:

Have we not discussed and settled that over and over again? Is it necessary to raise the question here? I think, if I recollect rightly, my hon. friend, Mr. Isaacs, only a day or two ago was found voting in favour of equal representation. No doubt he justified his action in his own mind when he gave that vote, and I have heard nothing since to lead me to the conclusion that he had any doubt whatever. The constituents of both chambers are practically the same, but there is a possibility that the representatives in one or other of these two chambers may not faithfully represent the wishes of their constituents. This seems to me the sole source from which there is any fear of a deadlock. I am quite prepared to make every provision with regard to that. I think it is intolerable that the house of
representatives, representative I the entire nation, should be subjected to a control by their constituents from which the senate is absolutely free. Why should this be so? Under those circumstances, I am prepared to vote for a double dissolution, for a provision that will enable the senators to be sent to their constituents at the same time that the members of the house of representatives are sent to their constituents, in order that the doubt as to whether the house of representatives are faithfully representing their constituents, or the senators are faithfully representing theirs, may be solved by the vote of the people themselves. As to the present provision, in which the power of dissolution is given simply in the case of the house of representatives, I think it altogether objectionable, and I trust that the senators will be made equally amenable to the control of the constituencies by the extension of the power of dissolution to the senate. Why, I ask, should the senate be free from the control of their constituents? They have a right to speak, and they have only a right to speak, in the interests and as the mouthpiece of their constituents, and if the question arises as to which house is representing the voice of the people, surely it is a right and proper thing to send the senators to their constituents equally with the house of representatives. Therefore I shall welcome any proposition of the character which I suggest. I would go further. If that is not enough, I am prepared to vote for a provision securing a referendum to the constituencies of both houses on the precise question at issue. We know full well that elections are often clouded by a variety of c
dissolution will have a most wholesome effect on those who give their votes in connection with the matter. The result of the dissolution will probably solve any doubts on the subject. If you want anything more you can get it in the shape of the reference I suggest.

The Hon. S. FRASER:

But that might not solve the difficulty after all!

The Right Hon. C.C. KINGSTON:

I am prepared to go to the length to which I refer. What more do you want in a federal form of government? I can quite understand what you want in a unified form of government, but we want no unified form of government. We are here under distinct statutory authority to frame a federal constitution, and I will be no party to departing from what seems to me to be the first principle of a federal form of government—that there shall be representation and agreement in all interests of federal concern, but that neither one shall be able to over ride the other. If, it is said, by those means you cannot get agreement, or that you cannot get a majority in favour of the proposed bill, what are you to do? Whilst I am not in favour of delay, I
deprecate anything in the shape of undue haste, and it seems to me that, much as you may desire to have a complete solution of the question at issue, if you find, after the dissolution and after the referendum, that the states and the people are still at issue, and that a majority in both cannot be obtained for the suggested legislation, your best course is to wait. I have no doubt whatever that in due time those parties-they are not divided in the natural order of things by any strong antagonistic lines; they are the same people inhabiting the same Australia, although living in different states-will be able to work out their own salvation in these matters in the future as they have in the past. I do ask those who have been so untiring in their efforts to frame a constitution worthy of a federated Australia to think what is the full effect of the remarks of our hon. and learned friend, Mr. O'Connor, and then they must see that if we go back to constitutional lines such as be suggested we go back to a constitution which is altogether different from that which it was intended we should frame, and which Australia generally will have nothing whatever to do with.

The Hon. A. DEAKIN (Victoria)[3.4]:

It would be impossible to disregard either the arguments or the attitude of the right hon. gentleman who has just resumed his seat; and those who have followed his path in connection with the discussion of this measure must be free to admit that he has proved himself, on every occasion free from any merely narrow or partisan view of any question submitted for consideration. I know of no position taken up by any hon. member at the Adelaide Convention more distinguished than that which the right hon. gentleman occupied during the memorable debates at that sitting of the Convention when the issue of state rights against national principle was submitted. Consequently, the right hon. member speaks to us to-day with added force and without the necessity of any adventitious addition to his remarks in the way of indication of possible attitude hereafter. I take it that although the right hon. member speaks positively, and with perfect sincerity, he would not have us suppose that his mind is closed against argument, or that if a reasonable scheme, conserving all those rights for which he is so jealous an advocate, be submitted to him, he will yet be precluded from reconsidering some parts, at all events, of the argument which he, has laid before us. I am inclined, for my own part, to agree with him, and to disagree in a very slight measure from my hon. and learned friend, Mr. O'Connor, and the hon. member, Mr. Holder, in the assumption that conflicts between the two houses are likely to be more frequent under the proposed constitution than they have been in our state legislatures.

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The Hon. R.E. O'CONNOR:

I did not say, or intend to say, that they would be more frequent—I did not offer any opinion at all upon that point. What I did say was that they would be less soluble.

The Hon. A. DEAKIN:

Exactly. I am, therefore, happy to be, as I am generally, in agreement with the hon. and learned member, instead of differing from him even on so minor a point. It appears to me that, based as they are on the same franchise, the possibility of grave differences occurring between the two houses is very much diminished. There is far less likelihood of serious conflict between the two chambers of the federal legislature than between the two chambers of our states legislatures, which are always far more separated in the matter of franchise than these two chambers will be. Receiving their mandate, deriving their authority from the same franchise, although not exactly in the same numerical proportion, the two chambers, it appears to me, must necessarily, on all major questions, be brought into line in a shorter period of time than we can expect our houses of legislature in the different colonies to be brought into line. While this may well relieve our anxiety when we regard the proposals for the various means of settling difficulties, when they do arise, if ever they do, it need not lead us to the conclusion that, because it appears extremely unlikely that grave difficulties will ever or oft arise, we are therefore relieved from the necessity of making such a provision. As the hon. and learned member. Mr. O'Connor, pointed out, we must take into account the different quality of these two houses, and the enormously greater power of resistance we are giving to the second chamber in this federal constitution, far greater than any second chamber possesses in our several colonies. It is on the broadest franchise. Representing the people in every sense of the term, that chamber will be a far more formidable opponent of the chamber of representatives than any legislative council could possibly be. Under this constitution we are creating on the one side a senate and on the other side a house of representatives with its executive—and the executive is the important element in most of these considerations. We are creating in these two chambers, under our form of government, what you may term an irresistible force on the one side, and what may prove to be an immovable object on the other side, and the problem of what might happen if these two were brought into contact-

Mr. MCMILLAN:

How could they?

The Hon. A. DEAKIN:

The hon. gentleman sees the point. The problem of what might happen if
those two forces were brought into conflict is one that I will leave to some
gentleman from his sagacious country to solve. It is therefore not because of
the possibility of frequent deadlocks that I attach importance to this
provision-on the contrary, the possibility of deadlocks appears to me to be
very remote-but it is on account of their gravity when they do occur, and
the impossibility of solving them, that renders it imperative that we should
seek to devise some means by which their severity may be mitigated and a
constitutional agreement arrived at. Let us look for one moment at the
various solutions which have been submitted to us and look at them first
from the important standpoint of their sufficiency. The right hon. member,
Mr. Kingston, in what must be to him an unfamiliar tone, and following an
unfamiliar path, was led to express the opinion that a little delay was at
times a very useful factor in political settlements, and even to at last-ask the
question, "Why, if there be a difficulty, should not the difficulty remain? Why
should we be compelled to find a solution for it in this constitution?"

The Right Hon. C.C. KINGSTON:

I said that the people should be allowed to work out their own salvation!

The Hon. A. DEAKIN:

Yes; but they may do it at the expense of the salvation of the great
interests of the country, and that the right hon. member will agree with me
is not desirable. What we seek to attain in this Convention-and if we
cannot attain it absolutely we desire to secure the nearest approach to it-is
finality. This, as the right hon. member knows, is absolutely essential under
any constitution. If one could imagine the possibility-and one can scarcely
conceive it-no one could contentedly survey the prospect of two houses in
perpetual conflict upon serious questions of public policy. The position, as
the right hon. member knows, would be intolerable. Some solution of their
disputes is to be sought, and the right hon. member will admit that the
nearer it approaches to a final and satisfactory solution the better. The
great, and practically the overwhelming, argument of finality is in favour
of the application of the referendum on the lines suggested by the hon.
member, Mr. Holder-with whose utterances I am fortunate enough to find
myself in agreement, and doubly happy in recognising the federal spirit in
South Australia, which, when it deprives us of one valuable auxiliary in the
person of its Premier, gives us another almost fit to take his place—the
contention of the hon. member, Mr. Holder, when he submitted that, at all
events, his proposal for a referendum provides us with absolute finality,
was surely unanswerable. It would settle the question in accordance with
the will of the majority, and upon constitutional lines.
The Hon. J.H. Howe:
But with the death of the states!
The Hon. A. Deakin:
That it gives finality is its most conspicuous merit, a merit which surely none of us would pass by lightly, because it is one not to be disregarded; it is a claim which being granted as it should be, must weigh greatly with all of us. Let hon. members take every other proposition which has been submitted to us, and I think it will be granted that not one of them provides, either in the same manner or degree, for absolute finality. Take your double dissolution. It may settle the difficulty and it may not. Take the referendum, counting both by states and by numbers, which the right hon. member, Mr. Kingston, is prepared to accept as a last resort.

The Right Hon. C.C. Kingston:
The double majority of the states and of the nation!
The Hon. A. Deakin:
Quite so. That, as the right hon. member sees, does not provide for finality under all conditions. It might leave you with the vote of the states on the one side and of the people on the other. In this connection I welcome as a truly federal suggestion the proposal of the hon. member, Mr. Gordon, that if the numbers of the states should chance to be equal, the numerical majority of the people might have sway. That is a, proposal which, I trust, will receive the attention of his hon. colleague, the Premier of South Australia. But these proposals for meeting deadlocks, while they would meet and dispose of most deadlocks, do not and cannot be alleged to dispose of all possibility of what I might term a permanent deadlocks. They do not provide that certainty of finality which the national referendum secures. Consequently, if for any reason we are compelled to accept one of these less perfect proposals, the right hon. member will admit that at the very outset we are embodying a safeguard in the measure which, under some circumstances, must fail to have effect. I do not say that this is an unanswerable objection; but it is an objection which should be taken into consideration. Where the hon. member, Mr. Gordon, and the right hon. member, Mr. Kingston, approach this subject from a standpoint which commits them to many mistakes is in adopting that continual assumption which I am almost ashamed again to combat, that difficulties will often arise in the federal parliament between the states as states. I would once more submit, putting forward the argument again with apologies, that the contentions in the senate or out of it, and especially any contention between the two houses, will not and cannot arise upon questions in regard to which states will be ranked against states. As was pointed out by the
hon. member, Mr. O'Connor, in the United States, and also in Switzerland, and in Canada, as here, the whole of the states will be divided into two parties. Contests between the two houses will only arise when one party is in possession of a majority in the one chamber, and the other in the possession of a majority in the other chamber. We have had it submitted to us that probably the senate will be the more radical house of the two. I am willing to accept that suggestion for the purposes of my argument, though the argument is equally good either way. The house of representatives would then be the more conservative body, and it is possible that a more conservative party in the house of representatives would be confronted by a more radical party in the senate. In both cases the result after a dissolution would be the same. The men returned as radicals would vote as radicals; the men returned as conservatives would vote as conservatives. The contest will not be, never has been, and cannot be, between states and states. It must be and will be between the representatives of the states according to the different political principles upon which they are returned. In the United States of Ame

The Hon. Dr. COCKBURN:
Because the whole machine is held in check by party government!

The Hon. A. DEAKIN:
Yes; and that supports my argument. This machine will be held in check by party government.

The Hon. Dr. COCKBURN:
We do not desire party government as it exists in America!

The Hon. A. DEAKIN:
I cannot say what the hon. member desires; but unless he embodies his desires in this bill, they will have no effect upon the constitution. Whether he desires it or not, it is certain that once this constitution is framed, it will be followed by the creation of two great national parties. Every state, every district, and every municipality, will sooner or later be divided on the great ground of principle, when principles emerge.

The Hon. Dr. COCKBURN:
It is not principle which is the line of demarcation in America!

The Hon. A. DEAKIN:
Of course the hon. member is free to his opinion; but there are broad lines of demarcation between the Democratic and Republican parties in America, and the numerous quotations of American precedents which have been made prove it. The hon. member has himself adopted the doctrine as to state rights of one party in American politics, and many of us have adopted the doctrine of the other party; which disproves his contention that there are no principles in American politics. There are principles in
American politics, and they are a governing force, though I am willing to admit that, owing to their party machinery, these principles have a less certain application than under our form of government. The hon. member's objection was that party government would not exist in the future federated Australia.

The Hon. Dr. COCKBURN:
Not as it exists in America!

The Hon. A. DEAKIN:
Not as it exists in America; but it will exist in the commonwealth, as it exists to-day in New South Wales, in Victoria, in Tasmania, in South Australia, and in the mother country. Our system, even more that the American system, implies government by party. It is an important fact that we propose to adopt in this federal constitution the same form of responsible government that we employ in these colonies. That in itself is a guarantee that party government must be introduced here. It makes party government, if it be only the parties of the "ins" and the "outs," an absolute necessity in federated Australia. I apologise for elaborating this part of my subject to such an extent, but it is my main contention, the key of the whole. If what I contend be true, and I believe most firmly it is true, this conception of the larger states combining against the smaller states in the senate, or of the smaller states being coerced under a referendum by the larger states, is a mistaken apprehension. It is not in the least degree a question as to where the population is. It is a question how the population will be politically divided. We can set aside entirely the dread about the effect of the referendum being the voting down of the small states. Such a prospect is absolutely inconceivable. Is the whole of the Victorian delegation on these benches, on this question or any other, except one or two leading issues, anything like solid?

Mr. SYMON:
It is just the same with the smaller states!

The Hon. A. DEAKIN:
Quite so. Mr. SYMON: Then there is no need for a referendum!

The Hon. A. DEAKIN:
I will deal with that afterwards. The Victorian delegation, and, I believe, the New South Wales delegation, were practically elected on what is known as a ticket. In spite of that circumstance, note the great differences of opinion between the members of those delegations. As for supposing that the Victorian population will vote as a whole on any of the party questions that can be submitted to them, it is such a halcyon condition of
affairs that it cannot be dreamed of by anybody who has lived in Victoria. The whole community is so divided that party spirit sometimes runs to an extreme, and one party and another will even endanger great public objects to gain their own ends. I make no exceptions. I believe party spirit is just as keen in other colonies. The division of our electors into liberals and conservatives exists, as the hon. member, Mr. Symon, says, in every small colony. What does it prove? It certainly does not prove that under the referendum the large populations would overwhelm the small populations. It proves that this can never be the case on any issue submitted. The question remitted to the referendum will divide the votes in every state, and the side which will win will be that side which has the greater number of adherents in the group.

The Hon. N.J. BROWN:
Will not that affect the elections in the same way?
The Hon. A. DEAKIN:
Exactly. I have been endeavouring to contend so.

An Hon. MEMBER:
Then you do not want the referendum!
The Hon. A. DEAKIN:
If the argument is good it must apply both ways. I am now dealing with the case put by the hon. members, Mr. Symon and Mr. Gordon. They say that the small states will be voted down by the referendum. I am showing that it is inconceivable, and that the party which will win is the party which will have most voters in the federation in favour of a particular view of the question submitted. It will not be a state question in any sense of the word, and it cannot be. All the states will be divided according to the opinions of their citizens without regard to the size of the states. The Right Hon. C.C. Kingston very fairly said that he recognised the weakness of his own proposal in one respect, because he admitted that there were certain questions likely to become matters of dispute between the two houses which were not state questions.

Mr. SYMON:
No!
The Hon. A. DEAKIN:
I will put it in a more modified form: He said there were certain questions which might possibly become questions of dispute between the two chambers, which would be national questions, and should be settled on national lines, but which he thought it necessary to insist should be settled not on national lines, but on state lines, because be saw no way of dividing
those issues one from the other. Now I turn to the clause which gives the commonwealth its powers, and I find included among them: census, statistics, currency, banking, insurance, weights and measures, bills of exchange, bankruptcy, copyrights and patents, naturalisation, foreign corporations, marriage and divorce. I ask myself what possible ground can there be for contending that these involve state rights.

The Hon. J.H. GORDON:

The hon. member is omitting the power of taxation!

The Hon. A. DEAKIN:

I take the subjects as they come. I do not say that there are not others which may hold a dual position. But I take these powers as they follow.

The Hon. J.H. GORDON:

Those are comparatively innocuous. Take some others!

The Hon. A. DEAKIN:

If the hon. member admits that, he supports my case, because those are typical of the great bulk of the subjects.

An Hon. MEMBER:

No!

The Hon. A. DEAKIN:

I say the great bulk of them are of that character, and am open to refutation if I am wrong, I should say that the whole of the thirty-seven subjects, but, indisputably, the great bulk of them, are subjects on which no question of state rights and state interests could arise except by the merest accident. It is, as the right hon. gentleman admitted, a grave defect in our constitution if we permit these questions to be left for all time to be determined in a purely states house, or by a state referendum, when those questions are not state questions—when they ought to be decided, not on state lines, but on national lines, and by a national referendum.

The Hon. J.H. GORDON:

The hon. member assumes that the senate would disregard its clear duty and deal with those questions on state lines!

The Hon. A. DEAKIN:

I am taking the argument of the right hon. gentleman as a good argument. I think it is. I look at the thirty-seven powers proposed to be conferred on the future federal parliament. My challenge is that those who hold a contrary opinion, and who believe that any of those thirty-seven powers are likely to involve state rights and state interests, should prove that, such is the case. It will take them all their time to do so.

The Hon. J.H. GORDON:

Take No. 31!
The Hon. A. DEAKIN:

That is the control and navigation of the river Murray, one of those special questions on which a particular state right is involved. I am not discussing them now; but I, for one, would not have the slightest objection to exclude No. 31 from the operation of the national referendum. But the hon. member will find that, with the exception of some two or three subjects out of the whole thirty-seven allotted to the federal parliament, there is no possibility of conflict between the state and the nation. Yet, in order to maintain these, he will sacrifice what he confesses should be granted, that is, the national control over thirty-three or thirty-four questions.

The Hon. J.H. GORDON:

I make no such exception!

The Hon. A. DEAKIN:

That was the contention of the right hon. the Premier of South Australia.

The Hon. J.H. GORDON:

No!

The Hon. A. DEAKIN:

I agree so cordially with a great many of the remarks of the hon. member, Mr. O'Connor, with reference to the conditions under which the reference to the popular vote should be safeguarded that I do not propose to detain the Convention by repeating them. The referendum is always a last resort. I do, however, say that with regard to the precedents which are being cited, not only with respect to the United States, but with respect to Switzerland, and other federations, we have always to remember not only that party lines will be the governing lines of our politics, but that the existence of an executive dependent on the will of parliament, and not holding office for a fixed term, reverses the significance of many of the precedents taken from the United States. It was asked to-day what takes place when a difficulty arises between the two houses in the United States, and the hon. member, Mr. O'Connor, having asked this question, answered it. He pointed out that those questions settled themselves. Why are they allowed to settle themselves in the United States on terms on which we cannot hope to settle them here? Because in the United States the executive is removed from the conflict of the two chambers. It is absolutely indifferent as an executive to the result of the conflict. A deadlock between the two houses in the United States can be allowed to settle itself, because there is no government responsible to parliament. But a deadlock under responsible government as we have it in Australia is an entirely different problem.
The Hon. Sir J.W. DOWNER:
That is against you!

The Hon. A. DEAKIN:
Do not let the hon. member attach too much weight to that until I have finished. What I am pointing out in the first instance marks an immense distinction, which cannot be lost sight of. A deadlock in the United States can be safely left to burn itself out.

An Hon. MEMBER:
You may make the American Constitution prove anything you choose!

The Hon. A. DEAKIN:
I am endeavouring to show that it will not prove what some of the hon. member's friends are attempting to prove.

An Hon. MEMBER:
Why not?

The Hon. A. DEAKIN:
In America the ministry sits apart. It is appointed for a fixed term, and disputes between the two houses in the United States have no effect on the executive government.

The Hon. A. DOUGLAS:
What is the hon. and learned member citing the case of America for then?

The Hon. A. DEAKIN:
Because those who agree with my hon. friend have been citing it, and I disagree with their interpretations. I find that there is no analogy between any Australian government and the Government of the United States.

The Hon. A. DOUGLAS:
What government are you offering us?

The Hon. A. DEAKIN:
I understand that my hon. friend as President of the Legislative Council of Tasmania rules both houses of parliament in that colony under an absolute but benevolent despotism. I have no desire to interfere with it as long as he enjoys it. It seems to me that the difference between responsible government as we know it and the United States Government tells altogether in favour of the necessity of our insisting upon some solution of deadlocks. If the executive government of the day is, as it is with us, a party to a deadlock, and it must be a party taking the side of the chamber in which it has a majority, its own fortunes are staked on the issue, and instead of standing aside, as in America, it throws into the scale the whole of its force and energy. It stakes its life carrying the struggle to a successful
Then you prove that that is not the proper government for the commonwealth!

The hon. member may follow that line if he likes, but that is the kind of government we are shaping and will have to deal with.

Bryce strongly supports what the hon. member is saying now!

I believe he does, although I have forgotten the passage. A deadlock is a very much more serious struggle, is very much more embittered, and carries with it far greater consequences under our form of government than under their form of government.

How does that help you?

That helps my argument that if deadlocks with us are so much more serious than they can be in the United States or Switzerland, we have need for a special provision which clearly is not necessary in either the United States or Switzerland. In Canada of course the different mode of constituting the senate renders the circumstances very different. Neither of these three federations affords us any clue as to the necessity in our constitution of a cure for deadlocks. Finally, I recur to the main point of the pithy address of my hon. and learned friend, Mr. Gordon, and of the very powerful statement of the right hon. gentleman who presides over the Government of South Australia. That is, to say, that to grant this proposal for the ultimate solution of deadlocks by means of a national vote has to be rejected because it is not federal, and because it means unification.

Because it extinguishes state rights!

Because it extinguishes state rights. I take leave to waive aside the use of the word "federal." Each man in this Convention, and most people out of it, call federal what they prefer in the way of federation, and they instantly denounce as anti-federal that which does not fall in with their own scheme. As far as I understand the federations of this world, they have been drawn on different lines, and with different principles embodied in them.
We improve as we go on!

The Hon. A. DEAKIN:

I hope so. The real point is whether there can be no unification in a federation. I submit that there can, and that there ought to be. Even our antagonists practically admit that there can and that there ought to be. They admit that in the powers conferred on the federal government, there are a host of questions, like the question of patents, and other questions, which have no relevancy as state questions, which are purely national questions, which are included in this bill because they are national issues, which ought to be dealt with only on national lines. That is to say, we are unifying on those questions in this measure because unification is the proper step to take, and because the natural and necessary corollary of that unification is that they should be decided, as far as possible, as all questions of unification should be decided, on national lines-by the rule of the majority.

I take it that the burden rests upon my hon. friend to show that you cannot have Unification of our patent law without injury to federation. I submit that the very object of federation, so far as the patent law is concerned, is to have unification, I might weary hon. members by citing power after power in clause 52 upon which unification is essential.

The Hon. J.H. HOWE:

The hon. member means uniformity!

The Hon. A. DEAKIN:

Uniformity of legislation means legislative unification.

The Hon. J.H. HOWE:

It means unification of the states!

The Hon. A. DEAKIN:

What I say is, that while there may be questions, and a few questions, on which the safeguard to the states that the right hon. member, Mr. Kingston, desires, can fairly be accorded, as regards the remainder of the powers the word "federation" has no meaning, unless it carries with it unification.

The Hon. Sir J.W. DOWNER:

I do not agree with the hon. member!

The Hon. A. DEAKIN:

If my hon. and learned friend follows out the principle, which I heard him no later than yesterday enunciate to this Convention, to what appears to me to be its natural, I dare not say, its logical, conclusion, I think he will find that it points most inescapably to the admission of the fact that on most of the questions on which we federate, what we want is unification. We only succeed so far as we obtain it. My hon. friend, Mr. Gordon, is also
one of the trust the parliament members, who have manifested their federal spirit. What is it that he fears in the vote of the more populous colonies on a whole host of these issues? The hon. member is a distinguished representative of the liberal party of South Australia, and on questions which are included in the powers of the commonwealth, when they are dealt with on liberal lines, the hon. member will have behind him the votes of the liberals of New South Wales, Victoria, and every part of Australia. The only antagonism he will have to face will be the antagonism of the conservative character which he has in his own colony. What has he to fear on these subjects on which unification is sought and obtained in this bill, even from the national referendum which he terms the mass vote of the whole of the electors? He knows the politics of the other colonies, if not as well as his own, sufficiently well to know that they move much on the same lines as his own. Will he not then apply his own argument of trust the people on this particular issue? Why will he not trust the people of the larger colonies on these party questions to vote in accordance with their principles as they always do in local politics? Why should they vote as liberals in local politics and suddenly become conservatives in federal politics? It seems to me that if the hon. member will follow out his argument to its conclusion, he will see that there is no state risk in this matter, and that the rule of the majority can be applied without injustice to any of the smaller states or any part of their population. If this leads to unification at all, it will only give us that unification which is essential to the proper fulfilment of the federal principle.

Mr. SYMON (South Australia)[3.30]:

It has been said that there is a time to build up and a time to pull down. We have been engaged in the very great task, and a task to which we have devoted a great deal of wisdom and prudence, of building up. We have now reached a point at which, it seems to me, we are asked to pull down a very considerable portion of the splendid edifice we have been rearing. My hon. friend who has just sat down says that what he wants to secure by the referendum is absolute finality. He will secure absolute finality. He will absolutely finish the smaller states of this continent and destroy their identity in the constitution. The answer to the contention which he has urged with so much force in favour of the referendum, or some form of referendum, is that given by my hon. friend, Mr. O'Connor, that it means, in the ultimate resort, unification. If we are to have unification in the ultimate resort, or at any period of this so-called federal system, we may just as well have it first as last. That is what the whole of the argument comes to. We are diverging from the path which we have been asked to follow in connection with the framing of this Commonwealth Bill; we are
at the parting of the ways; we are in the position now of

having had an instalment of what, on paper looks like federation; and we are asked to give all that up in order to accept in the ultimate resort that is the qualification unification. All I can say is that if the members of this Convention are prepared to accept unification at any stage the sooner we do it the better. If we are prepared to accept unification, then, I say, we had better not pack up our portmanteaus but-

The Hon. J.H. GORDON:

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An Hon. MEMBER:

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Mr. SYMON:

I have received so many suggestions that there is an embarrassment of riches; and I scarcely know how to put in words the amalgam to the Convention. If the motive of the amendment in favour of the referendum is, as candidly and frankly confessed by Mr. O'Connor, then I say we are here under false pretences. Our enabling act says we are here to establish federation. If we are going to have recourse either directly or indirectly, either primarily or as a last resort, to unification, then we ought to dissolve this Convention and ask our parliaments to frame another act to bring us together. If the hon. member, Mr. Gordon, felt a degree of alarm in consequence of the spell which might be exercised by what he called the eloquence of our esteemed colleague, Mr. Holder, how much more alarmed should be feel from the combined eloquence of my hon. friends, Mr. Holder and Mr. Deakin? When my hon. friend, Mr. Deakin, was addressing us, I was reminded of the lines:

For he, by spells of glamour bright,
Could make a lady seem a knight,
And cobwebs on a dungeon wall
Seem tapestry in lordly hall,
And youth seem age, and age seem youth
But...........
And this is the consolation-
All was delusion-naught was truth.
I commend these lines to my hon. friend, Mr. Gordon.

The Right Hon. G.H. REID:

It is of no use; he is a teetotaller!

Mr. SYMON:
I am delighted with that suggestion, and for that reason I give him the stimulus the innocuous stimulus of the lines which have been called to my memory. But that is by the way only. I regret that my hon. friend, Mr. Gordon, was not proof, as strongly proof as he ought to have been, against the blandishments of the hon. member, Mr. Holder. He yielded, I think, locks occurring; and I sometimes think that this mania, for a referendum arises either from great timidity or from a strong desire of domination. It seems to me either the one or the other. That there may be as undoubtedly there will, between all legislative bodies differences and disputes, we all admit. None of us can doubt for a moment that these differences and disputes will arise; but a deadlock is, to my mind, a totally different thing. Of course a deadlock requiring to be controlled by some artificial means is a mischievous thing. I cannot remember anything in the nature of a deadlock that is, such a situation between the two houses as practically amounts to, I might almost say, a condition of civil war. I did not speak earlier in this debate, because I waited in the hope that someone would give us instances. Is there any instance of a deadlock such as we have in mind under any system of responsible government?

An Hon. MEMBER:
No!
Mr. SYMON:
Is there any instance under the American Constitution?
The Hon. I.A. ISAACS:
That is not responsible government!
Mr. SYMON:
Of course my hon. friend will give me credit for knowing that the American system is not a system of responsible government. I ask, is there under responsible governments system which we hope to establish, and in order to secure which I would like to see everything introduced into this constitution which can properly and fairly bring it about any instance of real deadlock? Is there any instance under the federal system of what has been held up to us as a deadlock that is, not merely a difference of opinion, or a dispute between two houses, but something which practically, stops the civil government of the country? I am not aware of any. Therefore, I accept the position put with so much power by the hon. member, Mr. Deakin, that it is unlikely, that it is improbable, that anything of the sort will occur; and I say, why insert in the federal constitution a provision at variance with and destructive of the federal idea, when there is no possible or conceivable likelihood of its ever being called into force? It seems to me
to be opposed to the ordinary dictates of common-sense to introduce so debatable, so questionable a contrivance a contrivance with which we as British subjects are not familiar in order simply to gratify it may be a passing whim. I think we had much better free ourselves from the domination of this word "deadlock," and merely look upon it as a matter of difference and dispute between the two houses to which, in the ordinary course of things as has happened over and over again time, consideration, moderation, intelligence, in addition to the ordinary force of public opinion, will offer a solution. My hon. friend said a minute ago that the American Constitution was different, that in America a dispute burnt itself out. I firmly believe that any dispute between the two great houses we are going to establish on the finest basis ever imagined will burn itself out.

The Hon. E. BARTON:

It will fizzle out!

Mr. SYMON:

It will fizzle out. I will give one reason in addition to these already urged. If you have a dissolution of the senate upon any question as to which there is a dispute between the two houses, you will give time, or, to use the expressive phrase of my hon. friend, you will permit it to fizzle out, a state of things we should all so much desire to see. To introduce into the constitution needlessly, as it seems to me, a coercive power, will tend to make the men to whom you, in the course of events, commit the executive power of the country, overbearing and unreasonable. It will undoubtedly have that tendency. I do not mind, as I have said, something to secure that both houses shall be in constant contact with their own constituents

and I desire to say a word or two with regard to the scheme which applies in our own colony. I do not follow my hon. friend, Mr. Holder, when he says that the method adopted in our colony shows the desirableness in a federation of something further. It has quite the opposite effect. We have had now in our colony since 1882 a scheme under which, surrounded with the necessary safeguards in the event of a difference between the two houses, the upper house may be dissolved. So effective has that mechanism been, that it has not been called into operation in the fifteen years during which the act has been upon our statute book. If that be the case in our unified system in the state, why should it not have exactly the same effect under a federation? If we want more than that, it lies with the advocates of those who say there should be something beyond to give us a very conclusive reason for it. Now the dissolution of the senate is a proposal which, at any rate, will command the consent of people of ordinary common-sense. To dissolve the senate, under whatever conditions you
establish it, is to send it back to its own constituents. That is a principle of dissolution we may understand; but, if you superadd to that the referendum, you are overawing the constituents of the senate by another body, another constituency, to which as state representatives they owe no allegiance. That is the position I take up. I say that the senator would be a man of no self-respect who would occupy a position of that kind. You would fetter and gag him in his representation of the state he comes from. You would tell him: "It is true you may consider this matter vital to the interests of your particular colony; you may support it by all the power you command; you may be prepared to face a dissolution of the senate and to go to your own constituency on the subject. It does not matter two straws what you do. If, after that, you do not fall into line with the senators from the larger states, or with those whose decisions are in harmony with those of the executive government of the day, we will bring the referendum into operation, and we will smother your independence by a block vote of the larger states of the commonwealth."

Mr. TRENWITH:

Either smother the independence of the senate or the independence of the people!

Mr. SYMON:

Not at all. My hon. friend is no greater friend of the power of the people than I am. I desire that the people should exercise their just influence in every respect, and I say that it is the duty of the representatives of the people in the senate and in the house of representatives to how to the will of the people. But there are two peoples. There is the democracy of my state, and there is the democracy of the commonwealth; and does my hon. friend tell me that the democracy of the commonwealth the combined force of two big states or the single force of one is to coerce or tyrannise over the democracy I represent? I decline to accept that position for a moment. I feel that this question raises state interests as they have never been raised before, because equal representation in the senate was felt to be a necessity of federation. If you establish a referendum, you rob equal representation of all its strength and of all its virtue.

Mr. HIGGINS:

You rob it of its poison!

Mr. SYMON:

My hon. friend, who is always poisoning something or other, says that you poison it. It is an excellent expression. To put equal representation into the scales on one side and the referendum into the other side is to absolutely outweigh equal representation and to prevent its having any weight or effect whatever in the federal system we are seeking to create.
think it was my hon, friends, Mr. O'Connor and Mr. Holder, who spoke of difficulties being put in the

way that is to say, that before the referendum is to be brought into operation you are to have a great many stiles over which the democracy is to be called upon to jump. Now, that does not lessen the mischief of the referendum; but if you are going to introduce into this constitution a machine which is to be made, so to speak, unworkable, or which is to be so surrounded by conditions and obstacles so that it will not be brought into operation, why on earth are you going to put it there at all? Is it not simply deluding the people of the country? It is said that there ought to be no fear, because the thing will not be brought into operation, as it will cost, one hon. member suggested, £50,000 each time it is applied. "It will cost," he said, £50,000 to have a referendum. Do you think that any government would lightly, or, it maybe at all, call that expensive instrument into operation. Therefore, accept it." I say, "No"; let us put into this constitution things which can, if needed, be brought into operation. Let us not tell the people of this country, those of them who honestly believe and I admit there are many that you ought to have some referendum because they believe in the domination of the big populations, that they are getting what they ask when you believe it to be a sham. If the people say, "We want this referendum, because we believe in the ultimate domination of the majority of the people," then you are simply deluding them, when you attach to what you offer them conditions which you say are going to prevent it being brought into actual working. How is it to be commended to us? If it is surrounded in that way, if it is to have these walls erected in front of it, so that the jump cannot be taken, then I say "keep it out."

An Hon. MEMBER:

You are to have a dissolution as well!

Mr. SYMON:

And you are to have a dissolution as well. You are to pile up expense on expense; you are to harass the people in a way which I do not believe they would tolerate, if they understood it. I do not believe the people of this country, who most desire a referendum, would accept it if they thought it was to be first one dissolution, and then another dissolution first a dissolution of the people's house, then a dissolution of the states house, then a referendum to the people, or a double referendum, or something of that kind, I say I do not believe they would stand it.

An Hon. MEMBER:
And then an extra dissolution!

Mr. SYMON:

Yes, and so we might go on for ever. Why, we are men of common-sense! The people of this country are of English blood. They are reasonable beings; they are not like people of the continent of Europe amongst whom, it has been sought to transplant the English form of government. We know how these things, many things, we cannot think out, work themselves out, and I say this will work itself out. But we are going back again to first principles. To introduce the referendum is to introduce a principle alien to the federal system, which we are creating. Another reason given and I only deal with it because it struck me the moment it was put as one that might lead to some confusion—is this, that not only was it not likely to be brought into force, but that it would not be brought into operation unless there was some great conflict. We all know that if disputes between houses of parliament reached a stage, after successive dissolutions, when something of this kind was likely to have any operation, we should be in a very parlous plight indeed, We must also remember that men would be in a condition of inflamed mind—their political passions would be excited—and there would be a struggle amongst them for control and domination. Now, is that a time to put a weapon of this kind, a sword of this sort, into the hands of people in such a condition of mind and such a condition of passion?

The sight of means to do ill deeds makes ill deeds done.

You have only to put this weapon into the hands of a powerful government, a government that considers itself as resting, not upon the just principles of equality between states, but resting upon what they believe to be the clamour of a particular and more popular section of the community, and what might they not do? I am not very familiar with the ways and methods of politicians and statesmen in power who are driven to bay; but I know this: that any man who is driven to

Mr. TRENWITH:

A successful revolution would mean the revolt of a majority against the power of a minority!

Mr. SYMON:

The majorities my hon. friend has in view had better revolt now, and have done with it. Let us get it over. I object to come under a system of government in which I am always going to have this sword of revolution hanging over my head. I do not think it is going to be. The omens for this union are much happier than that. At any rate, I appeal to my hon. friends, whether they agree with me or not—I offer no reproaches of any kind, there
is a broad foundation upon which this contention may rest, as I have admitted, the domination of the large populations, and I appeal to my hon. friends whether it is not true that if we were face to face with revolution, an attempt to refer the question to the people of the larger states, would not intensify that revolutionary feeling on the part of the smaller ones.

Mr. TRENWITH:
It is proposed to refer it to the people of all the states!

Mr. SYMON:
I know; but what does it mean? It means that the smaller populations, to whom you conceded I use the word so as to be as moderate as possible equal representation in the senate, are not to have equal representation when it comes to be voted as a matter of referendum.

Mr. TRENWITH:
Why should the division be by states?

Mr. SYMON:
We have made that division.

Mr. HIGGINS:
Why should the questions, which may arise to bring about deadlocks, be only between states and states?

Mr. SYMON:
My hon. friend means why should the question be one between the states. I hope there will be no such questions. I hope that the differences will be, if at all, as they are now, in the harmless, though sometimes irritating, disputes that take place between the two houses, and upon similar subjects to those which have been alluded to with so much interesting detail by my hon. friend, Mr. Deakin. But if the questions are not likely to divide states from states, why do you want the referendum to coerce the smaller states?

Mr. TRENWITH:
Not to coerce the states, but to settle the question!

Mr. SYMON:
If the question in dispute is not one that is to divide the states, surely if you send the senators back to their own states, and they are brought in touch with the people of their states, you get all you want? If I could see that this was to be limited to questions of mere social legislation, or many other matters that my hon. friend will remember much better than I could suggest them to him, that would afford a conclusive argument for ceasing the discussion of the referendum. You do not want it. It is only where the cleavage of states comes in that there is any necessity for overpowering the less populous centres by the more populous centres.
The Hon. S. FRASER:

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Mr. SYMON:

With great deference to my hon. friend's very large and wide experience upon all these matters, if the bill in dispute is not one that divides the states from one another, I can see, even from his point of view, no hope whatever in the referendum. If it is not a question that divides the states, but is some mere matter of what I might call, if I may so express it, municipal politics, then there is not likely to be any difference between the pressure which the states will bring upon their senators who are against a question of that kind than the pressure that would be exercised if you submitted the question to a referendum of the entire people as one body. I have referred to a point which has been made in regard to the referendum and-responsible government. I say that the referendum is entirely inconsistent with responsible government. I could understand the referendum being adopted in America and possibly it might be a solution of many of the difficulties and troubles which afflict the process of government in the United States. I could understand the referendum being adopted there, because what happens there is this: You have a president an irresponsible president elected by the people, through their conventions, for a term of four years. He may be in a position of utter discord with both houses of Congress for the whole four years. Subject to the majority power, with which I need not trouble hon. members, he may veto their measures, he may hamper their legislation, he may hamper the administration they desire; but there is no means whatever of bringing the President into touch with the people, or of bringing the influence of the people to bear on the President directly. 

The Hon. I.A. ISAACS:

Would not the referendum there equally apply to state rights as it would in Australia?

Mr. SYMON:

Undoubtedly it would. I am dealing with the matter of responsible government, and I say that there is no place for the referendum under the system of responsible government. Subject to the matter with which I have already dealt, and to which I do not wish to go back, there might be a place for it in a federal system like that of America, where some crucial measure is supported by both houses of Congress, and where the President maintains an obstinate opposition to it.

The Hon. I.A. ISAACS:

They have their remedy!

Mr. SYMON:

They have a remedy, of course; but I am not dealing with their remedy,
which is a two-thirds vote. I say that the referendum would not be inconsistent with a system like that, in order to bring the president into touch with the people. On the other hand, the President maybe in absolute harmony with the people, and the two houses of Congress may be in opposition to the will of the people. Some question may suddenly arise, and then could understand having the referendum to bring the two houses of congress into harmony with the people, and to prevent them from using their two-thirds vote in order to secure the passing of a law to which the president, backed up by the people, is opposed. But those are speculative questions with which I do not propose to deal. All I suggest for the consideration of hon. members is this: So far as I am aware, the referendum cannot in principle co-exist with any system of responsible government, and if you give the referendum you weaken responsible government, and you destroy what lies at the very foundation of it the responsibility of the ministry to the popular chamber; and this in itself, as we intend to have it under this constitution, is a magnificent safeguard. I say that is a long stretch towards the referendum which my hon. friends advocate, because the ministry are responsible to the house of representatives. We have taken pains in regard to the money portions of this bill to secure, as far as possible, that shall be the case, and having the ministry of the day in the people's house, we have made a long stride; we have made a vast concession in putting them in that position for the purposes of the federal government. More than that, I venture to say that the referendum is neither required, nor is it consistent with the position in which we now stand. The only other remark I would make about the American Constitution is this: Of course we are not called upon to imitate that or any other constitution, but we must remember this put so forcibly, I think, by my hon. friend, Mr. McMillan, this morning that the senate, under the American system, is a check on the president. Here we have adopted responsible government. Under this system it is the house of representatives that really will govern the nation which we are about to create. It is the house of representatives that will be the president, in point of fact, of this united community; and if we are to have a bi-cameral system at all, we want some sort of check on them not an ultimate check. I do not think that hon. members pretend it is, or offer it as, an ultimate check on general legislation. I think that it would be the bounden duty of the senate to offer resistance to the death to anything like interference with state rights, but on general legislation they would not do so. They would be a body of reasonable men, but their function would be none the less to exercise that check when called upon to do it.
Mr. TRENWITH:
There is a difference between a check and an insuperable barrier!

The Hon. I.A. ISAACS:
Check and checkmate!

Mr. SYMON:
Exactly. You have taken all the powers from the senate which put it in the position of being able to checkmate, and I am sure that my hon. friend opposite, who is as reasonable and as open to conviction as any man I ever met, will see that, at any rate, it is worthy of consideration whether it is at all likely that on a subject of general legislation, as to which alone it is contended the referendum may be applied, there would be the slightest likelihood of a body of men such as those who will hold a position in the senate on the same franchise as the other house imposing an insuperable barrier against the requirements of civil government and of advancing progress. I myself do not think they would. There is only one other word that I should like to say. My hon. and learned friend, Mr. O'Connor, said that if the difference between states is of such a serious character, the same public opinion that is in the states will send back the same people, and my hon. and learned friend added and that establishes the difference between his position and the one which the hon. member, Sir Graham Berry, has so clearly put to me in the course of the remarks I have been making, my hon. and learned friend contemplates that the only case in which the referendum would apply, would be where the conflict is between states.

The Hon. R.E. O'CONNOR:
I did not say that it would apply, but that it would be absolutely necessary!

Mr. SYMON:
If my hon. friend concedes that it is only when it would be absolutely necessary that it would apply, that conclusively shows that these are certainly the cases in which it ought not to be applied. My hon. and learned friend admitted that it was unification.

The Hon. R.E. O'CONNOR:
As to these questions!

Mr. SYMON:
It is unification of state interests, which are the only interests to which it must necessarily be applied. If it is unification of state interests at that stage it is worse than proportional representation, because it is destructive of the interests which it is our bounden duty to conserve at all hazards. As I am reminded, if it is unification on those great occasions, it must equally
be unification in principle as to everything which can be the subject of the referendum. I put it to my hon. friend, plagiarising for a moment an expression of which the hon. member, Mr. Higgins, has almost the monopoly, if that is not the logical conclusion of his argument? These, I think, are the main points which are involved in this very serious question, because to us it is serious in the last degree. You have heard a declaration, Mr. Chairman, as to the course that will be taken by one hon. member, and I think I may say, speaking in sorrow and not in any spirit of threat or menace, it is the course which may have to be taken by each one of us. You have given us a concession, if you prefer to call it a concession, we are willing to accept it on your own phrase, although we claim it as an absolute right and having given it to us in that spirit we say to you, do not take it away from us in any indirect fashion. Do not "keep the word of promise to the ear and break it to the hope," for that will be the result of introducing this amendment with regard to the referendum. The federal system, as my hon. friend, Mr. McMillan, pointed out this morning, is no doubt, an artificial system; but artificial though it may be, it is the product of a highly cultivated political intelligence. If we adopt the referendum we are absolutely reactionary. We are going back to something which may have had application and efficacy in those archaic times to which the hon. and learned member, Mr. Barton, alluded with so much effect in the Adelaide session of the Convention; but it is absolutely inapplicable to the present condition of things. It is wholly destructive of the equality of representation which we are to hold to in the fabric of our constitution. I ask all hon. members at this stage not to insist upon an amendment which will make the whole business a hideous unreality. You may succeed I do not know that you will not in carrying the amendment; but it will be the most serious blow to federation yet struck. "Shall it be love or hate, John?" wrote Russell Lowell. "It's you that's to decide." It is you the large colonies who must decide, shall it or shall it not be federation? If you carry the amendment if you embody in the constitution the principle of the referendum. I do not envy you your retrospect in the days to come. I do not envy your triumph one atom. I prefer, myself, the glory and the honor, as I claim it to be, of having resisted it to the very utmost of my power.

The Hon. Sir J.W. DOWNER (South Australia)[4.26]:

I want to add a few words to the remarks which we have just heard. Not that I feel called upon to
want, however, to add a few propositions, which are rather mathematical in their character, and which will show the absolute monstrosity of the proposal now before us. In our internal concerns we consider that a parliament elected under manhood suffrage is not enough, and on this every colony agrees. No colony would have the least idea of giving up its own government to the vote of the bare majority. This is evidenced even in the districts which represent the more popular house. Locality there is recognised to have an importance superior to mere numbers. We are establishing now a government superior to that of any local government. We are giving it an authority far greater, and we are depriving the local authority of its control over its most fertile source of revenue, that is, the customs. We are giving the central body power to levy direct taxation, and it is proposed to establish it upon a basis which no colony would agree to in relation to its own concerns, though they are less important. True, the two houses of the federal legislature are to be elected on the same popular basis; but the analogy should, nevertheless, be preserved, and is preserved in the bill as it stands. It is true that there is no property qualification; but there is a state qualification which really takes its place. The senate represents the property and the people of each state; the house of representatives represents the people of the whole commonwealth.

Mr. LYNE (New South Wales)[4.28]:

After the solemn warning which we received a few minutes since from the hon. member, Mr. Symon, as to what the effect of carrying the proposition under discussion would be, I think that every member of the convention must and will weigh well the vote which he proposes to give. There is no desire, I take it, on the part of any member of the Convention to place a stumbling block in the path of federation. The hon. member, Mr. Symon, says that if the amendment is carried it means goodbye to federation, at any rate for the present. I direct attention to this remark because on a previous occasion when the hon. member, Mr. Higgins, and a few more of us took a certain view upon another question, we heard from other hon. members that if our view was taken it would be good-bye to federation. I would direct attention to the very strong, brave, and ardent fight which the representatives of the smaller states are making for their position in the federal parliament. That fight commenced from the earliest inception of this question in Adelaide. Whenever the question of state rights is considered and that is the question we are dealing with now we have the same legal duel on the part of the individuals favourable to the predominance of the smaller states. One thing I cannot conceive is that the members of the Convention who voted against proportional representation will now vote to take away the power of the senate by means of the
referendum. The words that have fallen from hon. members, especially from the hon. member. Mr. Gordon, have sunk deeply into my mind. Those were: that, if this proposition were carried, you would destroy absolutely the power of the senate to thwart the representatives of the people.

The Hon. J.H. GORDON:
I did not say that!

Mr. LYNE:
Not, perhaps, in the same words; but he said, in effect, if you take away the power of the senate to thwart, at any rate, the house of representatives, to successfully oppose the house of representatives; and that must be to successfully thwart the whole of the people.

An Hon. MEMBER:
The senate represents the whole of the people

Mr. LYNE:
No; it only represents a number of proportions of the people, and not the whole. As I was saying, the representatives in this Convention who have continuously contended against equal representation in the senate are now prepared, at least some of them, by one vote, to take away all that was underlying equal representation in the senate. That was the power of the senate to thwart the members of the house of representatives. I must acknowledge that, when I first stood for election to this Convention, my ideas of federation were not so advanced as they are at the present time.

The Hon. J.H. HOWE:
There is still room for improvement!

Mr. LYNE:
Improvement so far as the hon. gentleman is concerned. I admit the breach between him and myself is getting wider. I then scouted the idea of anything approaching unifications, but as the debates proceeded in Adelaide, as I had time to think what the result of federation on the lines of equal state representation would be, my ideas have converged very much in the direction of some sort of unification. As the hon. member, Mr. O'Connor, said in his concluding remarks upon this question, the referendum in the manner in which be proposed it simply means in the end unification.

The Hon. J.H. GORDON:
So it does!

Mr. LYNE:
And in the end it does mean unification. It means that in any particular
matter that may be brought up upon which a dispute between the two houses may take place, you are filtering that, you are squeezing that, according to the present proposals, through a number of sieves with very small meshes I acknowledge, but in a very cumbersome way you are squeezing that through the meshes until you come to the last proposal, if you cannot get a provision in any other way to prevent deadlocks to refer the dispute in a uniform manner to a mass referendum of the people. That being so I am sure that those who know my views pretty well on this question, will well understand that, as far as I am personally concerned, I intend to vote for the mass referendum. If that is carried and I should like to see it carried not with the filtration that is proposed from one stage to another, but I should like to see it almost direct to the people if necessary, I do believe that this great colony may accept the federation bill as it will leave this Convention. But unless some such proposition is carried, I do not think it will be acceptable to the people of this state, although it may be acceptable to the representatives and the people of the smaller states. There are several methods proposed to get rid of deadlocks. As I pass along, let me say that I discard at once the arguments that have been used by a number of speakers, especially by the hon. member, Sir John Downer, when he said it was scarcely possible in the future under this bill to imagine that there would be a deadlock between both chambers. I do not think we have yet arrived at the millennium as far as politics are concerned, and as far as human nature is concerned in this particular respect. I think that the present is the time when we should lay the foundation in our constitution, not for what may take place today, but for what may take place hereafter in the political conflicts that may and will arise between the two houses. I think it is altogether wrong to suppose that by the absence of the referendum, or any other provision to prevent deadlocks, we shall prevent, as the hon. member, Sir John Downer said, the possibility of the two chambers ever thinking of allowing a deadlock to take place. I think quite differently. I think if you create machinery that will prevent a deadlock you are much more likely to prevent any of these questions ever being sent to a referendum than you will be if you have no such machinery and a state of things where one house can by its majority, but by its numerical minority, override the wishes of the other chamber, I think, therefore, we can cast that on one side, and we can look at this from a straight forward point of view, and arrange our houses not for the present time but for forty years, fifty years, one hundred years, or in centuries afterwards when the passions of the people arise, when we shall have a large proportion of the population
thwarted by a small proportion of the population united under equal state representation. If anything could possibly bring about a revolution, it would be so brought about. I think it was stated by the hon. member, Mr. Symon, that it was the domineering power of the majority which brought about a revolution on the part of a minority. I think it was well interjected by the hon. member, Mr. Trenwith, that a revolution was brought about as a rule by the minority thwarting the will of the majority. That is what we will allow to be brought about if we carry what is now proposed by some hon. members.

The Hon. J.H. GORDON:

The hon. member was describing a successful revolution!

Mr. LYNE:

I think I may say that we do not want to see in future generations either a successful or an unsuccessful revolution. We want in this democratic country to lay the foundation of a constitution on which ultimately the voice of the people must be heard and must predominate. If you frame any other constitution you may depend upon it you are laying the foundation of trouble that we little know of or heed at the present time. Whilst listening to the debates in Adelaide and here I have felt very keenly the depreciatory remarks made on more than one occasion, and which were applied principally to my hon. friend, Mr. Higgins, in consequence of his determined action, supported only by two or three, to avoid, if possible, the passing of equal state representation. I would ten times, nay a hundred times, rather that we had proportional representation in the Senate, than that we should have the referendum in the way proposed, and that we should have equal representation in the senate, and come, in fact, to the only resource open to us of trying to apply the referendum, to get rid of any trouble that may arise on account of equal representation in the senate. The hon. member who proposed this question had in his mind, as I had in mine, and as was clearly proved, that the hon. member, Mr. Isaacs, had in his mind, judging from his speech, a desire to obtain some solution of a deadlock in any crisis that might arise between the two houses in this federation. He said, I think, as other hon. members have said, if this were not carried it would alter his vote. I think the hon. and learned member, Mr. Deakin, said more than once, that he would not have given his vote in favour of equal representation of the states in the senate had it not been that he hoped to obtain some safety valve to which the people of the community might have access in case of the senate thwarting their representatives in the lower chamber. When the question of equal state rights was under consideration was the time to have decided whether or not you were going to have any safety-valve between the two houses, and not
the present time when the proposal is put forward by nearly every speaker opposed to the referendum, and it is acknowledged by those, every one of whom is in favour of the referendum, that it must and will absolutely destroy the people's state representation and the power of the senate. I could almost imagine myself voting against a proposal of this kind, coming as it does-

The Hon. A. DOUGLAS:

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Mr. LYNE:

I could almost imagine myself voting against a proposition of this kind, coming, as it does, when I have no other means to try to prevent equal representation, as I could imagine my hon. friend, Mr. Douglas, voting against equal state rights. We all know that he did not vote against equal state rights, that he has stood up in his stalwart strength and fought for his colony with his colours flying. I cannot say the same for all the "pure merinos" he brought from the other colony.

The Hon. A. DOUGLAS:

The hon. member does not belong to there!

Mr. LYNE:

I am happy to say that, being a native of the colony which my hon. friend represents, I have every kindly feeling towards that colony as I have towards himself.

The Hon. A. DOUGLAS:

To belittle it!

Mr. LYNE:

Not to belittle the colony in any way; but as the hon. and learned member, Sir John Downer, said yesterday, he is here, like every other representative, not only to represent the whole of Australia, but also to see that his own particular state is not unfairly dealt with. He is fighting for that purpose now. Every representative should be here to fight for that purpose. I honor the hon. member, Mr. Douglas, for the course he is taking, and that is why, if I did not take the course I have taken up now, I think the people of New South Wales should disown me. I feel strongly that of all the colonies, which perhaps in the future will become states, New South Wales is granting greater concessions than any of the others. She is the largest, the most populous, and the wealthiest of the group at present, whatever she maybe in the future. She has the most diversified minerals and wealth of all kinds; she has probably the largest tract of good land, extending right through her territory, and I unhesitatingly say that the key
she holds now places her in a position—and I believe she is prepared to do it to some extent under any federation which will be acceptable to the other states, to give more than all the other states put together. Although I am, perhaps, standing almost alone, as regards my co-representatives, on many questions, it is with a considerable amount of delight that I find them, according to the speeches which have been made so far, in accord with me on this particular point, and in accord with me in this way: that though they are prepared to give some intermediate filtering process through which all matters in dispute will pass, they will ultimately come down to the true bed-rock, to the true foundation which should underlie our constitution, and that is, an appeal to the mass will of the people. To find that my colleagues are in accord with me affords me very great pleasure, because I have, unfortunately, been almost isolated from them in my votes up to the present time.

The Hon. A. DOUGLAS:

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Mr. LYNE:

Quite so. The hon. member will admit, as other hon. members will admit, that we have come to the crucial position, to the crucial test of everything to the point on which the whole debate on equal state rights was centered. The greatest question, and the only question, I have taken up is one on which I feel I should not give away anything, whatever else may be given away by this colony. Although other matters have been boomed as important issues in connection with federation, I have felt, and I feel now, that they all sink into the greatest insignificance when compared with the question of equal state representation, or with the question of the referendum. Take your financial problem which was found so difficult to deal with I quite admit that it can be overcome. It may be overcome with some loss to one state or another, but it can be overcome. It will be overcome in a few years; whatever the loss may be for the first few years it will assimilate itself, and the low will disappear. Whatever arrangements you may make at the present time, whether you leave the problem to the federal parliament, or whether you solve the problem yourself, that question on which we had so much debate, and to which some hon. members attached great importance, the power of the senate to amend money bills, I look upon as an insignificant question compared with the question we are now discussing. Whether that power is or is not given to the senate will not be any greater disaster to the states, when you have some other power which will override any inequality or any injustice which may be done. When you come to the proposed inter-state
commission to deal with railways and rivers I admit that I am opposed to some matters connected with that proposal the difficulty will be overcome; time will assimilate everything. But when you come to the position we are in now, which arises with equal state rights, I unhesitatingly say that you have got to the bed, on which must rest the constitution you are going to build. When we come to go to the country and I for one do not desire to make any threats as to what this or that colony will do, not even to say so much as the hon. and learned member, Mr. Symon, said just now when he issued those words of warning as to what would happen if there is not some very strong, stringent proposal made, under which there can be a dissolution of the senate and a dissolution of the assembly, I do not think this of very great value. It is only one of those little steps down to a referendum; because, when you give the power to dissolve the senate, to whom do you give that power? You give that power to the ministry of the day. If you give that power, to whom do you send them back again? You send them back to the states; and if they truly represented the states when they gave their first vote, they will be returned again with a quadruple power to carry out the course of action which was objected to, and which caused them to be sent to ask for a further vote.

An Hon. MEMBER:
That is why the hon. member rejects these proposals!

Mr. LYNE:
No; I reject them as an absolute conclusion; because that is worse than giving no dissolution at all as regards the senate. It makes the senate still more powerful.

An Hon. MEMBER:
That is what we want!

Mr. LYNE:
I know it is. The hon. member is straight. There is nothing crooked about what he says. He strikes out from the shoulder every time. I say that under those circumstances you would be making the senate still more powerful than it would be without a dissolution. As has been mid by some representatives, time might be allowed to heal these matters, as it does in most cases heal any question of deadlock which may arise between the houses of the local parliaments as now constituted. If there were no dissolution of the senate that might take place; but if there is an appeal to a section and a small section only—and they send back men who thwarted the representative chamber, then you have the deadlock not only as it was before, but intensified to a great extent; and although it is the proposal of
some representatives that that should come in first, and the referendum afterwards, I should much prefer to have the referendum. That is why I say I should like to see proportional representation of the states instead of the referendum. I think proportional representation of the states would be better for the smaller states than the referendum. Still, I say I am prepared to accept the referendum after it filters through these various channels. There is one subject upon which I wish to say a few words. There are some here who have had the

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temerity to my that, because, I took a certain stand on the question of equal state rights although I have taken no antagonistic stand to this Convention or to the federation of the colonies, except on that one principle I am an opponent of federation. Let me say that I do not think there is one in this Chamber at the present time who more, heartily and earnestly desires to am a union of the Australian colonies than I do. But I feel that I am sent to the Convention not to accept federation at any price. I am here for the purpose of seeing, as far as I. think I am justified, that the colony of New South Wales is not placed in an improper position in this federal compact. No matter what may be said here, I know what the people outside will say. My actions will be properly construed by theme outside the Chamber; if not by those inside. If we can once get rid of the difficulty which has cropped up now if this motion is carried you will find no one more strongly taking the bill in hand, and in going through the country and supporting it at every possible point, than myself.

Mr. TRENWITH (Victoria)[4.55]:

The question we are now considering has, I think, justly been described as of extreme importance. It seems to me that no question from the start to the finish of the bill is so important both in itself; and in connection with its, influence upon the prospects of the acceptance or otherwise of federation. It is meet, therefore, that it should be carefully and fully considered by the Convention. The points which have been urged against the adoption of some means of settling disputes between the two houses are, first of all, that there is no necessity for it, that the disputes between the two houses have shown a capacity for settling themselves as far as the history of the colonies is concerned; but, further, that it is anti-federal, that it gives the larger states the power of dominating the smaller states. This seems to me to bring us to the consideration not so much of what is or is not federation, because this is a point upon which men may differ very materially; but it brings us to the question of what we require, and what are our necessities. That consideration, it seems to me, necessitates a brief review of the position of these colonies. In the early stage, this continent
was governed under a system of unification from Sydney. The outlying parts found this form of government irksome, because of the distance they were from the seat of government, and the impossibility of knowing at the seat of government adequately the requirements of the outlying parts. Consequently, separation took place, and the colonies developed, under this system of separate independent government, a degree of considerable importance; and, as they increased in importance, they discovered there were questions, important to them as colonies, that they could not satisfactorily settle singly. Therefore, there arose the necessity for common action, not with reference to all the forces of government, but with reference to important governmental questions. What does that involve? It seems to me to involve for these purposes—the purposes that the states cannot themselves singly settle united action; not a united action from which anyone or any number of the states can withdraw when it seems to them desirable; but, once having admitted that certain points can be better dealt with by the whole than by part, it seems to imply for these purposes unification. It seems to me that whether we call it federation or not, we require for national purposes a strong unified form of government. Our early experience taught us that unification for all the purposes of government was not desirable, and thus there is in our midst, and in all the colonies, a strong determined feeling that while we have federation we must still maintain the sovereignty of the states. There are some who urge that the sovereignty of the states for state purposes necessarily implies the sovereignty of the states in larger national questions. I have no hesitation in expressing the opinion that state rights can only be preserved, the sovereignty of the states can only be preserved, by handing matters over to the federal parliament which cannot be dealt with by the states themselves by making the federal objections as few as possible, but having decided what is federal, leaving the federal power sovereign with reference to that. Thus we create two distinct governmental entities. We leave sovereign states with power to deal altogether apart from federal interference with such questions as they refuse to hand over. Then we create a federal power sovereign within its own realm, competent to deal without the interference of the states as states with questions that are handed over to it. Any other form of government will not give us what we require as shown by a review of the history of our colonies. Having in view the influence of this proposal upon the possible success of this federal movement, I should like briefly to review the attitude of the people of Australia with reference to their rights and powers as citizens. In each of the Australian colonies we began with a comparatively restricted franchise, and we developed a system of plural
voting. In several of the colonies the franchise has been made complete, unrestricted, and plural voting has been abolished; thus we see the tendency is to demand in the states equal rights as citizens. There can be no disputing that that tendency is growing. It has been recognised that that tendency is growing, so that the principle of manhood suffrage, and the possibility of adult suffrage have been placed in this bill. Now, let us look at what we are doing. We are creating a dual citizenship, a citizenship which makes a man a citizen of his state and a citizen of the commonwealth. Experience has shown us that the citizens in the state will not brook unequal citizenship-they will not brook one voter having more power than another voter. We have acknowledged that to be so by creating, with reference to the election of senators and members of the house of representatives equal powers to the states within their states. Now, have we any right to assume that when we create another form of citizenship the commonwealth citizenship the same man who would not brook unequal citizenship in the state will submit to unequal citizenship in the commonwealth?

The Hon. H. DOBSON:

It is a dual concern!

Mr. TRENWITH:

I am dealing with the true form of citizenship. From the inception of the commonwealth, if we are successful in establishing one and it depends largely upon whether we deal wisely or unwisely with this proposal whether we shall be successful when we have established the commonwealth, every man inside the commonwealth, in addition to being a, citizen of a state, is a citizen of the nation that is created out of this effort.

The Hon. H. DOBSON:

You want the citizen of the state to be merged into the citizen of the nation!

Mr. TRENWITH:

I want him to retain his dual position; but, in relation to it, to maintain a proper principle of equality with each other citizen. As a citizen of the state equal with any other citizen of the state, and the citizen of the commonwealth equal with any other citizen of the colony.

The Hon. H. DOBSON:

But is he to merge or not?

Mr. TRENWITH:

He is not to merge. The hon. member will see that I am speaking under difficulties. It is only the great importance of the question that impels me to express thoughts that seem to me. to be
weighty and worthy of consideration, and I will ask the hon. member not to interrupt me. The hon. member asks again is he to merge. I say no. The citizen of no other state can influence him in any way within his state. If proper provisions are made, he can have within the commonwealth equal power with any other citizen in any other part of the colony; but unless some other provision as has been indicated is made, a citizen in one part of the commonwealth will exercise eight or nine times as much influence as a citizen in another part of the commonwealth; and I respectfully submit that, in view of the growing democracy, the growing democratic feeling, the people of Australia will not submit to a form of government that perpetuates plural voting in that way. The people who have been engaged in fighting plural voting, in wiping it out stage by stage until at last in some states they have completely obliterated it, will not subscribe to a constitution that reinstitutes it in an extremely objectionable form. And I submit that it is plural voting to give to one vote eight times as much power as another, just as much plural voting as to give to one man eight or nine votes to the one vote of some other man. I am sorry that the representatives of South Australia are not present in the chamber to any extent? There is one representative of that colony here, but I am afraid that he is one of those who are opposed to manhood suffrage unadulterated, and to female suffrage unadulterated, therefore my argument does not appeal to him with such force as it seems to me it ought to appeal to those who claim to be liberals in the South Australian Parliament. They there have demanded equal powers for every adult citizen, and they are by their action here demanding more than equal power, greater power, for some citizens in the commonwealth than for other citizens. With reference to the question whether the means of obviating deadlocks is necessary or not, it seems to me not necessary to demonstrate that there is a danger of deadlock so much as to demonstrate that the people are afraid of deadlocks; because, after all, suppose the fear is only vague and shadowy, that it has no substance, that the thing is not at all likely to occur, that is altogether unimportant if the people be afraid that a deadlock will occur. The history of these colonies has shown, times out of number, that legislative action which the people have desired to take has been frustrated by the action of the second chamber, and with this knowledge before them of the effect and action of the second chamber, the people think there is a necessity for some mechanical device to settle disputes when they occur. My hon. friend, Mr. Symon, said that disputes of this character fizzled out. Now, I am at a loss to understand, exactly, what he meant. It is true that they cease to be acute, but they may have succeeded in frustrating the will of the people, if
legislation has been proposed in accord with the will of the people; and if by the action of either party, or both, effect has not been given to that will, it is of no consequence that there will have ceased to be an acute dispute. The consequence to the people, is that their will has not been made law; and that seems to me an extremely important consideration. Altogether unimportant is the fact that the attitude of fight between the two houses has fizzled out; but extremely important is the fact that the people's will has not been embodied in the statute book of the land. If the hon. member asks for instances of that sort there must be many of them within his own recollection. In our colony, at any rate, I know there is a strong feeling on the subject a feeling so strong that the people there will not vote for a federal constitution which does not provide some means of settling disputes between the two houses. I agree with hon. members that it highly improbable that they would occur frequently, but it is possible that they may occur some times, and whenever they do occur they injure the people whom both houses claim to represent. If a dispute occurred between agents and, surely both houses are agents of the people they represent what is the common-sense course taken but to refer the dispute which the agents had been unable to settle to the principals? That is what is sought to be achieved by the proposed referendum. I regret that my hon. friend, Mr. Symon, was not here when I was urging the importance of equal citizenship, and I will take the liberty to somewhat briefly urge it again. In South Australia my hon. friend, Mr. Holder, particularly, has been fighting for the equalisation of the franchise, the extension of it to every citizen, and the removal from it of preponderating influences on the part of any citizens. Now, in this federal compact we are creating a national citizenship as distinct from a state citizenship, and while the people have demanded equal citizenship in the state is it democratic, is it reasonable, to ask that there should be an equal citizenship in the nation? The proposal of equal representation in the senate does give eight or ten times more power on a national question than the vote of a citizen in one part of the nation or another. Then my hon. friend says, "What is the use of having this equal representation" call it a concession if you will "if you propose in the ultimate resort to nullify its effect?" I respectfully submit that it is impossible to nullify its effect. The only reason for which it can be justly claimed is that it is a shield against aggression without due consideration.

Mr. SYMON:
You take the shield away and expose us to the sword!

Mr. TRENWITH:
We make the shield effective for the reasonable purposes for which it is designed. The second chamber is, and ought to be, a house of review, of reasonable delay. It ought to have power to stand in the way and say, "No, not so fast-not so far; there are reasons we can show why the action you are taking is unjust, and we demand time to make those reasons apparent to the people of the commonwealth." But having had that time, having had the opportunity to make apparent the evils of the course which it is proposed to take, they have no right further to stand in the way of the wishes of the people if it becomes manifest that the wishes of the people, without regard to where they are located, are opposed to the action they have recommended. Then, in the ultimate resort, when a dispute has become chronic, or when it has become acute, when all reasonable means has been taken to settle it by argument and by concession, and when the dispute has to be referred to some other tribunal, that other tribunal ought not to be the people of the various colonies collected in groups, voting with equal power in each group without regard to the magnitude of the group; but, as the question is a national question, it should be referred to the nation in the person of all its units of citizenship. That, my hon. friend tells me, is subversive of responsible government. Will he pardon me for suggesting that that very principle exists in the Constitution of Great Britain. When a dispute arises between sections of the one house, the principle of the referendum is resorted to, and it is the base of responsible government. When the party entrusted with the government of the country find themselves out of accord with other sections of the house of which they are members, the constitution demands practically that they shall appeal from themselves, the agents, to the people, the principals, by means of a dissolution. Thus we have in the British Constitution

the principle of a referendum, not for the settlement of disputes between the two houses, but for the settlement of disputes between sections of one house. But we have in the British Constitution a safety-valve of another character. There rests in the Crown power, at any time, to increase the House of Lords in order to bring it, if need be, into accord with the people's will as represented in the House of Commons. My hon. and learned friend said, "Why introduce a provision which you say, when you urge its adoption, will never be used; if it is not going to be used, do not let us have it? " How can the hon. and learned gentleman say this, with his knowledge of the splendid working of the British Constitution, with that power to which I have referred always in existence and never used?

Mr. SYMON:

It is never visible!
Mr. TRENWITH:

Always visible, and at least once in the history of England completely effective. Surely, there can be no stronger argument for having a weapon, sheathed if you will, so visible that its mere presence will prevent the necessity of a resort to it. That seems to me to be a strong argument in opposition to my hon. and learned friend's view. I am not fit to discuss this question further. It is a very important one, and it is one on which I feel very warmly. It is one which contains within it the kernel of federation or no federation. My hon. and learned friend was right when, in his choice and eloquent diction, and in words of fervent warning, he impressed upon the House the importance of acting on this question with deliberation, with thought, and apart from personal feeling; and I say to him, and to those who think with him, "Take care; consider now whether it is to be federation or no federation, whether it is to be peace or war" to use the language of the hon. and learned gentleman, himself, as nearly as I can remember.

Mr. SYMON:

We are not going to war!

Mr. TRENWITH:

There may be a war on this question without a resort to personal violence. I am one of those who believe that it is nearly, if not absolutely, impossible for the people of this continent ever to go to war in the sense of physical violence. But we have often spoken figuratively of wars of tariffs, of wars of conflicting legislation on matters of common interests, and I say, having in view that limited and restricted meaning, we have to consider now whether it is to be peace or war; whether the small states, and I regret that we should refer to small or large states, and I venture to say that all the references of that kind were initiated by the large states—whether the small states will say now, "We are so determined to haggle, to bargain, to make good terms for our colonies, without regard to the federal spirit.

Mr. SYMON:

We want our rights!

Mr. TRENWITH:

That unless we get equal power in the government of the colony, whether we have twenty people or 1,000,000, we will not federate. Then I say the millions of people will be forced, in self-defence, in defence of their rights, not with the object of making a good bargain, but as trustees for posterity because they dare not, if they are honorable men, band over a heritage of slavery to their descendants.
Oh!

Mr. TRENWITH:
It is easy to laugh and to say it is the other way about, but in South Australia, as my hon. friend, Dr. Cockburn, has said, it was slavery to give one man two votes and another man only one vote. That hon. gentleman has fought under the standard of democracy until he, and those who struggled with him, have succeeded in wiping out that form of slavery in his state.

Mr. SYMON:
They did not wipe it out, it was wiped out long before then!

The Hon. Dr. COCKBURN:
One man one vote is founded on liberty!

Mr. SYMON:
We are the one country of freemen on the continent!

Mr. TRENWITH:
I thank my hon. and learned friend for that term. There is one colony of freemen on the continent. Why? Because every voter in South Australia has equal power with every other voter. We are now going to create another form of citizenship, and we must create it under conditions that will maintain freedom to the citizens of the nation, as South Australia has obtained freedom for the citizens of the state. Therefore, I am justified in saying that we have a right to consider the people of the larger states must and will consider whether we shall hand to posterity a heritage of slavery or of freedom. If we vote for equal power to every citizen, we shall be making free people of the future Australians; if we vote for greater power for one citizen than for another, we shall be putting chains upon the legs of the citizens in the larger states of this commonwealth.

The Right Hon. Sir JOHN FORREST (Western Australia)[5.28]:
I am sure, speaking for myself, and for many others who think with me, nothing is further from our desire than that the hon. member who last spoke, or the colony he represents, should be subjected to any kind of slavery at our hands. There is no desire on the part of any one certainly not on my part to force any colony on the continent to enter into this federation scheme, but to leave it to do so with free choice and by the will of its people. For the hon. member to tell us that there is to be any slavery on the part of any one, is to paint a picture foreign to the mind of every one of us, and such as could exist only in the fertile brain of the hon. member himself. Now this proposal, which is so very important, or is considered so very important, to the larger colonies, did not occupy a very prominent
place in the discussions in this hall in 1891.

**The Right Hon. Sir E. BRADDON:**

Nor i

**The Right Hon. Sir JOHN FORREST:**

I was absent from the Convention when it was brought forward at Adelaide, and, consequently, do not know what took place. Certainly there was no great discussion upon it except to negative it, I think, in the Constitutional Committee. In 1891, I do not think the matter was discussed at all.

**The Hon. J.H. HOWE:**

You were only playing with federation then!

**The Right Hon. Sir JOHN FORREST:**

There was no attempt in 1891 to introduce a system to prevent deadlocks, and only to a very small extent in the early part of this year.

**The Hon. I.A. ISAACS:**

It was well discussed in Adelaide. In 1891, the delegates were not elected by the people.

**The Right Hon. Sir JOHN FORREST:**

The hon. member may make a good deal out of that statement; but I take it that the Convention of 1891 felt that there was cast upon them a responsibility, as representing the various colonies they came from, quite equal to the responsibility felt by us at the present time. I am willing to admit the argument used by some hon. members, or, at any rate, by one hon. member, that because this provision does not find a place in any of the constitutions existing in the world at the present time, that is no reason why we should not introduce it into this constitution if it is thought that it would be beneficial. But I take it that we who are against the proposal may fairly urge hon. members to consider that this provision does not find a place in the British Constitution or in any of the constitutions of the British colonies, neither does it find a place in the Constitution of the United States. Our contention is that this provision is not required. We believe that to provide a machinery for the settlement of deadlocks, which has not been found necessary in the past, will be to encourage differences which the ordinary procedure so well known to us all, so well known in the proceedings of the various parliaments of the British Empire, mutual good-will, conciliation, and common-sense will generally work out, and public opinion behind it will generally come to the rescue, and solve all the difficulties that are likely to arise. We have our own experience during the last thirty years on this continent, and with the exception of that struggle in regard to which
even an actor in it, who is here today and whom I am glad to see here has
told us that he regrets the part he took a struggle which we all admit now
should never have arisen at any rate, that is the judgment of the present
day, for it was an unreasonable proposition, an attempt to coerce with that
exception, there have been no differences of great importance, and
certainly none of recent date, which have not been solved by the two
houses; and I think that under this constitution, although something has
been said to the contrary, the chances of disagreement will be very much
lessened. Although the members of the senate will represent the states,
there will not be very many occasions when they will be called upon to
vote on what may properly be said to be state interests. Of course, the
members of the two houses will not always be in accord-no one desires
they should be, but I think that the chances are that there will be fewer
disagreements, and none which their own good sense and moderation,
assisted by public opinion, will not be able to overcome. I cannot help
thinking that there seems to be no end to the demands which have been
made by some hon. members, certainly by the representatives of Victoria,
or at any rate by those who are taking a prominent part in this debate. I will
say that there seems to be no end to the demands which have been made on
behalf of the larger states. We have given way time after time. Some hon.
members have now voted in a different way from that in which they voted
at Adelaide a few months ago, not because they have changed their
opinions, but in order, generally speaking as they have told me, that they
might further the cause of federation, and make it easier for the larger
colonies to place the matter in a favourable light before the electors. But
we also have the same difficulty in regard to the electors of our various
colonies as hon. members representing New South Wales and Victoria
have. Speaking for the colony that I represent, I say that amongst the
electors there is no great feeling in favour of federation. It will take a good
deal of persuasion, and it will take all the powers of argument that we
possess to commend it to the goodwill of the electors there; and unless we
are prepared to show that we have framed a really good constitution, and
that they will have their rights protected not that they are likely to be
invaded, as I said yesterday; I have no fear myself, but that is not the
feeling of the electors, who will want to see first of all that they are not
going to lose by it, and who will also want to know whether their rights are
protected, and whether they are in any danger of being over ridden by the
peoples of the larger states. We shall have more difficulty in our colony,
although it is small in population perhaps a great deal more difficulty than
those representing the larger colonies, because the spirit of federation has
not entered into the minds of the people there to the same extent as it has
here, and I would ask hon. members, who represent the larger colonies, to recollect that the difficulties are not all on their side, but that the difficulties are quite as great on the part of the representatives of the colonies having smaller populations. I do not like to say this, but I think I must: that if there is a fear on the part of the representatives or the people of the two larger states that they are to be coerced or over ridden by the smaller states—a most unreasonable proposition I think they had better federate themselves and leave us alone. If there is not to be mutual confidence, if we are to enter into this federation each trying to get the upper hand, each trying to coerce the other, each thinking only of himself, then the best thing we can do is to let the two larger colonies federate themselves and let us think about it later on.

An Hon. MEMBER:

The right hon. gentleman does not mean that!

The Right Hon. Sir JOHN FORREST:

Well, it seems to me that if the arguments to which we have listened today and yesterday really express the sentiments of the people of New South Wales and Victoria, there is a great dealing what I say that they seem to be indifferent whether the smaller colonies do or do not enter into this federation. That is an impression that has been gaining upon me day by day that there seems to be a desire on the part of the representatives of the larger colonies to distrust the people of the smaller colonies, and there also seems to be a spirit of indifference gaining ground as to whether we do or do not take part in the federation.

The Hon. E. BARTON:

Our people tell us we are giving you everything!

The Right Hon. Sir JOHN FORREST:

We have provided in the money clauses of the bill, as far as possible, to do away with any chance of deadlocks; we have provided against what are commonly called "tacks;" we have provided against many subjects of taxation being introduced in one bill; we have provided that all expenditure, other than that of the ordinary annual services, shall be introduced in a separate bill; and we have done everything we could-

Mr. TRENWITH:

You have tied the lower house at every stage!

The Right Hon. Sir JOHN FORREST:

We have done almost everything possible to prevent difference of opinion arising between the two houses. I venture the opinion it is merely an opinion to be taken for what it is worth—that when this constitution gets
into working order, the dissolution of the house of representatives will be found to be almost impracticable. I believe that, in the working of this constitution, it will be found that the house of representatives when once elected will run its course, and that the appeals to the people of the whole continent will very seldom follow a premature dissolution of the house of representatives. I think that in the practical working of the constitution it will be found that we shall have to depend for an expression of the popular opinion at the ballot boxes largely upon the occasion of the periodical elections, and that the instances in which ministers will recommend the dissolution of the house of representatives will be few and far between. Ministers will not find it so convenient to appeal to the people of the whole continent as it is to appeal to the people within a circumscribed area in which public opinion is to a large extent, dominated by the newspapers published at the seat of government. When we have a federated Australia, it will not be the newspapers published at the seat of government which will influence the electors, it will be the press of the various colonies, and the result will be very different. I take it that all these precautions for preventing deadlocks are unnecessary, and may be found mischievous, because they will encourage differences rather than put an end to them. The people of the larger colonies have nothing whatever to fear from this federation. If there is any cause of fear it should exist on the part of the colonies which are situated far away from the seat of government, and from the influences which surround the meeting place of the parliament. Another idea has occurred to me. If you give the power to dissolve both houses the double dissolution as it has been called allowing the government of the day to appeal to the constituencies whenever a conflict of opinions occurs, it may, as time goes on, be used for a very different purpose from that for which, it is being advocated at the present time. I can imagine that a government, which felt itself somewhat weak, or which thought that an occasion was an opportune one for an appeal to the country, might encourage a conflict rather than try to avoid it, in order that in this way it might be able to recommend a dissolution of both houses, in the hope that that would strengthen their following, or, at any rate, give it more time. I do not say that that is what is likely to occur; but knowing as we do that the constitution of the United States of America has been used for purposes foreign to the intentions of its framers, you may depend upon it that as time goes on every possible device will be used to gain political influence and power by taking advantage of the form of the constitution. I did not intend to make any observations upon this subject, because the position has been so well put by the hon. member, Sir John
Downer, and, to a certain extent, by the hon. and learned member, Mr. Symon, though I do not altogether agree with what was said by him. I thought, however, that, coming as I do from one of the smaller colonies, and the colony which is furthest away, it was necessary for me to make these few observations, in order to place the views of Western Australia, in regard to this matter, before the Committee.

[The Chairman left the chair at 5.45 p.m. The Committee resumed at 7.30 p.m.]

The Hon. J.H. Howe (South Australia)[7.30]:

I make no apology for addressing the Convention at this stage. I am sure that those who are assembled here will admit that, in Adelaide, I was always willing to listen, and to record my vote in favour of what was just and right. I do not pretend to have the ability or the eloquence of the speakers who have preceded me; but occasion sometimes demands from a man that he shall not remain forever a dumb dog. After having this question of state rights fought out in a fair fight, I cannot understand that those who say that they have conceded certain rights to us, or that they have made certain sacrifices, should now try by an insidious amendment to take those rights from us. So far as I am individually concerned, I do not recognise that any concessions have been given, or that any sacrifices have been made by the larger states. I repudiate the idea altogether. I say that, if it were not that we believed that the principle of equal state rights would be conceded, the smaller colonies would not have come into the Convention. For many years we were told that there was a hon in the path of federation; but, now that we have been enabled by our united action to remove that animal from our path, what do the larger states invite us to do? They ask us to take part in the creation of a monster more desperate than the hon apparently was they ask us to destroy our state rights!

The Right Hon. G.H. Reid:

A monster!

The Hon. J.H. Howe:

Yes, a monster, a Frankenstein. They ask us to destroy the rights which we prize so much, and which they say that they have, although reluctantly, conceded to us.

The Right Hon. G.H. Reid:

What are they doing to you? What is the proposal?

The Hon. J.H. Howe:

I will come to that in due time. I do not profess to have the command of language with which the right hon. member is gifted; but I have a little judgment, which I tonight will in a manly way make use of. Of

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course, the lay members of the Convention have, as a rule, allowed the eminent men who have had a legal training to take the leading part and the pride of place in framing the constitution. That is only right and proper, because we recognise that it is a work for constitutional lawyers to perform. Consequently we have been content to be guided by their great wisdom and experience.

The Right Hon. G.H. Reid:
If I had only the hon. member's height!

The Hon. J.H. Howe:
What the right hon. member wants in height he makes up in breadth, and I have no doubt that if the scale were brought to bear upon us both his would be the preponderating weight. That is the position he wants his colony to obtain in federated Australia. I have been an earnest federationist for many years, and, in my humble way, many years ago I addressed audiences upon the subject of federation, with all the force and vigour that I could command. Like all loyal Australians, I conceived that it was the destiny of the colonies to be united, and I have always been willing to give and to take as much as I possibly could in order to bring about a federation or a partnership which would be just to the whole of the people of Australia. Much as I desire federation, I cannot, on behalf of the colony I represent, accept a manifest injustice. I imagine that we have joined so far in what we may call a fair partnership, in which there will be no dominion and no undue coercion. On those lines, I am perfectly willing on behalf of those I represent, to give my voice for an equitable federation. But a national referendum in connection with a deadlock is simply giving away the rights of the smaller populated states. I am quite prepared to concede this: that there shall be some safety-valve, because without a safety-valve responsible government cannot exist. Although we think we have got equal representation, so far as we have gone, we have not got actual equal representation. No one knows that better than the Right Hon. G.H. Reid. To have equal representation we should have equal power in the house of representatives; but for the sake of federation what have we conceded? We have no right of initiation; we have abandoned that for which we fought so earnestly the right of amendment.

The Right Hon. G.H. Reid:
You have the right of initiation!

The Hon. J.H. Howe:
Not in the case of money bills. The power of the purse is the golden key which rules everything and opens every door. We know that we have allowed these things to be frittered away, and for the sake of federation and for the sake of entering into a brotherhood we have actually departed from
the first position which we took up. After we have done that, some hon. members want to bring in these insidious amendments, so that the states shall have no independent life. Since I joined this Convention in Adelaide, that fair city of the south, where the people are as free as their air is pure, and whose freedom I wish to maintain, I have undergone the difficult task of fighting an election. I have contested an election over an area of country twice as large as the whole area of New South Wales. I admit that the greater part of that district is almost unknown.

The Right Hon. G.H. Reid:

I do not believe it has been surveyed!

The Hon. J.H. Howe:

A great deal of it has not been surveyed. But I just wish to point out the bearing of this question of equal representation which hon. members are trying to fritter away by all the means that the human intellect can devise. I have contested an election in a district twice the area of the whole of New South Wales, and containing great possibilities.

The Hon. J.N. Bruncker:

What population?

The Hon. J.H. Howe:

I do not know exactly the population, but I can tell the hon. member the number of those who are entitled to the franchise. It is an electorate with over 30,000 electors. Consequently, when I hear the representatives of the mother colony talking about concession and sacrifice, and I look at only a portion of my district, and the great possibilities which exist there, no wonder that I repudiate any sacrifice or any concession that the mother colony chooses to make us believe she has conceded to us.

An Hon. Member:

The senior colony!

The Hon. J.H. Howe:

I prefer to call her the mother colony. I recognise the greatness, the immense possibilities of your country. You have all within your territory to make it an independent and self-existing nation. You have immense coal measures; in fact you have all the mineral wealth that the people of any country could desire. But at the same time and this brings me to a point which I do not think has yet been touched upon—we pride ourselves upon our position, we pride ourselves upon our advancement; but, would it have been possible to have advanced as we have done within the last one hundred years if we had not been protected by that grand flag which is...
supreme over every sea? Is it not a recognised fact that we are passing laws imposing restrictions upon great, and mighty, and populous nations? Do we not say to Japan and China, and other eastern nations, "You shall not do so and so." And what is their position today? They have to submit. Will that submission be for long? What is the old country doing? Why, sir, she is compelling, at her own sweet will and pleasure, these very people whose goods and people we wish to exclude to open their ports. Depend upon it, sir, those who watch passing events can see the dangers that will fall on this country if we remain divided. I care more about this federation for defence purposes than I do for any other purpose you can name. It is necessary for our national life, for our well-being, for our safety, that Australia should federate, even if it be only for defence purposes. We see Russia, that great populous country, with 80,000,000 of people, with a large army of soldiers who we know cannot be surpassed by any other nationality than our own, and we have evidence on every hand how the Russians have fought on every field; we see France and Russia embracing each other, marching hand in hand, who not long ago were in deadly strife, and covered many a hard fought battle-field with the corpses of tens of thousands of men; we see these mighty nations, for their own defence, marching hand in hand together, and jealous of the supremacy of England on the seas, and jealous of her commerce. It is not long ago since we had evidence of this. I think it was my right hon. friend, the Premier of New South Wales, who sent a cable to the British Government, when England was almost at bay amongst the nations of the earth, owing to a little international squabble; and it is these little international squabbles that often bring a mighty war in their wake. I was very pleased that the right hon. gentleman sent that telegram to the Prime Minister of England, offering assistance to England in that great emergency.

The CHAIRMAN:

Does the hon. member think this has anything to do with the referendum?

The Hon. J.H. HOWE:

As you, Mr. Chairman, have put it to me, I think it has a great deal to do with the matter before the Committee, because it opens up the whole question of state rights; and I am trying to show that, although I am in favour of federation, I will not be a party to giving away the separate existence, as I may term it, of each state. I am trying to show that federation is justifiable, even for defence purposes alone; and I think I am fairly within my right in doing that. That telegram was acknowledged, as it should be, with parental pride. But here are we, in Australia, offering
assistance to the mother country when really we are in a comparatively defenceless state ourselves. It was right and proper to do it; I do not object to it. It was a proper thing for the offshoots of that great country, when they thought the old motherland was in danger, to come to her assistance; but it seemed rather peculiar to me that we should offer lavishly offer, I may say-assistance, to a nation like England, when we were not in a position to defend ourselves. However, I say that pure, real defence, as far as Australia is concerned, can only be obtained by united action and by federation for that purpose. It is lamentable to me to see the different colonies trying to keep up an army of their own, under different heads, equipped with different weapons, and all as it were at sixes and sevens, whereas, if this country were federated, we would have one army. I do not believe in standing armies or in powerful navies, but whilst Europe is bristling with bayonets, whilst the eastern countries are rising and will become, by-and-by, aggressive, it is necessary that Australia, at all events, should look after that which it has fought so hard to win; and it is by this means that Australia can offer an effective resistance to any nation which may be inclined to invade our shores. Coming back to the referendum, coming back also to the existence of the states as states, and to the question of double dissolution, I admitted before, and I say it again, that I am not adverse to any system whereby the will of the people shall dominate, but I object to the means of taking from the states that separate national existence which rightly belongs to them. As regards the double dissolution, I consider, as far as I am able to judge of its application in our own colony, that it is all that is desirable. I think we have been magnifying the deadlock question too much altogether. We seem to forget that both these houses are to be based on the people's will, elected by the electors of the whole of Australia, and that they will be of short duration. What will be the life of any of these houses? The lower house will have to seek re-election every three years. The upper chamber, according to the present proposal, will have to send half of its members ever third year to the country, so that we have continually pouring in upon the senate men fresh from the people, imbued with the same ideas that the people have, and this in itself will, in a great measure, prevent any of those dreadful deadlocks from occurring that have been anticipated. I recognise that there is a remote possibility of a deadlock occurring. I recognise that it is necessary to have a safety-valve to deal with it, and I think that the double dissolution will be quite sufficient. But this does not seem to satisfy members of the Convention who hail from these more populous colonies. They say we must have the referendum, and they claim as a matter of equity that it shall be a national referendum. Now, what a position this will place the smaller colonies in! As I said before, I
deny in toto, put it to any practical test you like, that the senate will rule. Although we lay the flattering unctious on to ourselves that we have equal rights with the larger colonies, we know full well that where the people are the people will dominate. And seeing the constitution of the lower house, our voices will be like weak voices crying in the wilderness; we shall scarcely have a voice in the legislation of the country. We shall be completely dominated in the lower house, and if we give away any more than we have already done, as far as state rights are concerned, we shall be simply handing our people over to bondage. I remember once reading about an Irish deputation which waited upon one of their representatives, and accused him of selling his country. Of course the incident that I am relating refers to the time when Castlereagh and English gold deprived Ireland of its parliament, and almost enslaved its people; and when the deputation waited on him, and accused him of having done a certain thing to the horror of, the deputation, he went down on his knees and thanked God that he had a country to sell. We who come from the other colonies are not imbued with that idea. We are here to give that which is memory to the vigorous life of a free people occupying the whole of Australia; but we are not in a position, and we do not intend to give you that which belongs purely to the state. I say that I would rather become a native of Japan, than remain the citizen of a small state that yielded the powers that this Convention is trying to force from it. What would national life be without freedom? We have done very well hitherto. Our colony is looked upon as a small colony that is, so far as population is concerned; but we have done great work with our population; we are a vigorous and a free people: we have undertaken works of great magnitude; we have the intelligence and common-sense to know when our rights are invaded, and we have the courage to try to maintain those rights. However much, from our geographical position, we may desire federation, it must not be a federation which will make us subservient to the larger colonies.

The Right Hon. G.H. REID:

Say something amiable after that!

The Hon. J.H. HOWE:

I do not often occupy the attention of the Convention. I do not like to stand up here and reiterate words and sentences which have been better spoken than I could possibly speak them; but ideas come to individuals is, to nations, and times when it is imperative upon them, to speak that which is within them. I have done so on the, present occasion. Of course, it would be easy for me or for anyone else to elaborate it; but I do not wish to
occupy the Convention unduly. Hon. members have addressed words of caution amounting almost to threats; but unless you are prepared to treat us fairly, to take us into full partnership although I admit you, cannot do that, seeing that we have given way too much already if you are going to whittle down concessions again and again, the sooner this Convention comes to an end the better, and we can then leave those who take our places-our children to carry out the destiny which belongs to the people of this great continent.

Mr. LEAKE (Western Australia)[7.57]:

It has been said by several speakers today that, although they are federationists, they will not have federation at any price. To them I would rejoin that I would not accept federation with a halter round my neck. That is the position in which I find myself, when I am asked to accept federation with the referendum. In attempting to fit so-called safety-valves to the political machine, it will be well to take care that the machine is not all safety-valve - that is what it promises to become. I fear we shall find the whole of our federal constitution overshadowed by the system of referendum, if it be adopted in the form proposed by most of its supporters. I say at once that I am against the referendum as I have heard it explained; but I will not emphatically declare against any other possible method of preventing a deadlock, nor am I opposed to the suggestion that we should, in certain circumstances, peculiar and exceptional perhaps, have a dissolution of the senate. Whether that dissolution should be, at any moment, at the will of any particular person, or whether it should occur after the happening of certain events, after the application of certain tests, are matters to be ultimately decided when we come to discuss the question in detail. I was very much impressed, as I dare say other hon. members were, by the able speeches delivered by Mr. Gordon, Mr. Symon, and Sir John Downer, against the use of the referendum, and also by the equally able speeches delivered by Mr. O'Connor and Mr. McMillan; but with regard to the speeches of the two latter gentlemen, perhaps other hon. members were, with me, somewhat surprised at their conclusions, because, after speaking against the principle, after telling us that they objected to it, they adopted it. If we are supposed to be actuated by the principle of concession in framing our constitution, why should we not also adopt it in applying the constitution when we have it? If we have the referendum, there is no encouragement for the concessions which have been so ably advocated in the framing of the constitution in this Convention. The referendum is the ultimate method of settling all disputes. It is claimed that it is finality. But it is that very
suggestion of finality that I fear; because, while aiming and striving after the finality which may be at a greater or less distance, there is the danger that an attempt may be made to take a short cut towards the attainment of the object, and if the referendum is the ultimate method of deciding, then all other intermediate stages, such, perhaps, as the dissolution of either house, will be given the go-by, and there will not be those pauses for the purpose of reflection by the way, but there will be an undue haste in attempting straight away from the very outset to arrive at the last stage of the journey, namely, the referendum. And what an opportunity does not that offer to a class of person who may ultimately arise the unscrupulous politician? Such a person, I assume, is not known at the present moment to exist in the Australian colonies, but in these days of evolution we know not what may happen, and with an unscrupulous politician at the head of affairs, knowing that he has in his hand a power in the shape of the referendum, will he hesitate to stoop to any course which will enable him to reach his object speedily and rapidly, and apply that very drastic remedy? And, when the remedy is applied when the referendum is put in operation, what shall we find? I speak now as representing what is for the moment regarded as a smaller state. We should be in the position of being overridden by a combination of, perhaps, two of the larger states. That is a position to which I do not feel disposed to submit. We have all along said, in discussing these questions, that we want no iron-bound constitution that elasticity is what we aim at. But, with the referendum before us, we have that very iron-bound element we wish to avoid. There is no leaving anything to chance, or to circumstances, or to conciliation. If the referendum is an active power in the state, we shall ultimately be forced to adopt it. And we shall adopt it not in those extraordinary circumstances in which we now say it shall only apply, but there will be a tendency to apply it in every particular instance, or, if not in every particular instance, when it becomes a matter of convenience or expediency. Take, for instance, one very serious aspect of this question and it was suggested, I think, in a speech by my hon. friend, Mr. Gordon. Let us assume that a question of amending the constitution arises. Perhaps it is taking an extreme view; but I shall suppose, for the sake of argument, as I have a perfect right to do, that we have that objectionable person, the unscrupulous politician, in power.

An Hon. MEMBER:
There are a good many of them!

Mr. LEAKE:
Yes, I believe there are. His object is to have an amendment of the constitution in some particular direction. It is forced onward by gentle stages. Perhaps the main object he has in view is veiled; but, ultimately he gets this question of the amendment of the constitution up to the referendum stage; then everything is disclosed, and we find out at the last moment what object he has in view. Then it is too late. The question will go to the people, and the people without the proper medium of parliament will declare in favour of the alteration of the constitution, and, perhaps, violate that for which we have battled and are battling the maintenance of equal state rights.

The Hon. R.E. O'CONNOR:

An amendment of the constitution must be dealt with by special referendum, under clause 114!

Mr. LEAKE:

We are now discussing the question of whether we shall or shall not have a referendum, or any particular method of dealing with deadlocks, and if you get the thin end of the referendum wedge in, you will never get it out again. If you have the referendum in one instance, you admit its principle, and you cannot then successfully fight against it. Of course I am only expressing my own views. I do not suppose for a moment that anything I may say tonight will influence the vote of any hon. member; but I shall be contented if hon. gentlemen will listen to what I have to say, and criticism my remarks and tear them to pieces afterwards, if they like, to their hearts content. If the referendum obtains, it will, undoubtedly, give to the larger states a dominating influence, which has never been contemplated when discussing the principles of this new constitution. It is urged that it will only be used in the event of some vital disturbance for the settlement of some vital principle I would point out that if the dispute is so great as to require special legislation in this particular form— and it is special legislation we ought not to be asked to legislate in ignorance of the circumstances, and we cannot by any possibility or stretch of the imagination declare in what particular circumstances the application of this extraordinary remedy would be needful. So why should we, I repeat, be asked to specially legislate unless we know really what we have to legislate about? It has been asked, "What is it that keeps responsible government or any government in force what is it that forces good government on the administration?" I rather fancy that it is the fear of revolt. If, then, we are to have the question of revolt cropping up, it is better that we should have a revolution at an early stage rather than at a later one better that we should have it before the application of the referendum than after it. No one can say that the referendum will prove to be that political panacea for all evils.
which it is hoped and intended it should be. But what seems to me to be one of the worst features of this proposal is that it is sought thus to ingraft an entirely new principle upon this constitution. As the hon. member, Mr. Symon, very ably put it this afternoon, we have up to the present time been engaged in building up a structure; but now, by the introduction of this new principle, we begin the ceremony of knocking down. It is a new controlling force, the limits of which cannot at the present moment be either defined or anticipated a new controlling force entirely. If at this late hour we are asked to consider this new controlling force, we ought to be careful how we adopt it, and not take too much for granted. These principles can-

not be applied in practice, although they have been suggested by theorists. This referendum, this new controlling force, is an element in the constitution which, it seems to me, will prove to have been conceived by chance, nurtured in error and applied at maturity to conditions which, from our present standpoint, are quite unexpected if not absolutely abnormal. That is the risk we run by this attempt at experimental legislation. We have had no practical test of the referendum in any part of the British dominions; yet we are asked to accept it notwithstanding all the dangers which have been pointed out to us by many speakers. We have been given certain state rights with one hand, and it is now proposed that we should be deprived of those rights by the application of the referendum. It is of no use to tell us that these powers will never be exercised. If they are created by the constitution, though they may be dormant for a time, so sure as we exist, some politician will say in the future, "We will now do by means of this extreme remedy, this awful engine, this referendum, that which we have not hitherto been able to persuade parliament and the states to assent to." I feel very strongly upon this question, and I was heartily glad to hear the right hon. member, Mr. Kingston, say that rather than accept the referendum he would stump his own colony in opposition to federation. I am perfectly certain that hon. members know that that statement was not uttered as a mere threat; but that it was the outcome and the expression of his deliberate opinion. We know that the right hon. gentleman represents one phase of democracy in Australia which has given rise to speculation and to discussion. In this connection it is very remarkable to see how extraordinary are the ramifications of democracy. We find the democracy of South Australia opposed to the democracy of Victoria, and yet the constitution which we are building up has been lauded, and, I think, properly so, as a democratic constitution. I believe that every Australian politician is a democrat in the sense that he desires to protect and maintain the right of the people. That is a democracy of intelligence and common-
sense, not a democracy which recognises rule by clamour and agitation. We are all democrats if we are imbued with these ideas; and seeing that this is so, we must take care that this democratic engine, the referendum, does not blow up democracy. No doubt its aim and object is to prevent deadlocks; but whether it will succeed in its object, I am not in a position to say. I can merely speculate, and express it as an opinion that it will not attain that object. We shall always have this held over our heads in terrorem, we shall always know in parliament that there is behind this parliamentary power that other greater force which can be used in spite of parliament. That was ably put by the hon. member, Mr. Symon. Again, on this question of democracy, let us not lose sight of what the hon. member, Mr. Symon, pointed out, that there are two democracies, the democracy of the commonwealth and the democracy of the states. If you put those two elements into conflict of course trouble will arise, but you cannot apply the referendum without the aid of those two possibly conflicting bodies. Then I say that those who advocate the referendum as a possible deterrent for conflict and a possible cure for deadlock have altogether overshot the mark. They had far better adhere to that which they have hitherto contended for, the good sense, the commonsense of the people; and here I re-echo this sentiment and say, trust the people, trust our constitution as we know it. Admit of no fresh, new fangled notion to which no test can possibly be applied for years and years to come. Let us act under our constitution as we know it, and as we understand it; let us trust to our parliaments and to the good sense of the people. I am against the referendum.

The Hon. E. BARTON (New South Wales)[8.18]:

I have waited some time before taking any part in this debate, and it was my inclination to wait a little longer; but I am afraid differences are developing themselves which, if we do not exercise the greatest caution, must bring great danger to this movement; and that danger, I am afraid, will be accentuated the more any among us resolve that at all hazards we will proceed to extremes in one direction or another. My own opinion has been made perfectly clear that I do not think there is an absolute necessity, in the working of the constitution, to make any artificial provision against what are called deadlocks. I expressed myself sufficiently clearly in Adelaide upon that point, and I go a long way with the Right Hon. Sir John Forrest in saying that most of those circumstances out of which deadlocks, as they are called, ordinarily arise, that is to say, deadlocks with reference to money bills have been provided against in this constitution as it stands. It is provided with perfect clearness that no bill dealing with money can
originate in any other place than the house of representatives. That is to say, no tax or appropriation bill, with the mere exception of those cases in which provision is made for the imposition of fines, or the demand and recovery of fees for services arising under an act of parliament, and such like matters, as to which everyone, however democratic, is agreed that any strict reading of a constitution which would deprive a second chamber of the power of originating a useful measure merely incidentally dealing with them is an absurdity. We have gone further than that. We have prevented the senate from having co-ordinate powers to that extent; but we have provided also that it may not amend any tax bill, and that it may not amend the annual appropriation bill. We have provided, lest matters outside the taxation be improperly foisted into bills to be sent from one house to the other, that laws imposing taxation shall deal with the imposition of taxation only. We have provided that laws imposing taxation, except those imposing duties of customs on imports, or imposing excise duties, shall deal only with one subject of taxation. That is to avoid matters of taxation being so mixed in bills as to prevent a chamber from exercising its independent right of dealing with one subject of taxation, because there happens to be in a bill a subject of taxation with which it agrees, and another with which it disagrees. We have provided further that the expenditure for services, other than the ordinary annual services under what is generally known as the appropriation bill, shall be provided for by separate bills. By these houses, it is much more probable that the chamber which sends the bill up to the other has, if not right on its side, at any rate, some cause which will justify it in taking a stand. That is an occurrence which is not specifically provided for in the constitution. I admit that all the cases which are left for that operation are cases in which the second chamber will reject the bill will exercise what is called its power of veto, although that term is sometimes used in a way which is apt to confuse the power of the Crown in giving or withholding assent to a bill, with the power of a legislative chamber in giving or withholding its assent. "Veto" is the term properly applicable to the exercise of the power of the Crown, and "rejection" is the term properly applicable to the exercise of the rights of a legislative chamber. But recollect we lay down in the constitution all the time, by not taking away the right of rejection, that when a bill is rejected it is the exercise of a right. Now, only those cases of rejection will arise under this constitution, with respect to money bills, which do not arise from any of the causes provided against. While I am talking about deadlocks, I should like to inquire, what is the general acceptance of the meaning of that term
amongst hon. members? To my mind, "deadlock" is not a term which is strictly applicable to any case except that in which the constitutional machine is prevented from properly working. I am in very grave doubt whether the term can be strictly applied to any case except a stoppage of the legislative machinery arising out of conflict upon the finances of the country.

**Mr. HIGGINS:**

Is it not a mistake to say that these provisions are simply for deadlocks?

**The Hon. E. BARTON:**

I am only quoting the terms which have been generally used. It is a question whether provision should be made for deadlocks in that sense of the term alone. I am rather inclined to think that any provision which has to be made might rightly only be made for that class of deadlock that a stoppage which arises on any matter of ordinary legislation, because the two houses cannot come to an agreement at first, is not a thing which is properly designated by the term "deadlock," because the working of the constitution goes on the constitutional machine proceeds notwithstanding a disagreement. The machinery of government does not come to a stop, because it is only when the fuel of the machine of government is withheld that the machine comes to a stop; and that fuel is money. I am inclined, then, to think that we might well consider whether, if we make provision for deadlocks, we should not leave the relations of the houses to the ordinary operation of their powers of adjustment between themselves. While some of us may make some concession to popular opinion when there is a danger of a stoppage for even a short time of the fuel of the engine that is to say, a stoppage of the taxation or expenditure of the country, there may be then a necessity in the interest of the country to make some provision which will enable the machine to go on, still I cannot forget that there is very great weight in the argument that artificial provision may be positively harmful if it is carried too far. It may accentuate differences, and if it substitutes the control of one house for that process of evolution which ought ordinarily to prevail between two houses, it is likely to produce even more irritation in the body politic, than will the evolutionary process. There may, therefore be dangers in making artificial provision but, on the other hand, who can fail to recognise that there is a strong popular dread of allowing disputes to work themselves out, and that there seems to be a fear on the part of many of ourselves that there will be popular reluctance to adopt this measure unless there be some provision to terminate these difficulties. We cannot forget that; we cannot ignore that state of things. Whilst I believe our people in this colony are strong for
federation, yet I believe those fears which I have indicated, and which I think are widely entertained, can under no circumstances be underrated by us. Therefore, it is our duty, I take it, even if there are some of us, like myself, who think, that this machine would work smoothly, who think as people who have studied constitutions and constitutional law, that this machine will work as smoothly if we leave it alone in its present state as if we added provisions to it, still we must recollect that our measure has to be submitted to the popular will, and that if the people entertain a fear, which we cannot characterise as altogether unreasonable, then our confidence in the safety of the machine which we put before them ought, perhaps, not to prevent us from surrounding it with additional securities, if it is their desire first that these securities should be provided, and if it is our feeling that unless they are provided we may endanger the adoption of the machinery. But, on the other hand, there is quite as strong a feeling the other way, quite as strong a dread on the part of the less populous states that an artificial provision, if carried altogether too far, will so tend to efface the interests of individual states, so tend, as they put it, to wipe them and their interests out, as to lead to such a diminution of power and of prestige in the component states, as will eventually lead to their absorption. I am not sure but I shall come to that part of my argument presently that that dread is altogether well grounded; yet, at the same time, it is a very natural dread, and it is a dread which we cannot blame any of those who are joining in this great work with us for entertaining. When we consider the great powers and importance of two of the states which we hope are about to join in the federation, and the fact that the others are at present perhaps not so rich as we, and we know they are not so populous when we consider these facts, we may well attribute to very natural reasons, and to the very natural desire for self preservation, not for aggression, the fears which are entertained lest provisions of this kind, if carried to extremes, may ultimately lead to their absorption. I can well understand such fears being entertained by any one of us who live in the larger states if we lived in one of the smaller states. We have to consider the question whether these fears are well grounded. This movement, therefore, is in a most critical position now, and I rise largely for the purpose of expressing my own opinion that this is the moment when the wisdom and patriotism of hon. members of this Convention will be put to their greatest test, and when it is most incumbent upon us to come to a decision that will be characterised by judgment and public spirit. That is a remark which I wish to apply to both sides, and I wish to say this in a spirit of perfect impartiality. On the whole, I think it will be wise, and I think it will be public spirited, to make some provision for the settlement of conflicts between the two houses in certain cases. As
far as this movement is concerned, that way safety lies. If as I think we
shall agree to that, on the part of many it will be considered that some
provision is a necessity, and others will consider that it is at any rate a wise
thing to make this concession to popular feeling, and also that by having it
we are certainly not lessening the importance or safety of the measure. If
we come to this conclusion, what sort of provision should be made? I
entertain the opinion that in the first instance the provision should be one
that is constitutional as being in accordance with the principle of
responsibility. The arguments upon which the present clauses with regard
to the money

powers of the two houses were largely supported is that we want the
government of this federation to be upon the lines of responsibility which
are familiar to us that is to say, the government is to be a responsible
government in principle. A dissolution differs from a referendum in this, at
the outset, that a dissolution is an assertion of the principle of
responsibility, whilst the referendum tends to weaken the sense of
responsibility. I expressed myself, however, so fully on that subject at
Adelaide, that I do not wish to open an old question by referring to it to any
extent. I say, at any rate, in the first instance, our provision should be one
that will be constitutional, made to preserve the principle of responsibility
both of ministers and members. Under these constitutional provisions the
very mainspring of responsibility in the lower houses, as we call them, is
the probability of a dissolution at any crisis a dissolution, that is to say, of
the house, which, in ordinary constitutions, is the house elected upon the
widest suffrage, and is called the people's house. But here you have a
difference; because this is a constitution which provides for two houses,
both of which are to be chosen by popular election, and both of which are
to be elected on the same suffrage. Well, it would puzzle any one, I think,
in reasoning the matter out, to come to a conclusion that the safeguard of
responsibility is one which is attachable only to one of these two chambers.
It would puzzle anyone to argue the matter out if he were also assured that
it is only Attachable to that chamber, because it is what we call the lower
chamber. Responsibility is attached to that chamber because it is in the
ordinary constitutions the representative chamber. It is the one that was
elected by the people, and which returns to the people for a ratification of
its acts. Here, in this constitution, we have the difference that both houses
are so constituted. And we admit the principle, to a certain extent, of a
dissolution of the senate, because we provide for the retirement of one half
of its members, and their submission to the people every third year. Then
what can be the reasonable objection, if you must make some provision for
deadlocks, to submitting the other popular chamber to dissolution just as you submit that chamber which was originally called the popular chamber? They are both popular chambers. I call upon my hon. friend, Mr. Carruthers, to testify with me upon this point, because he even went so far as to express the fear that the senate would be too popular a chamber. We need have no fear of that if it be subject to the same responsibility as is the other chamber.

The Hon. S. FRASER:
It has not the same power!

The Hon. E. BARTON:
But it has power in dealing with the finances of the country; and if you are to make provision for deadlocks alone as to the finances of the country, it will be found hard to resist the argument that the same influence to which one house is amenable should apply to both.

The Right Hon. Sir JOHN FORREST:
Ministers are responsible to one house!

The Hon. E. BARTON:
That is no reason why members of both houses should not be responsible to their constituents.

An Hon. MEMBER:
The trouble comes from the lower house!

The Hon. E. BARTON:
It may, and in this constitution it may also come from the other. Strong as I have been in the assertion that, on lines of reason, some power to deal with money bills should be given to the senate, only provided they do not interfere too largely with the working of the machine of responsible government, that does not bind me to the conclusion that when these powers are given to them they should not in the last resort at any rate be made to feel that in case of crises they must act in the manner they deem to be acceptable to those who sent them there.

The Hon. S. FRASER:
Not at the dictation of the government!

The Hon. E. BARTON:
I do not care at whose dictation, because if a chamber be independent it will accept no dictation, if it feel that it is strongly founded in the esteem and respect of its constituencies, it will be independent. In going beyond that foundation, it is trespassing upon its trust. Having gone so far, you will have merely asserted the principle of responsibility to the extent required when you have two houses proceeding from a similar source, and elected
on the same suffrage. Then the question remains: Will it be necessary to go further? As to that, I entertain the gravest doubts. "I am not blind to the fact that there are many members of our own Legislative Assembly who think that we ought to go further-I am not blind to the fact that there are some persons outside who think so. Certainly, if the necessity arises, I shall not be blind to any force of public opinion. But the question that confronts us at once here is: will this double dissolution be effective? If it be effective for the purpose for which we seek it, then it is not necessary for us to proceed further. Without expressing too strong an opinion upon that subject, I think it is worth considering whether it will not be a sufficient provision. I do not wish to express myself with finality upon this question, because I think that, having arrived at such a critical point as we have, the man who expresses himself with utter finality upon a matter of this kind is certainly not observing the duty he was sent here to discharge. The moral force of the double dissolution will be very strong, and we must not neglect the consideration of moral influence in a case of this kind - that is to say, the liability of members to a dissolution, with all its attendant dangers, which we have vividly in our recollections, and all its expense, as to which, of course, we should speak with bated breath. If there is something which exercises a very strong influence upon the members of an ordinary lower house, then when you have two houses elected in a similar way, and proceeding from a similar source, why should not the moral influence that is sufficient for the members of the one be practically sufficient for the members of the other? When I speak of moral influence I mean this: I can quite see that if you have a double dissolution carried out, there is the possibility of things in the end remaining as they were. That I look upon as a possibility - perhaps not much more. But then I see, on the other hand, a very strong probability that the subjection of the member of the second chamber, as well as the member of the first, to this liability to dissolution, with what I have described as its dangers and expenses - I see a strong probability that the subjection of both of them to the like treatment may induce a disposition to mutual concession and proper adjustment which may often, if not always, save even the trouble of carrying out a double dissolution. I believe, and have always believed, that constitutional provisions are, in many cases, more valuable by their moral influences than by their practical operation, and I am inclined to think that this will be a case of that sort. But it has been argued - and I have to refer to this - that the result of the double dissolution will be to leave matters as they are. Those of us who have experience of dissolutions in these colonies know that it is not at all a frequent thing that the result of the dissolution of one chamber is to leave things as they are. If we were to exercise our
memories, we should find, notwithstanding recent experiences in this colony, that the results of appeals to the people have been, far more often than not, adverse to those who have declared for those appeals. If we are to have the experience of the past justified by the events of the future, what is there to make us suppose that the results of a double dissolution will necessarily be to leave things as they are, when the past has told us that generally the result of a dissolution has been to leave things as they were not? Then we must recollect that the moral force has not spent itself at that point, because if an agreement is not come to, and there is a power of double dissolution, it can be again exercised, and the same moral force which I described as acting upon members of both houses before one dissolution, will be intensified by the dread of another. Are not all these things very strong factors in the consideration of this matter? Is there not some reason for us to think that when we have provided one means for the solution of the deadlock, experience and commonsense will go some distance to lead us to suppose that that one provision will be sufficient? But I must admit this: If it is considered by the Convention that this provision is not sufficient, and if it is considered also that there is a force of public opinion, which makes it advisable to make further provision, I find myself in very grave doubt as to what the next provision should be. For this reason: First, I have already expressed myself against the referendum in matters of ordinary legislation, and I would say that while I would entirely trust the referendum for the making of a constitution, or for the amendment of a constitution, I do so, because, in those cases, the principle of the responsibility of members and ministers, which is at the root of our system of government, is there not considerably involved. The referendum, as applied to the ordinary purposes of government is, I think, calculated to sap that principle of responsibility, to relieve both ministers and members from that course of duty which their liability to a dissolution, instead of to a referendum, would make them feel that they must standby. But there is still this to be considered: If you first apply the double dissolution you have taken advantage of that principle of responsibility, that liability to popular judgment, which is the safeguard of the constitution, and it afterwards you find your question unsolved, and you then think it necessary to apply some form of referendum I must admit at this point that the referendum so used, and after that test, has not so many objections on the face of it as seem to me to attach to it when it is applied direct, and for the reason that it is only used then after the application of the principle of ministerial responsibility. When the application of that principle is exhausted, and when you have got out of
ministers and members all you can get, by making them face that responsibility, there as the last resort it may be possible that the referendum will be a good thing. But just see the dangers that may confront us when we have to choose between two sorts of referendum. One is what is called the dual referendum, that is, a referendum by which the opinion of the people is taken, and in which an affirmative result on the part of a majority of the states and a majority of the electors, all of them voting on the same occasion, will carry the measure, and in which the defection of one branch or the other will lose the measure. That is the dual referendum. Then there is the general referendum, which makes so direct an appeal to one of those branches that the very affirmation or rejection of the measure by the mass vote of the people, taken in their proportion of numbers alone, will mean the life or the death of the measure. We have to choose between those two kinds of referendum; and here is the point where I see such very great difficulties, because I admit, saving the question of the responsibility of ministers and members, that in the dual referendum there is more justice, than in the general referendum. I admit that; but if you once get beyond the point of the double dissolution, you are doing so because you come to the conclusion that it is not effective—that it has not done what was required, and something more is needed. One great difficulty about the dual referendum is, that while it may be more just than the other, it is liable to the trouble of not being effective, because it is as possible in the case of the dual referendum, as in the case of a dissolution, that parties and houses will be left where they were. I do not say that these are insuperable objections, but they are objections that maybe fairly urged. Then any sort of referendum is liable to this objection, perhaps, that it has not the same effectiveness to bring about an agreement between two dissenting, two quarrelling houses, as a dissolution has, for the reason that the member does not have to go to his constituents on the referendum. He is safe in his seat. On a dissolution he is not safe in his seat, and, therefore, be wants to avoid a dissolution, and, consequently, will be impelled to come to a reasonable conclusion, instead of haggling about what, after all, in some of our deadlocks, have been mere trifles. There is that difficulty about the dual referendum. First, I believe it is more just than the direct referendum; next, I believe it is less effective. Let us come to the other alternative. Let us discuss the general referendum. There can be no question about its probable effectiveness, that is to say, it will mean decision one way or the other, a flat decision, one way or the other but, as I have said, it is open to the same objection as the other referendum: it has not the persuasive effect and moral force on members of parliament that a
dissolution has, simply because it leaves them safe in their seats. The great difficulty about the general referendum seems to me to be the possible injustice, and so I put it that you have to choose between those two forms of referendum the first one the more just, and the less effective; the second one much the more effective, but, possibly, the less just.

Mr. HIGGINS:

What is the possible injustice?

The Hon. E. BARTON:

The dispute on the very face of it is a dispute between the people and the states as represented in two separate chambers. It is a dispute between the people at large, represented according to numbers in the house of representatives, and the states, which, of course, means the people of the states, as represented in the senate. You have two parties to this dispute. Now we have a maxim which is as applicable to our ordinary concerns as it is applicable in law, and it is that nobody should be allowed to be a judge in his own cause. It seems to me that the difficulty about the general referendum is that, inasmuch as the people according to numbers on the one hand, and the states on the other, are, through their representatives the parties to this dispute, if you apply to one of them, namely, to the people, to settle it, or if you apply to the other, that is to the states, to settle it, in either case you are asking an interested party to decide his own cause. The dual referendum gets rid of this difficulty; but it is objectionable upon the ground of ineffectiveness. I want to point out these defects with impartiality. I am not speaking against the proposal to make provision for deadlocks, and I am not forgetting that you must have due regard to the force of public opinion. There is a further objection urged against the general referendum which is only, though in another form, the objection which I have just described and I wish these objections to be taken, not so much as my own, as the

objections which have arisen in the course of this debate. This further objection is the fear that where the dispute is one between the people at large as represented in the house of representatives and the states as represented in the senate, the foregone, or I will say the very probable victory, upon all occasions of the one party to the dispute will tend to whittle away, what is called the individuality, but what I prefer to call the interests of the states. There is also a fear that a succession of applications of this remedy for deadlocks may tend towards unification. The hon. member, Mr. Trenwith, dealt with this question, and argued it rather cleverly. His argument and the hon. member will correct me if I do not state it rightly really amounted to this, that the circumstances of the

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severance of the other colonies from New South Wales, and of the present desire for unity, would, when well-considered, lead us to the conclusion that the proper remedy for the present state of things was unification, or a tendency to unification.

Mr. TRENWITH:

No, my argument was this, that separation is necessary for most of the purposes of government; but in performing the functions of government as separate colonies, we have learnt that there are some things which we cannot do separately so well as we could do them collectively, and that for those purposes we should unite.

The Hon. E. BARTON:

I quite agree with my hon. friend in the way he puts his argument; but we must remember that while what he said is perfectly true, the term "unite" is capable of different significations. To unite way mean to unite in federation, or in a state of unification, We are still left to decide the question, in which way should we unite? What was the way in which some of the colonies separated from the colony which, if it is not arrogating too much to use the term, may be called the mother colony? Was it not found that a central government situated in a portion of this vast expansive country was ineffective to deal with a certain class of affairs which were manifestly and really affairs of provincial politics? That was the discovery which was made, and the result of it was the separation of the other colonies. The discovery which has been made since, and it was made within a few years after the separation of Victoria from New South Wales was, not that this separation had not been a right step to take, not that the causes which brought it about did not still exist, but that there were other matters, quite outside matters of mere provincial politics, which ought to be dealt with by a central and common authority. That was the principle according to which Wentworth, Charles Gavan Duffy, Deas-Thomson, and others worked; and the discovery was made as early as 1857. That is what has troubled the wisest men in these colonies from that date to, this, which has excited all the friction, and caused the demand for a federation to be what I believe is an irresistible demand. But what is the kind of union? The causes which led to the separation of these states still exist that is to say, the difficulty of governing provincial or municipal affairs from a common centre, and the inability to deal with national questions, has been the thorn in our side. Consequently, the terms of our union must be these: First, that we shall have a general authority, with sufficient power to deal with those matters which are not provincial and municipal, and at the same time we must so safeguard that authority that in carrying out its functions it will not, little by little, take away from the functions of provincial politics what
should still remain with the states.

Mr. HIGGINS:

You cannot take them away under a written constitution!

The Hon. E. BARTON:

You cannot do everything, I admit, by a written constitution, but that is no reason why your written constitution should not save you from certain disasters. I do not think that the argument therefore that has been used is sufficient to make us forget that in a constitution there must be certain safeguards to prevent on the one hand the federation being under the control of the states, or on the other hand the states being under the control of the federation. Canada illustrates the whole position. Consider the position of Upper and Lower Canada when they separated. We know what happened there. As they were when united after Lord Durham's despatch, which practically brought about their union, when they made an amalgamated state, and as they are now, as members of a federation, we shall see the problem exemplified over again, that is, when you come to bring two large colonies or states together as you might do in the case of New South Wales and Victoria for the purposes of union. If you are going to do what was at first done in Canada, and give over to the parliament of the union legislative authority over both those large states in all their relations, and with regard to municipal and provincial affairs, you will have such an unwieldy form of government that the machine cannot go on. That was found out in Canada, and that is why Canada is now federated. And the federation of Canada, instead of being a step towards unification, has been a step away from amalgamation. If we apply these lessons in our own case, we ought to be very careful to see this: that whatever step we take to solve deadlocks, or for any other purpose, we should not be parties to anything which would tend towards either a weak federation on the one hand or the swamping of the states on the other. Now, the objection to the general referendum seems to me to be chiefly this tendency to destroy state interests - and I wish to say at the present stage, lest I should be misinterpreted afterwards, that in laying these considerations before hon. members I do not bind myself, because I consider there is a higher duty than exercising any one individual opinion or any one political principle laid upon us, that is that if, without making too great a sacrifice of opinion or principle, and without making any sacrifice of what is just to our own colonies, we can frame a constitution that will be accepted, it is our duty to sink individual opinions as much as we honestly can. For that reason, in pointing out this difficulty, let it be perfectly understood, that if the pinch comes, if it comes to a pinch about
having a constitution or having none, I am prepared to support before the people the constitution, even if it contains a general referendum. I am not going to use the threats which have been used. I do not think we have been wise in making threats. I remember a similar occasion occurring in 1891 when a certain gentleman, whom we have no longer in politics, said something about his carpet-bag. I believe I had some influence on that occasion in preventing the appearance on the scene of carpet-bags. I do think we must not be precipitate in saying if we put this or that in the constitution you may say good-bye to federation. When you get such a case as occurred yesterday, it is a right thing for us to be frank with each other. It is a right thing for us to point out what we believe to be the public opinion of our colony. I believe I took a hand in doing that. I am perfectly willing to take a hand in doing that at any time; but at the same time I do not think I should be justified in saying this: if you put this provision in the constitution I will stump the country against the constitution. I do not want to be with my hon. and learned friend in his strong opinion against the general referendum, an opinion which I, to a certain extent, share, and which led him to say more than he would say now.

The Right Hon. C.C. KINGSTON:
I think it better to be candid!

The Hon. E. BARTON:
I am quite in favour of our pointing out to each other what we think the opinion in our colony is; but the time for threats is not now. If there is ever a time for threats in a body of this kind, all I wish to say about that is, that I would implore hon. members on one side and the other not to be carried away for or against a certain course by what may be said in the warmth of debate. If this constitution in the end contains a general referendum, I believe I can reconcile it to my conscience to support the bill. At the same time I have always spoken against the referendum, although I admit, as I have already said, if the referendum is so safeguarded that a double dissolution precedes it, I believe its impingement on ministerial responsibility, and members' responsibility, will not be so severe. But I cannot be led into the assertion that I will oppose this constitution if it contains a certain provision, because I think we ought to be a little more cautious than that; and I say that with the very highest respect for all who have preceded me. May I say that the occasion presents itself to me as being one in which we must have due regard for public opinion? I think we are all of us in a position now, at least, to gauge public opinion to some extent in other colonies as well as our own.
The Hon. S. FRASER:
   It may not be public opinion six months hence!

The Hon. E. BARTON:
   My hon. friend, perhaps, considers public opinion more fickle than I do. I have great reliance on public opinion with regard to federation; but, nevertheless, I think we can all trifle with public opinion, however strong it may be in favour of a measure which we desire. All I am urging now is, that while we are to have due regard for public opinion, we must also, keeping that public opinion in view, act with caution in such a crisis as this, because the work we are doing is so entirely new. We are devising novel remedies to meet circumstances which we certainly cannot predict with accuracy. We cannot predict how this constitution will work. We can only form, from our experience of political and constitutional matters, a reasonable judgment as to how it will work. The working of the American Constitution, in many respects, has disappointed the expectations of its founders, and I believe in many respects it agreeably disappointed, even in their own lifetime, the expectations of its founders. We may say that in the case of Canada there were many prophets of evil. The merchants of Toronto, I believe, were as much afraid of the loss of their supremacy in Canada as some of the merchants in Sydney are today. All those predictions were falsified by events in that case; but it is not that so much I am thinking of as this: that, if facts falsify predictions in cases of commercial events and results, they may be expected to falsify predictions in the case of constitutions. Therefore, while I agree that we must have fair regard for public opinion, we must take care that we make a machine that will be still, in the main, in accordance with the opinions which we were sent here reasonably to put forward and to insist upon; and, of course, in doing that, I am quite sure that we shall do it with far more force, as well as with far more grace, if, by mutual concession, there are no ragged ends to our constitution, but it represents the rounded force of that modified opinion concurred in by sensible men; and I believe we may yet find a way out of this difficulty on those very lines.

The Right Hon. Sir G. TURNER (Victoria):
   I quite agree with my hon. friend, Mr. Barton, that we have now reached another very critical position with regard to federation. We have in our past meetings had to meet several critical positions. By mutual forbearance and by compromise, I believe that up to the present time we have been able to surmount all those difficulties, and I think now, once again, the Convention will do as our leader has asked us: exhibit that public spirit which has characterised our deliberations in the past. I agree with our
leader that we should be frank with each other. I have endeavoured all through these deliberations to fairly state my opinions, whilst I have been perfectly prepared to fall in with the views of the majority, if it be at all possible. I say now that even if this bill contains provisions of which I have not approved, and of which I do not approve, still, unless they are very strongly opposed to my views, unless they are very strongly opposed to the interests of the colony of which I have the honor of being a representative, I will feel it my bounden duty to exercise my influence amongst the people of Victoria, to endeavour to induce them to accept every compromise at which we may arrive. We have listened tonight to more weighty words of wisdom from our esteemed leader, and I do not desire, in the few remarks I intend to make, to say one single word which may take away from the good effect those words must have had on all the representatives present. I can do that more honestly and more earnestly, as it is well known to my colleagues that I have differed from them and from the representatives of the other large colony with regard to what has been called the mass referendum. To show to our friends from the smallest colonies that there is no combination amongst the representatives of the larger colonies to do them any injury or injustice, my hon. friend has fairly told us that the bill, as now prepared, has removed many dangers and difficulties which we, otherwise, might have had to contend against; and I agree with him to a very great extent that it is not probable that what we have referred to as deadlocks will occur very frequently in the future. We cannot imagine that leading men from the various colonies, chosen to the high and honorable position of representatives of their fellow-colonists, either in the house of representatives or in the senate, will deliberately do anything which may be injurious to the interests of the whole of Australia; and I believe that, whereas we now, in our various parliaments, are led very often by small parochial feelings to quarrel among ourselves, those who meet in the larger assembly will recognise and realise that all the dividing lines the supposed lines of demarcation between the various colonies must, if we are to have true federation, be for nearly all purposes swept away; and whilst they are there, they will look upon themselves, not as representatives of some portion of our great commonwealth, but as sent there to do the best they can in the interests of the whole of Australia, and that being so, I think that these deadlocks which we have heard so much of in our various discussions, are not likely very often to occur. At the same time, there is no doubt that circumstances may arise under which they may occur. We here, having thought out and considered the matter in our own minds, may anticipate that they will not occur; still we cannot overlook the fact that there is a strong feeling amongst those who have not intimately studied the
various phases of this question that these differences strong differences which cannot be reconciled may possibly occur between the two houses of the legislature. That being so, I think we are bound in framing this constitution in order to meet that public opinion which we cannot wholly resist, even though we may think that it is not absolutely correct, we are bound in justice to the various colonies to make some provision for the purpose of meeting those deadlocks if they should occur. At the same time, I am quite in accord with those who say that in making this provision we must be careful that we do no injustice to those whom we have been in the habit of calling the smaller colonies. One thing that we have to do is to see that the will of the people is carried out; but when we speak of the people, we must not forget, as was pointed out by the hon. and learned member, Mr. Barton, that we have to regard the people as individuals, and as constituting each state; and therefore, in dealing with this matter we must be careful in carrying the provision into effect that we do not do what it has been suggested we may possibly do, lead to unification-unification with a larger meaning than my hon. friend, Mr. Trenwith has given to it. That, I think, is the real fear which those who represent the small states have brought so prominently before us today, and on other occasions. I am at one with those who say that we ought not to allow the government of the day to dominate the house. I am quite in accord with those who say further that we are not to allow one house to dominate the other, unless we know that particular house has the people at its back, and that, in endeavouring to force certain views upon the other chamber, that house is simply carrying out what is really the will and desire of the people of the federation. It has been fairly pointed out, and I agree with the observation that, as a rule, the opinion of our people will be fairlyascertained and gathered at the various elections which have to take place. The house of representatives will have every three years, at the longest, to meet the electors of the various colonies; and, if public opinion is against the views expressed by any of the members, in all probability those members will not regain their seats in the house; and by that means, and also by the fact that the senators will have to go to their constituents because every three years one-half of them will have to submit their views and their actions to the will of the people-by those two means we shall to a great extent ascertain the views of the country on the various matters which will have to be discussed and decided at different times.

The Hon. S. FRASER:

What more is necessary?
The Right Hon. Sir G. TURNER:

But still extraordinary circumstances may arise, and it is to guard against those extraordinary circumstances that we have to make the provision which I think we ought to include in the bill. Now, having admitted, whether by way of right, as some claim, or by way of concession, as others describe it, equal representation to the smaller states, I feel that we have no ground on which we can justly attempt to undermine by any provision that equal representation; and I do think, after having listened very patiently to the arguments that have been brought forward for and against the proposal to have a mass referendum, that if we were to adopt that particular proposal we should be, to a great extent, taking away from the smaller states that which we have willingly granted them. With that in my mind, I came to the conclusion that to carry this particular proposal would be inequitable and unjust. Although I might be voting, and probably would be voting, against many of my own colleagues from Victoria, and also, as far as I can gather from the tone of their speeches, against a large number of the representatives of New South Wales, I should have felt bound-if the proposal be pressed to a division, to cast my vote against it, and in favour of the claims made by the smaller states. In addition to that, when we see the representation here, and when we have listened to the speeches of hon. members, we must, although we might be strongly in favour of the view put forward, have come to the conclusion that, it would be hopeless for us to expect the smaller states to give us the concession involved. There would be no chance whatever of getting it from them, even as a concession, if we could claim that it was one that was fair and just.

An Hon. MEMBER:

That is to say that the smaller states will not be fair!

The Right Hon. Sir G. TURNER:

I do not say that. My experience of the smaller states here has been that whenever they could fairly and equitably meet the larger states they have willingly done so. I cannot forget that. Nor can I forget that in Adelaide many of the representatives of the smaller states, even against the wishes of a majority of their colleagues, threw in their lot with the larger states when they saw that the claim was an equitable claim, when they saw that by the refusal to throw in their lot with us they were jeopardising the great work they had in hand. Therefore, I say now that we, as the larger states, while we claim that the smaller states ought to help us, must not expect to have all from them. We must be prepared to give way ourselves in many
respects. While we realise that we may have difficulty with our constituencies in inducing them to accept this bill, we must not forget that our friends in the other colonies may have equal, if not greater difficulty, in inducing their constituents to vote for the measure. If we could distinguish between state rights and other questions, I could understand that while we provided some mode of dealing with all questions which might come under the definition of state rights, we might apply the mass referendum to all other matters. But none of us could possibly attempt to make such a distinction, and that being so, we must be prepared to allow the whole matter to be dealt with in some other mode than that suggested, and which has been discussed here. Some say that if you put a sufficient check on the government of the day no harm would be done; but we know that the government, having the support of great numbers, having the support of a majority of the members in their various houses can always afford to sit quietly by and to hear discussion, and endure even any obstruction which may take place, seeing that sooner or later the force numbers will come in and carry any particular proposal. And so it would be with this particular proposal; or, at all events, if that fact did not exist, we cannot get rid of the position that the fear would exist in the smaller colonies that it would be done. We have, in dealing with this question, to see that we do not give rise to more difficulties than are absolutely necessary in obtaining the assent of our people to this particular proposal at the polls. My hon. and learned friend, Mr. Barton, has argued that as both chambers are popular chambers, a double dissolution is justifiable. I agree with him entirely in that proposition. I have always asserted that it is so, and I think that when we consider the constitution of the two chambers the strongest supporter of the senate must be prepared to admit that if doubt exists as to whether that chamber is representing or misrepresenting the views of the people, then its members ought to be sent to their masters to ascertain what their wishes really are. I can see no reason whatever why we should not apply to the senate the same dissolution that is applied to the house of representatives. It is unfair that we should penalise the one house, when a dissolution is asked for in consequence of some dispute between the two chambers, and not apply the same treatment to the other chamber. If we can send only one of the disputing parties to the people for their decision, surely that is very unfair to the house of representatives which may be in the right.

The Right Hon. Sir JOHN FORREST:
You cannot do it now!

The Right Hon. Sir G. TURNER:
We cannot do it now, because the upper houses in all our colonies are constituted on a different basis from that of the lower chambers. But even in our local parliaments I fail to see any reason, where the council is elective, why, if the dispute is of sufficient importance, they should not be prepared, willingly, to accept the test, and ascertain whether they really represent the feeling of those whom they assert they are properly representing. I fail to see why the legislative council in any of the colonies, or why the senate we are about to create, should claim to be free from the process of dissolution free from the power of the government for the time-being to ask them to go back to the people who sent them there, to see whether they are properly and truly representing their views.

The Hon. S. FRASER:

The upper house in that case would not be a revising body, but would be subject to popular excitement!

An Hon. MEMBER:

The House of Lords is not sent to the country!

The Right Hon. Sir G. TURNER:

The House of Lords, of course, is in a different position, as are also the nominee chambers in these colonies; but we know that if necessity should arise, there are means by which even these chambers can be forced to obey the popular will. But that is always a dangerous power, and should only be resorted to in cases of very grave emergency. My hon. and learned friend, while approving of the double dissolution, tells us that he has grave doubts as to whether we are justified in going further, and he considers that the fact that members will have to go before their constituents will make them very cautious and careful in the actions they take before they allow that event to occur. I quite agree with him there. I quite agree with him also that public opinion would very often have a moral force upon the contending parties. But then he tells us that if that fails, and matters remain as they are, there is still a remedy in the shape of another dissolution. Now, is it wise that, having had one dissolution, the ministry and the members having taken the responsibility which he believes they ought to take, we should then, for the purpose of endeavouring to settle the dispute, once more send the new house or the new houses back to their constituents for a further expression of opinion? I am afraid that is a plan which would not work, and that as between that and the referendum, if there are what I may, for the time being, call two evils, I think we ought to endeavour to choose the less.

An Hon. MEMBER:
There might be a dissolution almost every month!

The Right Hon. Sir G. TURNER:

I think that the feeling in Victoria is very strongly in favour of a referendum as the first expedient, but in the spirit of compromise, which ought to actuate us, I am prepared, and I have no doubt that many of my colleagues from that colony will be prepared, to say that we will agree to a mode of settlement which consists, in the first instance, of something in which we, do not believe so largely as we do in the referendum, we will be prepared to accept, as a first trial, a double dissolution, and if that fails, then, I think, we ought to be prepared to go a step further. We all know that when we are before our constituents there may be some particular point on which we ought to get a direct decision; but do we on a dissolution ever get that?

An Hon. MEMBER:

Certainly not!

The Right Hon. Sir G. TURNER:

I am afraid we do not. At every general election there will be a large number of people who will vote either for or against a particular candidate for personal reasons.

The Hon. F.W. HOLDER:

For personal and local reasons!

The Right Hon. Sir G. TURNER:

There will be many who will vote for local reasons.

An Hon. MEMBER:

On side issues!

The Right Hon. Sir G. TURNER:

There will be many whose vote will be decided by what are apparently, to others, small matters, but which they regard as of the utmost importance, and to gain their own particular pet object, they will lay aside every other. Unfortunately that is so. It is so on a dissolution, it is so at every general election, and, therefore, to say that we take the voice of the country on a dissolution, or at a general election, is not absolutely true in fact. The real way to take it is by the referendum.

The Hon. Sir W.A. ZEAL:

The hon. member cannot show any precedent in any part of the world for it!

The Right Hon. Sir G. TURNER:
The objection apparently raised as between a dissolution and a referendum is that on a dissolution the ministers have to take the responsibility of their action, and that in a referendum the responsibility is altogether weakened or put on one side. I do not agree with that, because I think that any government who accepted the position of sending a particular matter which they had formulated as part of their policy, and insisted on as being for the good of the country if they chose to adopt the mode of referendum, and failed, I say that that government would have to give way just the same as they would have to give way if they failed on appeal to the constituencies on a dissolution; therefore, I cannot see that that difficulty should prevent us from adopting the referendum unless there are stronger reasons why we should not adopt it.

Mr. HIGGINS:

Suppose the referendum was as to the establishment of a state bank, would the hon. member resign if beaten?

The Right Hon. Sir G. TURNER:

I do not know that we would take a referendum on a matter of that kind. On a matter of that kind the government would probably say, "We will wait until a general election."

An Hon. MEMBER:

Does the hon. gentleman mean the mass referendum?

The Right Hon. Sir G. TURNER:

No, I have already said that I am thoroughly opposed to the mass referendum, and would not adopt that on any consideration. I have said that in Victoria, in my opinion, there is a strong feeling that a dispute should be settled, not by a double dissolution, but by a referendum; but to meet the wishes of those who think otherwise here, I, for one, am perfectly prepared to endeavour to settle these disputes by a double dissolution, and I claim that if that proved unsatisfactory if the dispute still existed and we found that the people had not spoken clearly and distinctly on the particular issue in dispute then there would be only one course open to us, and that would be to send to the people a direct and distinct issue on which they might vote "aye" or "nay." In Victoria we have not claimed this referendum. In the amendments suggested by our Parliament, we have not attempted to claim it. Many of our members would have been in favour of it; but it was felt that it would be unjust to ask the smaller states to place themselves so entirely at the mercy of the mass of the people.

Mr. HIGGINS:

They did not say that it would be just; they said that it was inexpedient!

The Right Hon. Sir G. TURNER:
I am quite willing to say that, even if it were just, it is inexpedient; because we know very well that we cannot get it, and that the probabilities are, if we did get it, our friends from the smaller colonies would not join the federation. As practical men, we must not deal with mere theories.

Logic is all very well in a debating society; but we are met here as negotiators to frame the best bargain that we can, and a bargain which will be acceptable, not only to the people of our own colonies, but to the people of all Australia. We must, therefore, take into consideration the views expressed by the representatives of the other colonies, and we must see that we are not attempting to force upon them something which their colonies will not indorse. I agree with my hon. friend that, even if this were just, which I do not admit, it is wholly inexpedient, and as wise and sensible men we should not attempt to adopt it. The proposal of Victoria is that either house should have the right to take this particular step, but that two sessions must intervene, so that there maybe ample time for consideration. To prevent the second session from being held immediately after the dispute, it is provided that there must be a lapse of six weeks before parliament can meet. Then a resolution must be passed by one house affirming that the matter is one of urgency, and asking the other house to give it further consideration. That step gives another opportunity for full and fair discussion. Lastly, there is the responsibility of passing a resolution sending the question to the people for their decision; so that every step possible is taken to provide for a reasonable amount of delay, in order to give time for full consideration, so that the representatives of the people may fully thrash out the matter, and, if possible, avoid either a dissolution or an application of the referendum. Then I will ask the representatives of the smaller states to say whether the proposed referendum does not fully protect every right that they can have? Our Assembly went further than the Convention went in Adelaide, and provided that not only must a majority of the states and a majority of the electors voting be obtained, but that there must also be a majority of the electoral districts in the house of representatives in favour of the question before it can be decided in the affirmative.

Mr. HIGGINS:
That is no referendum at all!

The Right Hon. Sir G. TURNER:
This proposal is not antagonistic to the interests of the smaller states. I will admit that the result may be to leave the dispute undecided; but we have either to do that, or we must do something which I am certain we
could never carry out. While we may have strong views about the majority of the people ruling, what is the use of attempting to embody them in a constitution, when we know that that constitution would never be agreed to? That is the proposal with regard to the referendum, and I am certain that the smaller states need not be in any way afraid to agree to it.

Mr. WALKER:
That is the dual referendum!

The Right Hon. Sir G. TURNER:
Yes. There must be the consent of a majority of the states, and the consent of a majority of the people in the states. There must be, further, a majority of the districts. We have gone to the fullest extent that we can go to do what is fair and just to those with whom we desire to federate. I think it is a certainty that we must have the amendment proposed here, because I believe there are very few who would be prepared to contend that we should allow this constitution to go forth without any means of settling deadlocks. If we think that some method must be adopted we must carry the first amendment so as to build up on that foundation some structure to give effect to our views. I am anxious that, if possible, we should be unanimous on this question. Although possibly the opinion of my own colony would be that we should insist upon getting the referendum, and not the double dissolution, I am prepared to meet the views of my friends here by endeavouring, if possible, to have differences settled by double dissolution. But while meeting them to that extent I am going to ask them in fairness to us to help us out of the difficulty we may get into by agreeing to that to assent to our proposal, which is that after we have tried the double dissolution and presuming that to have failed, then we should have the dual referendum. I think that is not unfair or unreasonable. We have all through endeavoured to meet each other so as to smooth the path we shall have to travel in our various colonies. I feel very certain of this, that if we can go to our respective colonies and say that after having fully discussed, considered, and fought out this subject, we have, practically, unanimously as I hope it will become to the conclusion that there should be a mode of settling these difficulties, if unfortunately they do occur, by a double dissolution, and, if that fails, by a dual referendum, I think we shall have very little, if any, difficulty, in convincing the people we represent that they may fairly and reasonably adopt it. But I am satisfied that if we are to leave in the bill equal representation, which I, for one, have willingly conceded from the first, although I have been somewhat blamed for doing, so, if we are to leave that and the other powers with regard to money bills which we have
willingly given to the senate, and if we are to have no means of settling the difficulties that may arise, although I am prepared to use all the influence I possess to induce the people of Victoria to accept it, I am afraid that it will be a very difficult task indeed. Therefore, to help us out of a difficulty, as we are willing to help the representatives of the smaller states out of their difficulty, I think I may fairly and justly claim that they should accept the proposition which we submit. If they do so, I believe that, with the exception of the financial question, this will practically be the last difficulty which will have to be settled, and then we may be all proud to take back the bill to the people in our various colonies and ask them to indorse it; and I believe that the vast minority of the people, for the purpose of obtaining the benefits of federation, will be prepared to do so. I am sure I can appeal to the representatives of the smaller colonies to help us, as we are willing to help them, and I trust that appeal will not be in vain.

The Hon. H. DOBSON (Tasmania)[9.40]:

I think every member of the Convention is grateful to our honorable leader for his words of wisdom and common-sense. I think we also owe a debt of gratitude to the Premier of Victoria for the plain and practical advice he has given us, fair as it undoubtedly is from his point of view. I think our discussion or fight, if we are having a friendly fight as we are, contains a certain element of unfairness which I desire to point out. It appears to me that the larger colonies of Victoria and New South Wales are certainly to be the predominant partners, to use Lord Rosebery's phrase, in the federal government which is to be formed, and they certainly are the predominant colonies in this Convention; and, being the larger colonies, they have more able public men than have the other three colonies put together. They have more public speakers than we have; they have more able men in this Convention and outside it than we have; they have newspapers of enormous influence which are read by thousands of people against the hundreds that read our newspapers. These public men and these newspapers are always talking of the ultra-democratic form of the constitution; every speaker is trending in that direction; and anybody who suggests that there is another side to the picture, that there is another way to frame the constitution is hardly listened to, or else is listened to with no weight whatever, as compared with any utterance from a larger colony, or any article from one of the larger newspapers to which I have alluded. I do not hesitate, to say that if we had on behalf of the small colonies an Edmund Barton, and an Alfred Deakin, and four newspapers like the Age, the Argus, the Herald, and the Telegraph, the whole atmosphere of this Convention would he changed.
This is the element of unfairness which I desire to point out. Here I would ask my fellow delegates this question: Are we to frame this constitution in accordance with those principles which our political experience believes to be right, or are we to listen to the voice of the people without and absolutely let them dictate to us how the machine is to be framed? While I certainly am not advocating that we should be deaf to the voice of the people if we could only know what that voice is and we cannot while I am not advocating that we should not consider every suggestion which has been made by any single member of a house of legislature, I am inclined to think we are being guided too much by the outside voice and trusting too little to our honest and earnest convictions upon the subject which we were sent here to deal with. The question before the Committee is so complex and so complicated, that I certainly shall follow the advice and the example of our honorable leader, and hold my judgment in suspense. My opinions have been so modified, I have been so instructed by the debates, by the arguments which I have heard in this chamber, that I desire to withhold my judgment till the discussion is exhausted, and I have got every shred of light on the matter which hon. members can give me. While the leader of the Convention, and my right hon. friend, Sir George Turner, say that we must give effect to the popular will, and that we shall make a very grave mistake in framing this constitution unless we do so, I think it is a very great mistake to talk about this popular will, as if any hon. member, or all of us put together, had any reasonable idea of what that popular will may be. While we are dealing now with the constitutional aspect of the machine we are constructing, we are altogether forgetting the financial aspect of it, we are altogether forgetting the self-interest which is wrapped up in that, and when the constitution goes before our people with the financial clauses there, and the terms of the bargain which we inevitably have to make one state with the other, I say most unhesitatingly that the constitutional question, which is now being made too much of, which is being exaggerated, if you will, both on the side of the small colonies and on the side of the great, will sink into insignificance; and those hon. members who have been bold enough to prophesy what the will of the people is will have no will expressed on those matters at all; but the will of the people will be expressed on those subjects which touch their pockets. We shall have the protectionist in Victoria asking himself, "Will that constitution suit my industry? Is it going to reduce the value of land in my colony £25,000,000,"-as pointed out by the hon. member, Mr. McLean. We will have the manufacturers asking, "Will a broad revenue tariff suit me instead of a protectionist tariff?" We shall have the colonists considering the matter to a great extent from the view of self-interest; and I say that then we shall
find that those constitutional questions which are now being made so much of will sink into the background, and that hon. members who are now prophesying as to the will of the people being against federation if we insert a particular clause, or against it if we leave out a particular clause, will be absolutely wrong in what they are prophesying.

The Hon. I.A. ISAACS:

Some people will have some difficulties; others will have others!

The Hon. H. DOBSON:

I quite think so. Some earnest radicals and some earnest tories will have constitutional difficulties; but the great bulk of the people will look at the advantages or disadvantages of the bargain. I therefore think there is a very grave danger indeed to the small colonies giving way too much to our predominant friends of the two larger colonies. What has led me to this argument is some remarks which have been made by two or three speakers who, I presume, are democrats, or who, at all events, take a different view on this question from that which my intelligence leads me to take; and out of their own mouths I think they have to some extent given away the case. Let us take a remark which was made by the hon. member, Mr. McMillan, at the outset of this debate. He said:

When we have a nicely adjusted constitution, do not destroy the balance of power by a mechanical contrivance which may become a tyranny.

Could anyone put the question for the smaller colonies into a more apt or precise sentence than that? The hon. member points out that we have with our labour, intelligence, and industry, constructed a machine with absolutely finely adjusted powers, and he urges us not to destroy that fine balance which we have created by any mechanical contrivance. These are the sentiments of some of the members from Tasmania. But that was not the only phrase the hon. member, Mr. McMillan, made use of. He went on to say:

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The only check on the tyranny of the house of representatives is the second chamber.

He again uses the word "tyranny," referring, as Mr. Maine, and other writers refer, to the fact that manhood suffrage may be the basis of a tyranny. Whether we build a tyranny upon it or not, depends solely and entirely upon the one or two men who lead our democracy. Those men must be patriotic, upright, skilled, and able to prevent this democracy running into, disaster. I think I was hauled over the coals rather unmercifully by the hon. and learned member, Mr. Barton, last night for daring to say I desired to control, as I do desire to control, the democratic
force which surrounds me, that is, not a desire which sprung merely from my own small brain. It is the leading of almost every book that I take up. I am told, not only by Maine, but also by Bryce, by Leeky, by Sedgwick, and every writer that I have read, that democracy is on its trial.

**Mr. GLYNN:**
They also, say that the referendum is a conservative institution!

**The Hon. H. DOBSON:**
The Swiss referendum is, of course, a conservative institution, but not a referendum established, after having formed two strong chambers, having approved of the bicameral system, which says the will of the people is expressed only when the two chambers agree. We do away with the bicameral system, violate the principle on which we are constructing the machine, and say we are going back to the people to some extent uneducated people who have sent men to Parliament because they believe they could carry on the work of legislation better than they could themselves. I would point out to my hon. and learned friend, Mr. Glynn, that I am trying to raise the very point which is at issue before the Committee.

**The Hon. I.A. ISAACS:**
Sedgwick has some very strong arguments in favour of the referendum!

**The Hon. H. DOBSON:**
He speaks favourably in some parts of the referendum; but I desire to point out to hon. members what hon. member after hon. member insists on forgetting, that no writer that you can get hold of over had to deal with such a constitution an this is at the time; and here I use again the words of Dr. Quick. Here is a marvellous sentence to come from one of the advanced democrats. Dr. Quick says:

Having called into existence the most democratic constitution in the world, we ought to provide for those historic occasions when conflict arrives.

Now there is a grand sentence! Having absolutely created the most democratic constitution in the world, our advanced democrats opposite are not satisfied. They ask the small states to give them something more. They not only want the most democratic machine in the world, but they want something else. Does not that show that there really is a danger of the small states being persuaded, being coaxed, being induced to give way, when their duty to their principles, their duty to their people, their duty to these small and not predominant partners, ought to compel them to maintain their principles? The hon. and learned member, Dr. Quick, also says:

The senate will be stronger than any legislative council, and therefore we
ought to provide against deadlocks.

He also says-
The senate was without parallel in responsible government.

Therefore, having made this strong upper chamber, and this strong upper chamber emanating from exactly the same source as the house of representatives, and having behind it the popular will, when these two strong chambers, each having equal powers, and each being of equal weight-each having behind it the same popular authority disagree, I fall back upon the words of the hon. member, Mr. McMillan, who says:

Is it not then most unmistakable that there must be a period when time ought to be allowed for consideration?

If you have these two chambers, emanating from the same authority, differing and in conflict, what does that show? It shows the great difficulty to determine what the will of the people is.

An Hon. MEMBER:
Refer to their masters!
The Hon. H. DOBSON:
The hon. member says, refer to their masters! I am already reminding the hon. member that their masters have already expressed one opinion through one set of representatives, and that exactly the same masters have registered a different opinion through their other representatives, and hon. members want this mechanical contrivance which is condemned by Mr. McMillan to go and let the people say which course they will have. Why, the very fact of two popular houses conflicting and disagreeing with one another shows that the question in dispute is so complex and so intricate that the people have not made up their minds, and want time to consider. Let me illustrate it by an illustration I gave at the Adelaide Convention. When Mr. Gladstone formed his policy of Home Rule and I do not dwell on the fact of how he startled his followers, broke up his party, and alienated some of the best friends of his life what he proposed to do as the Unionists thought was to disintegrate the British Empire. For three, four, and five years that gentleman and his followers appeared to captivate and take with them the public opinion of the British Empire. Seven years afterwards it was not until seven years afterwards after the greatest battle of words and discussion Great Britain has ever seen, the Conservatives came back with the largest majority we have seen within the last two decades against a bill which at first seemed to carry the whole weight of the people with it. That seems to show that you may have two houses from the same people registering two different opinions; that when you go back to those people, when you go back to your masters, they may not have
made up their minds themselves; you may possibly go back to them at a time when they have no particular will based on reason, based on thorough investigation of the complex matter brought before them.

Mr. GLYNN:
The hon. member's argument on Home Rule is based on premises which many of us deny!

The Hon. H. DOBSON:
I do not want to drag in Home Rule. I will take this Convention, if you like. Look at the way in which opinion as to the question of framing this bill has altered since 1891; how every hour we are getting more democratic; how every hour the larger states are gaining and the smaller states are losing. I wish to join my hon. friends in doing that which is fair and right in framing a bill that will meet with the acceptance of the people, but I do see a danger. We are drifting and drifting always in the one direction. Now I want to ask hon. members what will happen when Queensland joins us? I know not whether Queensland will send here conservative, liberal, or democratic members, but I know that Queensland will have a very large say in the matter. I know that when Queensland comes in as I hope she will to the third sitting of this Convention that representatives of that colony who speak will be listened to with the very greatest weight indeed. Suppose the great colony of Queensland, which is large enough and rich enough to be made soon into three colonies, utters the same prophecy which some hon. members have uttered, "Unless you build a constitution on more conservative lines our people will not accept it, and we will go back and stump the country against it," what position will you be in then? Therefore I ask hon. members to consider that, while we want to give fair play all round, the persuasive eloquence of our friends opposite is influencing some of us against our reason in this matter, simply because we do want to conciliate, because we do want to give and take, because we do want to be friendly, but, at the same time, there are certain principles which we ought to recollect, beyond which we ought not to go.

Dr. QUICK:
You have given up nothing up to the present!

The Hon. H. DOBSON:
I think we give a great deal when we say that this second chamber this controlling chamber which is an absolute necessity in a bicameral system-should be elected on manhood suffrage. I consider that is giving up a very great deal. But what did the hon. member, Mr. Fraser, point out some hours ago that perhaps within twelve or eighteen months, or two years at the furthest, one-half of the senate must face its constituents. One-half of the
senate must go to the people for direction, and if the people be dissatisfied if their masters be dissatisfied with what the senate has done, if they the electors can change the opinion of one-half of the senate by sending back that half to represent their exact views, as the hon. member, Mr. Fraser, has pointed out, you practically have the means of registering the will of the people without this mechanical contrivance.

The Hon. S. FRASER:
A natural means!

The Hon. H. DOBSON:
It is a natural referendum, which to use a phrase which has been so often used, is embodied in the constitution. I meant to dwell upon the fact-I need not do so long, as the hon. and learned member, Mr. Barton, has done it better than I can-that throughout the whole of this debate hardly one member has drawn a distinction between absolute deadlocks and simple disagreements. I cannot bring myself to conceive that our democratic friends from either of the two large colonies have a right to give us equal representation with the one hand and absolutely take it back from us with the other by asking us to have a national referendum, or any other referendum, on all those questions of general legislative concern which do not bring about a deadlock; and I think our discussion is not conducted on the highest lines of intelligence unless we keep broadly before us the distinction between the senate by its veto bringing about a deadlock and preventing the machinery of government from going smoothly on, and the senate simply negativing some bill of which it does not approve, and which it thinks may tend to disaster, and not to the prosperity of the commonwealth. The hon. and learned member, Mr. Deakin, pointed out that most of the things contained in the 52nd clause of the bill-those thirty-seven powers which we have given over to the federal government-were not of state concern; and my hon. friend, Mr. Holder, who made an excellent speech, but one which I humbly venture to think was based on a fallacy, argued that free-trade and protection was not a state right. To my mind it is the most vital state right. The whole of the revenue from Tasmania, sufficient to pay more than the interest on her public debt, is derived from customs duties; and if a tariff is framed in order to give protection to the industries of Victoria, and if you do not give us a very large revenue from tea, coffee, cocoa, and things of that kind, which we cannot manufacture or grow, we shall not get enough revenue with which to carry on our government. Therefore, it becomes a most vital question as a state right whether we are going to have an ultra-protectionist tariff or a
broad revenue producing tariff. I would point out also to my hon. friend Mr. Holder, on the question of taxation, that if ever a war should come, or if ever a necessity should arise for some great expenditure, the power possessed by the federal government to tax every citizen of the commonwealth, including every citizen of the states, is of the most vital importance to the states, and is essentially a state right.

The Hon. F.W. HOLDER:

The Hon. H. DOBSON:

Suppose the customs duties are practically exhausted, and suppose the commonwealth falls back upon a land-tax and an income-tax, what arises then? I hope some of the good folks who are here tonight are going to visit or settle in Tasmania; but I regret to have to inform them that we have a shining income-tax there practically a war tax.

An Hon. MEMBER:

We have an income tax of 1s. 4d.!

The Hon. H. DOBSON:

And we have also a land-tax. If, therefore, the commonwealth are going to put an extra 3d. on income and an extra halfpenny on land, is not that a question of vital concern to the state-is not that a state right? Most decidedly it is. Then look at other matters. We notice that at home the Trades Union Congress is suggesting that all the means of production, all the means of distribution, and all the means of exchange should be socialised whatever that may mean. Suppose that questions of socialism, or questions affecting labour and capital, were introduced into the federal parliament suppose the question of banking was introduced, and some of our friends wanted to socialise or nationalise or democratise banking; and suppose our state, I do not care whether it is a small state or a large state-looked upon that law as absolutely full of disaster, and one which could only end in unsettling our commercial affairs and bringing about fiscal disturbance-is not that a state right?

Mr. GLYNN:

How could they be state policies or state rights if you may have them introduced by the federation?

The Hon. H. DOBSON:

I am talking of certain powers which we are going to give the federal government the right to administer, and I say that I can point to at least two-thirds of them which vitally affect the states, and, therefore, to some extent, state rights; and I say, "Do not give equal state representation with
one hand and take it away from us with the other." I think that the referendum is a very much over-rated contrivance, and I ask my hon. friends opposite, would they propose to refer to the people a question like bi-metallism; would they refer to the people a question like war, or foreign policy; would they refer to the people questions dealing with defence? I take it that those are complex questions, which it requires experts to deal with; and, therefore, those people who expect to get hope and guidance from the referendum, I am sure, would find they were disappointed. The question before the Committee is, whether we shall adopt the first paragraph of a clause which goes on to give us a certain kind of referendum. I understand that the Prime Minister of this colony is going to speak tomorrow morning, and I dare say that the hon. and learned member, Mr. Isaacs, and other hon. gentlemen will also speak on this question. When we have heard everything that can be said on the matter, I hope that every hon. member will join in doing what be believes to be right; but, at the same time, that be will try to conserve some of those principles without which we cannot have a sound and enduring constitution.

Motion (the Hon. W. MOORE) agreed to:

That the Chairman do now leave the chair, report progress, and ask leave to sit again.

Progress reported.

Convention adjourned at 10.8 p.m,
Thursday 16 September, 1897

Petition - Papers - Finance Committee - Commonwealth of Australia Bill.

The PRESIDENT took the chair at 10.30 a.m.

PETITION.

Mr. GLYNN presented a petition from the Synod of the Church of England at Adelaide praying that, the Convention would embody in the constitution an acknowledgment of Almighty God.

The petition was read by the Clerk, and received.

PAPERS.

The Hon. J.N. BRUNKER laid on the table the following papers:-

A return showing the population of each of the Australian colonies and Tasmania on the 30th June, 1897.
A return showing the revenue of each of the Australian colonies and Tasmania during the last financial year.
A return showing the expenditure of each of the Australian colonies and Tasmania during the latest financial year.

FINANCE COMMITTEE.

Motion (by Mr. MCMILLAN) proposed:
That the minutes of the proceedings of the Finance Committee appointed at Adelaide be printed.

The Hon. E. BARTON (New South Wales)[10.32]:

I have no objection to the motion, as I understand the minutes are available.

Mr. MCMILLAN:

I mentioned the matter to the hon. and learned member!

The Hon. E. BARTON:

I am not aware at the present moment whether some information given to the Finance Committee by the Railway Commissioners has ever been printed by the committee. I understand that that evidence was to have been treated as confidential; but inasmuch as it has already been published in the Sydney newspapers, I think it might now be printed for the use of members of the Convention. No doubt some members of the committee have copies of the evidence in their possession, and now the bond of confidence has been broken, perhaps one of them will furnish me with a copy of it, so that I may move that it be printed.

Mr. MCMILLAN:

It is among the papers of the Finance Committee!
Question resolved in the affirmative.

COMMONWEALTH OF AUSTRALIA BILL.

In Committee (consideration resumed from, 15th September, vide page 641):

Amendment suggested by the Legislative Assembly of New South Wales (vide page 541) again proposed.

The Hon. W. MOORE (Tasmania)[10.36]:

Having moved the adjournment of the debate last night, it is my duty to commence it this morning; but I feel that I am very much in the position of an armour-bearer of olden times, because I have received an intimation that the great guns are coming forward, so I am placed in this position to clear the way for the great men who are going to continue the debate. I believe that the Premier of New South Wales, and the Attorney-General of Victoria, will both address the Convention, and I hope that they will throw a considerable amount of light upon this matter. Not only that; but I think that the present moment is a very, critical time in the consideration of the question before us. We have had much time now to think over the matter, and it is necessary, to arrive at a compromise of some sort. I hope that the extremists on both sides will try to so modify their opinions that we may come to a conclusion in regard to the question. To be, or not to be, is the question with us now. Are we or are we not to have federation? If we insist upon some of the principles which have been brought forward, federation is impossible. If, for instance, we insist upon having a national referendum, I am perfectly sure that the smaller colonies will not enter the union. I was very pleased with the speech delivered by the Premier of Victoria last night, because I thought from what he said that we might come to an agreement upon the points at issue. If we now insist rigidly upon the principles which we have been advocating, federation will be impossible, and for that reason I think that some compromise is necessary. The first question to be settled is, how to prevent deadlocks? I am one of those who do not much fear the result of deadlocks. We have had deadlocks in Tasmania over and over again; but by a little delay and further consultation, these deadlocks have disappeared, and the result has been to clear the political atmosphere, and to put things in a better position than they were in before. Several suggestions have been made to provide against deadlocks. For instance a double dissolution has been suggested. So far as I am individually concerned, I think that it will be necessary on the part of the smaller colonies to agree to some compromise on this matter. I believe that if the house of representatives is dissolved upon any
question, and when it meets again it again sends this matter to the senate, and the senate rejects it, the senate should then be dissolved. I cannot understand why the senate should not be liable to dissolution under the constitution which we are framing. The members of the senate should not be afraid to come face to face with the people.

The Hon. Sir W.A. ZEAL:

It will be found upholding its own rights!

The Hon. W. MOORE:

Yes; but it will have no right to supersede the verdict of the people. The senate will, of course, represent the states; but my hon. friend must remember that the senate in the proposed constitution will be a very different body from an upper house as established by any of the constitutions under which we are living at the present time. The principle was put so well by the hon. member, Mr. Symon, yesterday that the proposal formulated in his amendment ought to receive support from the members of this Convention. The principle of a dissolution is quite consistent with the working of the proposed constitution. Therefore, I cannot see why we should object to the principle of making the senate amenable to dissolution. I think a national referendum is practically in consistent with federation, because it would destroy the political entity of the individual states, and therefore, I am not in favour of it. The principle of a national referendum is never applied in connection with responsible government. It is foreign to the working and purposes of responsible government. The principle of a referendum as applied to the states is a different thing altogether, and that is a question that ought to receive serious consideration. There is no doubt that the question of a referendum to the states as states should receive our special attention. The question, however, has been so well put already that I shall not dwell upon it. I only desire that we should, as far as possible, agree to some compromise which will bring about the object which we all have in view. It might be well if the Premiers of the different colonies formulated some scheme which could be accepted by this Convention. I would advise that we should endeavour in every possible way by means of compromise to carry out the object we all have in view. I think federation will be an impossibility, if we insist upon taking extreme views on these questions. What we all desire, and what I am sure would benefit immensely the whole of Australia would be a grand federation of the whole of these colonies, and in order to carry that out, I am heart and soul with those who are anxious to consummate so grand and so glorious a work.

Mr. WISE (New South Wales)[10.45]:
I had intended to reserve the remarks which I have to make on this subject until we came to deal with the specific proposals for avoiding deadlocks; but after the speech delivered last night by the hon. member, Mr. Barton, and by the Right Hon. Sir George Turner, it seems to me that it might assist to clear the air if I took an opportunity whilst the general discussion is proceeding of stating what attitude I intend to take up with regard to one of the proposals with which my name has been connected, and which I moved at Adelaide. I would first lightly refer to some of the considerations that have been raised in the course of this debate. What has impressed me most is the evidence that the debate seems to afford of the captivating power of phrases, and the danger that larks in fake analogies. The hon. member, Mr. Trenwith, whose judgment is always clear, and whose words always fit his thoughts, spoke of the matter involved as if, somehow or other, it raised a question analogous to that of plural voting. An hon. member from Tasmania, Mr. Dobson, the whole of whose speech I regret I did not hear, discussed the matter as if in some way or other a question was raised between democracy and conservatism; while there can be no question that among those who are outside this chamber and who do not follow the debates very closely, or perhaps who do not quite see the limitations of the questions that are at issue, there is a prevailing apprehension that something more is involved in this discussion than the relative powers of the two houses something more analogous to the old disputes which have taken place in our provinces between the lower and the upper houses; and that it is not merely a question of the conservation of state interests. Therefore, feeling that there is this widespread, as I consider it, misapprehension, I do not think I shall be unduly delaying the business of this Convention if I devote a few brief remarks to explaining the matter as it presents itself to my judgment. I entirely agree with what has fallen from all the speakers. It is curious that the same sentiment is shared by those who speak on both sides of this question that is, that under this Constitution there is very little fear of any deadlock arising between the two houses.

The Hon. Sir W.A. ZEAL:

Unless you encourage it!

Mr. WISE:

I would point out for the consideration of those who entertain more alarm on this question than most of us do, that the deadlocks that we are familiar with have always arisen from one of two classes of causes, either they have arisen from disputes as to the power of the second chamber to amend
money bills or they have arisen from disputes affecting large social interests where persons of wealth or social influence have claimed special privileges or exemptions which the mass of the people have been unwilling to concede. Both of those causes are removed under this constitution. The power of the senate to deal with money bills is so clearly defined that I doubt if any ingenuity could suggest the possibility of dispute arising between the two houses on that question. That at once removes one of the most prolific sources of dispute between the two chambers in the past. Then as to the second class of dispute arising from social differences, all through this discussion, not, I admit, in this house but outside, the controversialists of one party ignore, or seem to ignore, the limitations of federal government. They forget that this commonwealth can only deal with those matters that are expressly remitted to its jurisdiction; and excluded from its jurisdiction are all matters that affect civil rights, all matters that affect property, all matters, in a word, affecting the two great objects which stir the passions and affect the interests of mankind. I fail entirely and I shall be glad if some alarmist will enlarge my views on this matter—to perceive in this bill any question on which there is any possibility of a conflict between the states and the people, except, in one respect, and I will define that in the largest possible way. In legislation affecting commercial interests, or financial interests, it is possible to imagine that the states will be brought into conflict as states with the concentrated majority of the populations of the two large states over a question of trade. It is possible to imagine the same thing arising over a question of commerce, or over a question of finance. Now, I ask if such a state of things arises that the Committee will give attention to the nature of the interests which are threatened. If conflicts arise over matters of commerce, trade, or finance, the interests that are threatened are not the interests of individual traders, but the interest of the state as a whole conducting a general class of business, or carrying on a particular sort of occupation. I will test what I mean. An effort is being made now in Victoria to grow beet for sugar; I hope it maybe successful. A similar effort in its earlier stages is manifesting itself in this colony. Supposing that the sugar interests in Victoria, and the sugar interests in New South Wales, became very powerful, and employed a large that are affected readily to concede? I will reverse the position. There is one clause in the constitution which gives the commonwealth power to regulate trade and commerce, and communication between the states for the purpose of furthering commerce necessarily follows the federal parliament in order to give effect to that provision. Everyone will admit
that one very useful means of communication is a river, and that if the power of regulating trade and commerce is to be unanimously conceded to the federation, logically the federation should be able to take over the full control of all the river systems which may be made navigable, or which are navigable throughout the commonwealth, especially where those rivers pass through one colony into another. Yet there is not the most violent enthusiast in New South Wales, over what he considers this popular rule, who does not insist, and properly insist, that New South Wales cannot and ought not to surrender the control of her river system to the federal parliament. For what reason? Because our rivers are wanted for internal purposes of irrigation, because our rivers serve the double purpose of developing our national resources—the resources of New South Wales as a state—as well as the purpose of assisting communication and furnishing means of navigation from one part of the commonwealth to the other. If those who insist that the small states are never to be allowed to protect themselves against the possibility of unauthorised irresponsible power, of unduly exercised power by the majority of the populations of the larger states, logically they will also insist that we, who represent them here, should hand the control of our rivers absolutely over to the majority of the commonwealth. Why, to parody their argument, should not the majority rule? If the majority want to use the rivers of New South Wales for navigation, and to prevent us from using them for irrigation, why should not the voice of the great majority prevail?

An Hon. MEMBER:

Mr. WISE:

The answer is a simple one. I am not dealing with theories. I am dealing with facts. I accept the facts. The answer is this: we intend to develop New South Wales as a separate state by utilising, our natural resources. We do not dispute that logically you may demand these rivers; but we say that we require their waters for other than commonwealth purposes, and we intend to keep them. It, therefore, seems to me that a great deal of this cry for the rule of the majority comes from those who are very well disposed to the rule of the majority when they form the majority, but who are quite determined that they shall not submit to that rule when there is a possibility of their being left with the minority. It reminds me of the incident in the Philadelphia Convention when the question arose as to the United States being allowed to confer titles of honor. One bluff and hale democrat declared that for his part he would support a peerage, if he were quite sure of being one of the dukes; but as he knew that he had not any chance of
that, he was opposed to any peerage whatever. And so with us, or some of us. They will support the rule of the majority so long as there is no fear of the majority controlling their special interests. But the moment it is said we should hand our railways or rivers absolutely to the rule of the majority, then we have the most clamorous cries on behalf of state rights raised by the very men who, when the interests of other states are involved, are most generous in giving them away. What is, after all, the possibility of a conflict? When the causes are gone, the possibility is reduced almost to a minimum. But supporting that in the matters I have referred to a conflict arises. We have the means of getting rid of the conflict by ordinary good sense, and if that fails by a dissolution, and, a third method is proposed. After all these methods have come into play, will it not be a fraction of a fraction of cases in which any insoluble conflict arises between the people of the states? I would not hesitate to say that, in the last resort, if the power of the concentrated state populations were used I do not believe it ever will be to destroy the country interests, the interests of the interior, the people of the sparsely populated districts have the right of self-preservation.

Mr. HIGGINS:
My hon. friend confounds the interior with the smaller states!

Mr. WISE:
I accept facts; and, indeed, that is the distinction: that two large states have the great city populations. It is the small states in a rudimentary or earlier stage of development which have an agricultural, pastoral, and mining population. It is the concentrated population which makes a large state. That which makes New South Wales a large state is that it has Sydney; that which makes Victoria a large state is the possession of Melbourne. In point of territory they are smaller than either Queensland or Western Australia.

Mr. HIGGINS:
There is the same proportion of town population in Tasmania as in New South Wales!

Mr. WISE:
It is not a question of population. The character of the people's pursuits is determined by the climatic conditions very largely, and by the question whether or not they are engaged in the development of internal productiveness or in the carrying on of external commerce. I want to meet the argument that all I can say can be turned the other way. I deny that. The relative position of the small states towards the large ones in questions that may give rise in conflict is not the same. The relative position the small
states to the large states is not even an equivalent position; for this simple reason: In the long run, and behind, everything, is the ultimate sanction of all law that is, physical force. Behind the legislator there is the policeman, and if the case did arise where the small states, by opposing their veto to a scheme which had passed by a large majority the representative assembly, did disorganise the industries of the large states, if they did affect their existence as states, if they did give rise to such a tremendous outburst of feeling that the national progress of Victoria or New South Wales; felt itself imperilled, I ask who is going to enforce that veto? How will the small states ever be able to give expression to their will? In the ultimate resort the small states have the power of effective resistance by reason of their population. In the ultimate resort the small states have not that power. The small states could be coerced by force-physical force if necessary and the large states could not. Therefore, we are in this position: we are dealing with imaginary dangers and difficulties, which no one here admits or considers are likely to arise difficulties which may conceivably arise; but if they arise as against the large states, having it in their power to protect: themselves, they arise in the case of the small states without that power; and all the small states, are now asking is that they shall come under the constitution with the physical power of the commonwealth to protect them in the last resort, which the large states have by reason of their numbers; They should be given that same power by a provision in the constitution which enables them to oppose in the long run an ultimate veto, not of the senate, but an ultimate veto of the votes of their own people against any proposal which is intended to deprive those people of their liberties. I, at Adelaide, moved an amendment which was intended to get rid of one possible cause of conflict between the two houses. I recognise that the senate was primarily intended to conserve the interests of states, and was only incidentally a house of revision. But I was most deeply impressed by a speech of Sir Graham Berry, which pointed out the inevitable tendency on the part of all legislatures that were secured upon continuous existence especially when they were composed of men who had won their spurs in other fields of public work to grow out of touch with popular sympathy. Therefore it seemed to me desirable that there should be some method of securing that the senators acts actually reflected the popular opinion of their constituencies, so as to remove once and for ever all possibility of conflict on questions affecting personal interests. Since then I have listened to several speeches here, and I have come to the conclusion not to press that amendment, although it was recommended by the Parliament of Victoria as one of their alternative schemes. I recognise the force of what
has been urged: That it is unjust to the house of representatives that it should be subjected to a dissolution and to inconveniences from which the second chamber itself should be free. Therefore I will agree to the suggestion of the Right Hon. Sir George Turner that a double dissolution should be accepted.

The Hon. S. FRASER:
At the same time!

Mr. WISE:
I think at the same time, but that is a matter of detail. I think it would be better, in the interests of the senate, that it should be at the same time. Otherwise without that power a minister desirous of quarrelling with the senate, and of punishing the senate by sending them to the country, can do so without inconvenience to himself or any of his supporters in the assembly. I believe it is a safeguard against the arbitrary exercise of this great power.

The Hon. S. FRASER:
That is the power of the Minister!

Mr. WISE:
The Governor advised by his Ministers.

The Right Hon. Sir G. TURNER:
The ministry have to accept a great responsibility!

Mr. WISE:
I was going to point that out. Whether or not there should be added to that a further provision taking a referendum, in the event of a dissolution can be said not to have correctly reflected the opinion of the states, is a matter upon which my opinion has wavered very much. It has wavered because I do not appreciate at present how the referendum is going to work with parliamentary institutions. I recognise the referendum historically as having been, from the time of Julius Caesar to the time of the third Napoleon, the favorite weapon of personal despotism; and it appears to me very difficult to bring into harmony an institution of that kind which overrides parliament, with the British habit of submitting to representative and parliamentary government. At the same time, I recognise that there is outside a very considerable demand for the adoption of this plan. I find, too, that it is theoretically justifiable as being a sure way of ascertaining, when all other means have failed, what the real views of the people, whom both houses represent, are, and if it is applied with the limitations which have been suggested, so that it can be used not as the daily food to use the phrase of Edmund Burke of the constitution, but as its medicine, I will be found surrendering my private predilections and voting in its favour. I should be opposed to making it replace any of the schemes with which we
are acquainted for overcoming the difficulties between the two houses, because I am opposed to making any experiment in an instrument of this kind. I am profoundly convinced of the truth that it will be futile and chimeraical in us to attempt
to frame any constitution which does not emanate from the history of our own people. We are a people of British origin, accustomed to parliamentary institutions. If we do not frame this instrument in such a way that it springs from our antecedents, and follows our tendencies, that it is imbued with the character and habits of our people, consonant with their beliefs, and even with their prejudices, then I say that, build what we may on paper and by act of parliament, all that we do will be false and perishable. But if, on the other hand, we pay a due regard to popular opinion, making concessions to its tendencies where we can make concessions without sacrifice of principle, then I believe that we will be able to present to the people of Australia a constitution which, however imperfect, will confer great benefits upon them, and which will contain within itself great possibilities of growth a, constitution, in a word, for the adoption and the successful working of which, every one of us will be proud to labour with all his strength.

The Right Hon. G.H. REID (New South Wales)[11.10]:

I confess that I feel sufficiently diffident as to my powers of solving this very serious problem to have waited, and to have listened, to a large number of speeches; and, again, I feel a sense of regret that, so far, the tendency of the debate has not been such as to promise us a satisfactory issue from all our difficulties. Again, it seems almost impossible that the Convention is able to realise that, in endeavouring to frame a constitution at this time, we must pay the fullest regard to the course and development of political history. We are too apt to get back to that state of things under the stress of which the Constitution of the United States was formed. We are too apt to forget that, since that Constitution was established, there have been enormous advances in political enlightenment, and that one of the greatest effects of those advances has been to realise that, talk as we will of parliamentary and representative government, we are very far yet from enjoying those blessings in their real substance. I find nothing with which to quarrel so long as vague generalities are indulged in. For instance, when we speak of parliamentary and representative government, those terms are clothed with a respectability which seems to assure for them cordial and unanimous assent. Indeed, we might go even further, and speak of the voice of the people as the ultimate arbiter in all national and even in all federal difficulties. Up to this point everything seems harmonious and
entirely respectable; but when we come closer to these questions, when we come to rob them of their generalities, and endeavour to approach them in spirit and reality, it is astonishing what various shades of political belief are immediately struck off from the simple flint. In what country in the world to-day do the people, the real solid political power—in what country in the world can it be said that the voice of the people constitutionally expressed has a chance of being effectual? I know of no such country in Australia. We may perhaps have advanced more rapidly than some people would like; but we must take facts as they are, and we cannot shrink from the fact that in every Australian colony the people have been struggling for many years past to get a more real share, a more potent influence, a more direct control over what are called parliamentary and representative institutions. I do not need to go into illustrations to show how crude the political circumstances of some of the colonies are. I need not go out of the boundaries of New South Wales. We have here at the present time a constitution which is, I suppose, one of the most extraordinary anomalies known to the political chronicler; but, at the same time, there is a great deal to be said for it. In its working, although often it breaks down most abominably, it is as efficient an instrument of popular government as any in the world. But, unfortunately, we are not now addressing ourselves to the task of amending some imperfect constitution. Our solemn task is that of constructing an entirely new political constitution, and, so far as the British people are concerned, a constitution in which, if we are to proceed on the lines of the British Constitution, we have very little to guide us. My hon. and learned friend, Mr. Wise, was as satisfactory, as were all the other gentlemen, who indulged in platitudes. He was condescending enough to say that he was willing, to some extent, to how to the trend of public opinion, even, although public opinion may have the misfortune to differ from his own. We accept all these assurances with gratitude. It is highly satisfactory to me to hear, at this time of the day, that there are enlightened public men who have some sort of abstract respect for the significance of public opinion. I wish to go much further I wish to say that it is only in public opinion, in the efficacy of public opinion, and in the authority of public opinion, in shaping the destinies of any political constitution that its foundations can consist—that just as public opinion has had the freest control of the destinies of a country, so have those destinies become purer and more dignified. It is of no use to point to the United States as a country in which the people have political power. There is no country in the world where the people in a broad, massive, honorable sense have less to do with the government of the country than they have in the United States. They
have become entangled under the provisions of their federal constitution in such a series of contrivances for subordinating the free honest expression of public opinion to the most unworthy purposes that, to my mind, nothing is more melancholy than the utter breakdown of the Constitution of the United States in that one saving respect—that the voice of the people can immediately and perfectly affect the course of government. I feel all the prouder of our connection with the mother country when I reflect that in spite of the House of Lords there is no country in the world where public opinion in its broadest form has so much weight. It seems to me that those who are timid of public opinion, who think that public opinion, allowed fair sway in the affairs of government, will throw our institutions into confusion might take some courage from the history of the British people since the year 1832. We know the extremity to which the constitution of the mother country was reduced in 1832, not by hollow false agitation, but by the collision of those two opposing forces, one of which had been gradually dying, the other of which had roused itself for that last desperate fight against the advance of the popular power. At that time, the British Constitution was in imminent risk of disruption. Fortunately, there was a safety-valve in the constitution which saved the people from the most disastrous convulsion that could ever come upon the British nation. Fortunately, at that critical time, as I say, there was a safety-valve, which enabled the will of the people to have effect. And what has been the result? We are now sixty-five years away from that point, and will not the most timid Tory admit, looking on the history of the past sixty-five years, that the history of England during that sixty-five years, that the history of government during that sixty-five years, that the history of the people in every sense as a governed people and as a governing people has been the brightest in the whole range of British history? Do we find today any signs of those destructive socialistic forces of which we hear so much?

Sixty-two years after that great revolution in the balance of political power, what do we see today in the mother country? We see a Tory government, that is a conservative government a government which some of my friends here would look upon as a perfect guarantee for everything that is upright and respectable in a position of triumphant power today, supported even by a democratic labour federationist. Are not these teachings of history, of the history of our own race under institutions resembling our own, are not these experiences enough to enable us, when we are framing here in this country, even more, in advance in some respects than is the mother country-infinitely freer from obstacles in the
path of a scientific adjustment of political forces—to address ourselves to this great crucial problem with a feeling of confidence that the more the people are with us in the work of governing Australia, the more just, the more stable, the more successful the government will be? I confess that I listened with the keenest disappointment to the speech of my right hon. friend, Sir George Turner. It was a generous speech. We can all be generous when we are dealing with somebody else's affairs. I can be extremely generous when some great necessity of duty does not come in my way; but when a necessity of duty comes in my way a duty which I cannot very well abandon then I feel that I have to throw aside all these courteous phrases and to speak plainly and earnestly. My right hon. friend, it seems to me, has made this fatal mistake: he has, by the position which he has taken up, been ready to solve this most anxious difficulty between what I fully admit are the just rights of the smaller states and what are the equally just rights of the people as a commonwealth. In this difficulty we must see at once that there are certain things in which the rights of the smaller states, however small—however insignificant their people in proportion to those of the larger states must be respected. I quite admit that it is impossible to stand up at this stage and advocate federation unless we are prepared to admit that in everything which falls legitimately within the definition of state rights, majorities cannot be allowed to have their own way. It is only by coming down to definitions by paying some little regard to the precise character of the range which this federation is to assume, that we can clear the air of all these mysterious fears of brutal domination over principles which are dear to the hearts of every true born Australian in the smaller states. We must look at the work with which this commonwealth is to be intrusted. If it were a provision of this constitution that the commonwealth should deal with all matters not specifically retained by the states, I do not think that I could make the speech that I am making at the present moment I admit, because it would be impossible to define the line, or with any sort of resemblance to precision to define the line, over which state rights would come into the plane of the commonwealth rights. But we have simplified this most difficult problem—and I hope that hon. members will accept my assurance that, although I am speaking so earnestly, I am not at all indifferent to the intense and immense difficulty of this matter. I give my hon. friends who hold the opposite view to mine the most absolute credit for the most honest desire to do that which is right. Just as I stand here, perhaps, in a last entrenchment in defence of what I believe to be the rights of a majority of the people of the commonwealth, some of my hon. friends with equal honesty and equal duty, stand, perhaps, in their last entrenchment to defend the rights of the smaller states against a system
which would set those rights entirely at the mercy of a mere majority of the electors of the commonwealth. If I stood up to ask them not to do that in reference, to state rights, I feel, that I should come here asking them to do a thing which no reasonable man ought to ask them to do. But what is the principle of this deed we are about to endeavour to seal? The first principle is that the commonwealth is to have no sort of pretence to power except upon the subjects set out in this bill. Fortunately, we will always have a court of high reputation, I hope, to see that everyone is kept to the terms of the instrument. Under the protection of the supreme court of the commonwealth, the sphere within which the commonwealth can assert itself or legislate is set out in so many words. I look over these subjects-clauses 52 and 53, I believe, contain them all and what do I find? I find:
The regulation of trade and commerce with other countries, and among the several states.
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.
Raising money by any other mode or system of taxation; but so that all such taxation shall be uniform throughout the commonwealth.
Borrowing money on the public credit of the commonwealth.
Postal, telegraphic, telephonic, and other like services.
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.
Munitions of war.
Navigation and shipping.
Ocean beacons and buoys, and ocean lights houses and lightships.
Astronomical and meteorological observations.
Quarantine.
Fisheries in Australian waters beyond territorial limits.
Census and statistics.
Currency, coinage, and legal tender.
Banking, the incorporation of banks, and the issue of paper money.
Insurance, excluding state insurance not extending beyond the limits of the state concerned. Weights and measures.
Bills of exchange and promissory-notes.
Bankruptcy and insolvency.
© Copyrights and patents of inventions, designs, and trademarks.
Naturalisation and aliens.
Foreign corporations, and trading or financial corporations formed in any state or part of the commonwealth.
Marriage and divorce.
Parental rights, and the custody and guardianship and custody of infants.
"Parental Rights"-that is rather a strange thing to see in a constitution of this kind.
The service and execution throughout the commonwealth of the civil and criminal process and judgments of the courts of the states,
The recognition throughout the commonwealth of the laws, the public acts and records, and the judicial proceedings, of the states.
Immigration and emigration.
External affairs and treaties.
The relations of the commonwealth to the islands of the Pacific.
I have read down to thirty out of thirty-seven. Hon. members are familiar with all these subjects I would read them all if it were necessary, but I only point to these things to show that, so far as the sphere of what is called the socialistic agitator is concerned, it is not there.
The Hon. S. FRASER:
Oh, yes-paper money!
The Right Hon. G.H. REID:
I am glad my hon. friend has mentioned that, because it shows us in a vivid light that even amongst men who command the highest respect, by reason of having a practical mind, in all the affairs of life that there are some subjects upon which even the imagination of a Shakspere is not equal to theirs. Now, because at various times over this vast continent, and in other parts of the world, a faint flicker of some reckless eloquence on the part of some unknown person has announced some descent on the financial institutions, possibly and probably of Victoria, at once the practical mind is in a blaze - the whole political perspective is coloured with a lurid glare, because the Haymarket has been rash enough to question our present principles of money-making. What chance is there, in any form of Australian commonwealth, of there being any legislation which will attack the basis of credit-either public or banking credit-in the ordinary affairs of life? When our people have reached a stage at which they will have wild and revolutionary views, I do not know what precise form of constitution will keep them from doing mischief. But I would invite my hon. friends to distinguish between the spray on the surface of a vast popular movement, and not imagine that, because occasionally some sign of superficial extravagance appears upon the mighty breast of human
progress, therefore, all humanity is spray, all humanity is extravagance, and that any system of government could be so used as to bring into true and real existence these extravagant outbursts which, to my mind, are unworthy of those who indulge in them. Let us look upon this Australia as a place in which at no time will the foundations of honesty be held in disrepute. Let us hope that at no time in Australia confiscation will have its way. If the spirit comes over Australians, we may believe that it will spread, and it will affect the whole of the states-the smaller states as well as the larger. But let us put aside all these chimerical fears, and let us look calmly at the position. I say to my hon. friends that if there is one of these subjects that seems a danger, or a difficulty, let us erase it. I am prepared to strike it out. I see one or two chimerical subjects in this list. I am prepared to strike them out—we have not come to them yet. I will strike out of this charter every possible difficulty in the way of a solution of the problem in which we are engaged; and if we remove from that list all subjects but those within which must be confined the legislative energy of the commonwealth, then we get much nearer a settlement of this vexed question. There must be in this constitution the commonwealth face, the national face, and the states face, and so long as those who represent the states wish that the state voice shall be so strengthened that it will always be able to drown the national voice, they take up a position which I for one can never allow to be created by this constitution. So, I admit, if we, who take the other side, were to desire to see imprinted in this bill such a contrivance that the voice of the nation would always drown the voice of the smaller states, we should take up a position in which we could not hope to succeed. Our difficulty therefore is: Are we to so arrange the constitution that in matters which are national, which are peculiarly national, the national voice shall prevail, and that in matters which involve state rights, which are different from the issues which I have described, the state voice shall not be drowned even by the national voice? Now that is the problem we have to deal with. I am making these remarks in the light of suggestions which have been made to the Committee. I wish now to test these suggestions as well as I can. I admit at once that this bill is already a vast improvement upon the bill of 1891—I mean from the popular point of view. I look upon the fact that the senate is to be elected by the people of the different colonies on the basis of one man, one vote, the votes being taken in the states as single electorates, as a marvellous advance, from the popular point of view, over the year 1891, and I am prepared to give the fullest weight and significance to that fact as affecting the larger states. I am prepared to admit that there are questions which some gentlemen fear are likely to occasion public enthusiasm in the smaller states. At present, of
course, we are sharply divided, and it is astonishing to what an extent differences of feeling have grown up in the various colonies; out, given a federation, how rapidly will these provincial differences and this bitterness disappear! Once the nation breathes as a nation, how soon will the spirit of the people change—how soon will the knocking down of these barriers, which vex every daily commercial transaction of the people make them feel at last that there is nothing to divide them, nothing that boundaries can create. After the destruction of these subjects of bitter parochial feeling, you will rapidly find a state of things grow up under which, when great national questions come along, you will never be able to distinguish between voter of Western Australia, and the voter of New South Wales, and the voter of Victoria. I wish to point out one question, to which I would apply the last suggestion for solving the difficulty. We have before us three suggestions—first, a referendum, called a mass referendum. Well, I admit that upon certain subjects that would be wrong—that is to say, subjects peculiarly involving state rights. Just as I decline the hand over the 1,400,000 people of New South Wales to the smaller populations of the other colonies on national matters, so I expect them to refuse to hand over their 400,000, or 300,000, or 200,000 people into our hands upon matters affecting state rights.

The Right Hon. C.C. KINGSTON:
Can you distinguish between the two?

The Right Hon. G.H. REID:
That is the point. Under this constitution, with the leading principle in it that it is not to go beyond what is in it, no principle or subject which is not expressed within its pages can be dealt with by the federal parliament. Looking that in the face, I say it is possible to distinguish between the questions in which the voice of the nation must be supreme, and questions in which the voice of the states must be represented.

The Right Hon. C.C. KINGSTON:
It is well worth trying!

The Right Hon. G.H. REID:
It is well worth trying. In the first place I do not give much for a state right which is not embedded in the constitution. Any state right which the advocates of the smaller states do not put into the constitution is not worth much, just as any popular right which is not put into the constitution is not worth much. So that our first subject of anxiety should be this: To put every legitimate subject of state right in the deed under such terms that a mere majority will not fritter away the rights of individuals. I will take one subject—I do not want to go into too long a speech here now—which has
presented to me the other side of the question in the most forcible light. Let us suppose that we have adopted a dissolution for the senate as well as for the house of representatives. I admit that that is an extremely great concession—I am using a phrase which is used all round the chamber, and I make my friends a present of it on this occasion—we have got a great concession—a great concession from the smaller states, a proper one, I think, but still I call it a concession—a great concession from the smaller states—in providing for a dissolution of the senate. I quite believe that in the average life of this future commonwealth the mere power to dissolve the senate will keep it straight.

The Hon. Sir W.A. ZEAL:

If it does not?

The Hon. S. FRASER:

The Right Hon. G.H. REID:

That is the sort of dissolution which amounts to the death of a man when he has not another breath to draw. It is the sort of dissolution from which humanity has not yet been able to escape. But if when the senators had just returned from that sort of energetic canvass of which my hon. friend is capable, over an enormous extent of territory, and had sat themselves down in their senatorial chairs, for as they thought six years solid, they knew that those who formed the executive of the country might be able to send them on another tour without delay, and without salary, it would make the senate a much more reasonable body.

The Hon. S. FRASER:

If my right hon. friend was speaking against a senate which could not be dissolved at all like the House of Lords and the Upper House in Canada I could understand him!

The Right Hon. G.H. REID:

There are houses which we know of in Australia which have developed a spirit of arrogance and self-sufficiency quite beyond that of the House of Lords. Considering the democratic surroundings of these gentlemen when they are outside parliament, it has been a standing conundrum with me how when they sit within their chambers they can seem an embodiment of immovable and absolute power, which I have not found anywhere in ancient history. The simple reason is that the breath of the people cannot be brought to bear upon them at a critical moment.

The Hon. Sir W.A. ZEAL:

I am afraid that that is more picturesque than practical!

The Right Hon. G.H. REID:
What could be more picturesque than my hon. friend laying down the law here, and if he is so here what must be his august dignity in the chair of that distinguished assembly of which he is the ornament? The dissolution of the senate is, I think, a very great concession in the line of the popular demand. So far as mere ordinary matters, such as we can conceive in the ordinary course of events, are concerned, that, with the provision for a dual referendum, might seem to provide a sufficient number of ditches for anything that has to be done. But the misfortune of this provision for the dissolution of both houses, and the dual referendum is that if a question arises in which the voice of the nation really comes into conflict with the voice of the states—

The Right Hon. C.C. KINGSTON:
A national question!

The Right Hon. G.H. REID:
Yes. I am referring to matters in which the interests of the larger states and of the smaller states come into collision really, seriously, and vitally. All these complex, costly, slow expedients then seem to me to resemble a series of ditches in which the commonwealth can flounder one after the other, finding itself at last in the biggest ditch of all. That is, after infinite trouble to get a decision, after infinite labour and concession, it will find itself in a more dangerous and a more envenomed state than when the difficulty began. I admit that there is a great deal in the very able arguments which I have heard more than once from the hon. and learned member, Mr. Barton. I give the greatest weight to those arguments. No doubt the average differences between the two houses can, as a rule, be left to the ordinary play of parliamentary responsibility. But I am anxious to see the commonwealth start with the fairest prospect, so that this labour which is to bring the Australian colonies into union will never by any fault of ours, by any reluctance to face the crucial difficulties of the situation, be so formed that the deed which we offer to the Australian people as a charter of peace and union will be so faultily framed that under some serious, some dire strain, instead of showing the spectacle of a united people only divided by lines of broad public principle, we shall find ourselves precipitated into all those very difficulties to escape from which the constitution is being devised. I will take the first subject; the most important subject with which the commonwealth has to deal. The regulation of the fiscal policy is a matter of vast importance to every man in this country,
legislation which more nearly touches the personal interests, the business, and prosperity of the citizens than questions of this kind, questions which we know will throw the people into violent antagonism. Let us suppose that a federal tariff is to be constructed. One of my reasons for urging that we should put into the bill a provision that the federal tariff should be constructed within two years, as a matter of absolute necessity, was that, knowing the differences of opinion, knowing the points at which the interests of different persons and, perhaps, different localities will come into violent contact, I felt the greatest apprehension lest, when we, the people of New South Wales, put our freedom to the risk of federation in an endeavour to construct a federal tariff which will pass a legislature constituted as this is, we may find ourselves, after infinite struggle and agitation, as far away from its attainment as ever. We in New South Wales may find ourselves in a federation which was to knock down the barriers which surround us, but to enter which we have surrendered our liberty without deriving any of the benefits of intercolonial free-trade. The objection was made, "What power is there to enforce the necessity of framing this tariff within two years?" The slightest study of the constitution would show that, so far from being an abortive provision, if the tariff were not constructed within that period, no man could be taxed under it without redress in the supreme court of Australia. Because this provides a test for all the legislation of the commonwealth.

Mr. HIGGINS:

Is it not directory only?

The Right Hon. G.H. REID:

The term "shall" is never directory.

The Hon. I.A. ISAACS:

It does not say it shall not be done afterwards!

The Right Hon. G.H. REID:

That is the sort of refinement that might arise in some courts of limited jurisdiction; but in the supreme court of the federation the people have set up a tribunal to see that the expressed mandates of the constitution are respected, and, if it finds an absolute direction in the constitution that a certain thing shall be done within two years, and sees the reason for it, there is no doubt it will insist upon that provision being carried out. It is not difficult to find the reason for it, the reason being that it is the essence of the whole contract of federation that there shall be a uniform tariff and intercolonial free-trade. I do not think that any one off the police court bench would find any difficulty about that. Now, let me come back to this question of a federal tariff. We might find the federal parliament in a state of hopeless conflict over that tariff. It is true the senate could not alter it,
and from some points of view that would only aggravate the difficulties of the situation. The senate will be put into this position, that it will have to say yes or no, and it is quite conceivable that by the states acting together it does not follow that it should be the smaller ones; it is conceivable that even the two larger colonies might combine in the senate—or by any conceivable combination of three against two or four against one, it would have the effect that at the very threshold of federation the one thing for which we federated could not be accomplished without some extraordinary powers of settlement. What are those suggested to us? First, a dissolution of both houses of parliament. It might very well be that on an issue that excites public feeling to such an extraordinary extent as the fiscal issue always does, that a number of people in each of the states represented by the blocking power, influenced by a thousand different reasons and points of view, all affecting their own pockets and interests as they think, would unite to prevent that tariff from becoming law; and the result of the double dissolution might well be that the senate and the house of representatives would find themselves in the same condition as before. Then we apply the other test to this terrible state of deadlock existing over this vital point. We would have another resort, which would be the dual referendum exactly a repetition of the same process. There would be exactly the same difficulty, because remember under the dual referendum the people would be in exactly the same position as the senate. Even the dual referendum is worse than the position of the senate, because the senate can suggest; on those suggestions they might not agree, or, if they did, the majority might envenom the difficulty instead of relieving it. Well, we go through this second serious call upon the people of the commonwealth; this burning question, which sets everyone by the ears, goes again to the people in another form, in which they have still less power of modifying the provisions of the existing scheme on which they can only say "yes" or "no." In this contrivance I do not see the prospect of sufficient safeguards for questions like this.

The Hon. A. DEAKIN:

No finality?

The Right Hon. G.H. REID:

No.

The Hon. S. FRASER:

They are the very questions that would cause the difficulty!

The Right Hon. G.H. REID:

I candidly confess that if we got over this question I might not speak so strongly as I am now doing. I candidly admit that if we once got all these
burning questions settled, and the life of the nation had time to develop, and if the feeling of sympathy among the people as a whole had time to circulate freely, I admit that even on this point I would not perhaps be so emphatic. But we must remember that while all these local feelings are rankling, while all these ideas of self interest are as rampant as ever, while each colony and each man in each colony is striving for his own view and his own pocket, or his own industry, such an extraordinary complication of votes and interests in the country and in the senate may arise that this constitution which is to give us a nation may give us chaos. I am prepared to surrender a good deal in order to have finality, because even if injustice is worked there are always opportunities of readjusting and correcting injustices. But we who are framing this constitution, we whom the people have trusted with this enormous responsibility, are bound not to take refuge we from the larger and from the smaller states in what really is shirking. I do not wish to praise my hon. friend, Mr. Holder, publicly or even privately, but I must be allowed in justice to him to express to this Convention and to the public my high admiration of the way in which that gentleman has shaken himself free from his surroundings and has adjusted himself to the task before him. I do not deny that we have all endeavoured to do the same; but I can only say that I should be a proud man if I thought I had done it as fully as he.

The Hon. H. DOBSON:

Why not do it now?

The Right Hon. G.H. REID:

I have always found that when, in the course of my public duty, I have had to recognise some good act on the part of an individual, there are other individuals not accustomed to such tributes who make disagreeable remarks. Now I think my hon. friend will admit that no man ever went into a more dangerous course for himself than the hon. member, Mr. Holder, did when he declared for a mass referendum. I do not know how he has contrived to live with his friends ever since. In his desire to get finality, to put within this machine something which will prevent it bursting into pieces and sometimes, I must say, when I hear gifted men speaking of providing a safety-

valve in this constitution as a sort of thing equivalent to some fanciful piece of ingenuity not at all useful I often wish some of these gifted men would themselves only run a machine of some kind without a safety-valve.

The Hon. E. BARTON:

Has the hon. member tried it?

The Right Hon. G.H. REID:
No, I have not tried it, and not having risked myself to it, I do not intend to risk the people of Australia to it either. We should really in this matter be as careful of the safety-valve as of our own people; and if we would feel some anxiety about the mechanical perfection of a locomotive which was taking us on a railway journey, I feel infinitely more anxiety about the construction of a machine to which the people of this continent are going to intrust their political rights.

**The Right Hon. Sir JOHN FORREST:**
There is no safety-valve in most of the colonies now!

**The Right Hon. G.H. REID:**
Not in Western Australia. I quite agree with my hon. friend, but, unfortunately, his colony is so far off that if there was an explosion there, it would not hurt us. There may be a safety-valve there; but, if so, my hon. friend is always sitting on it. I feel that my hon. friend, Mr. Holder, in his conviction that there must be a safety-valve conceded almost too much I mean a little more than, perhaps, we are entitled to. But I think we may reconcile a mass referendum to the rights of the states which in their nature are different from the rights of the people as an Australian people, which are put in the bed-rock of the constitution.

**Mr. HIGGINS:**
Are not states rights already protected by the constitution?

**The Right Hon. G.H. REID:**
I am afraid that my hon. friend's version would not be accepted implicitly by the gentlemen I am now addressing. I ask my friends from the smaller states, as far as they can, to tell us what those state rights are which require that the ordinary provisions of any political free constitution for the rule, in the last resort, of a majority of the electors should not have its sway? Every such right which requires to be specially safeguarded I am prepared to recognise and put in that constitution where it cannot be interfered with by any majority.

**The Hon. H. DOBSON:**
That is impossible!

**The Right Hon. G.H. REID:**
My hon. friend might find many things impossible which might be possible to others. I admit that he is right to a great extent.

**The Hon. H. DOBSON:**
It is utterly impossible!

**The Right Hon. G.H. REID:**
What are these state rights which cannot be inserted in this deed?

**The Hon. H. DOBSON:**
The hon. member seems to think.
The Right Hon. G.H. REID:
I am not thinking at present. I am simply asking you a question. I ask those who say that state rights ought to be inserted in this constitution, whether they have arrived at such a conception of those rights that they can put them into the constitution?

The Hon. H. DOBSON:
The right hon. gentleman has to answer his own question: How can the state voice not be drowned by the national voice if you have a mass referendum?

The Right Hon. G.H. REID:
I meet my hon. friend in this way. In all questions in which the rights of the States as geographical entities are not involved, no reasonable man can refuse the rule of the majority.

The Hon. H. DOBSON:
What about their rights as human entities?

The Right Hon. G.H. REID:
Now, there my hon. friend states it view which I confess puzzles me. What distinction is there between a human entity on one bank of the Murray and a human entity on the other? If there is a distinction, in the name of Heaven, let us put it in the constitution. Until those who are framing this constitution can rise to the one human entity of Australia, they are out of place in this Convention.

The Hon. H. DOBSON:
The hon. member has just told us different?

The Right Hon. G.H. REID:
When my hon. friend, who is a gifted and able lawyer, as we know him to be, is unable to put into English one of these state rights that are not yet in the constitution, I am inclined to think that most of them have been safely provided for.

The Right Hon. Sir JOHN FORREST:
The senate is not limited to dealing with state rights. It has general powers!

The Right Hon. G.H. REID:
My hon. friend's interruptions resemble a bludgeon in more respects than one-they have no point.

The Right Hon. Sir JOHN FORREST:
They are too pointed!

The Right Hon. G.H. REID:
I am at present addressing myself to this question, if there are any state
rights which make it necessary to distinguish between people inhabiting Western Australia, or Victoria, or New South Wales, or South Australia, and Tasmania, we owe it to these people to put them in the constitution, because it is the only safe place for them; and if they are state rights they ought to be there. But the fact is that every state right has been safeguarded in the constitution, except the state claim that since there must be some finality we will be on the right side of the hedge by saying that it rests with us on every question, state or national. Let us see the effect of this complicated series of contrivances. The effect of them may be, as I have said, with the minority. Those who represent the minority in one house, the senate, may be able, after all these suggestions, to prevent anything from being done. My hon. friend, Mr. Barton, very carefully and properly pointed out the pains we have been at to remove causes of offence between the two houses, and there is no doubt that our work in that direction has been most valuable. But I am not talking of this, I am talking of some radical difficulty in principle, or what is much stronger, in self-interest, between the two houses, or the people represented in the two houses. If that ran through the whole process, as it probably would, we would be left in this position: that through nothing being done, the veto of the senate would be the living force in the commonwealth. You may talk about the power of a house which frames and sends up measures; but the power of a house which can say "No," and is under no responsibility for administering the affairs of the country, leaves the terrible responsibility of carrying on the machinery of government, while it has the right of preventing the responsible power from carrying out its policy to provide the means for doing so. A house which possesses that power possesses a power which can at any moment - and that is the material point - throw the commonwealth into confusion simply by saying no; and then begins, if we have no legitimate way to solve a difficulty upon honest grounds, upon appeal to some disinterested or national authority, this wretched system of government and legislation by bribe and bargain. If a government is put in such a position that when it is confronted with a negative on some large measure such as a tariff bill when it reaches the senate and it is left helpless to get beyond the obstacle thrown across its path in an honorable, national way by an appeal to the principles and convictions of those who give the constitution its life and power, then it must from self-preservation resort to indirect, unworthy, and unprincipled devices. Of course, there is a promising field for the lobbyist with the two houses in a position of difficulty, "a thousand pecuniary interests knocking at the door. We had the picture before us only
two or three months ago in that great Senate of the United States. So I, a
thousand times, say we should not expose the executive government of this
commonwealth to the necessity of stratagem, intrigue, and contrivance,
probably in secret, over matters of fatal concern to the whole of the
community. But that is the alternative. I quite admit that in the last resort,
before the explosion comes, means will be found, perhaps, to solve the
difficulty. But what sort of means? The free judgment of anyone? No. The
house of representatives and of government under the stem necessity of
compulsion-compelled, perhaps, to maim and disfigure its policy in order
that the commonwealth should live. Well, we may have to come to that
state of things; but I ask this Convention, framing a constitution in the light
of things as they are, at the close of this nineteenth century, whether we
cannot, in some way or other, provide that in great national exigencies we
should not only know how to get from one ditch into another, but should
know how to solve our difficulties in a constitutional manner that is to say,
in a manner provided by the constitution. I admit it is easy to make these
criticisms, and. I think they are proper to be made at the present time; and I
tell hon. gentlemen frankly, from my knowledge of the public sentiment as
it is in New South Wales today, that I feel that if I did not make the speech
which I am making I should not do my duty to this Convention; because,
above all things, I am anxious that we should all share the undying credit
of framing an instrument which will pass the ordeal of public opinion in all
these colonies. So I say I am prepared to meet my friends by safeguarding
their legitimate rights, to sympathise with their legitimate anxiety, that in
state rights they should not be exposed to the position of an ever hopeless
minority. I will give to them in black and white, in this constitution, every
state right which they ought to take, and, when I do that, I ask them to meet
me; and in matters like these matters of national policy, matters affecting
each human being in his daily life, in his business, in his pocket equally, as
an Australian human entity I risk them in such matters to rise in the light of
history, in the light of what we have seen of the working out of political
institutions in the Anglo-Saxon race; I ask them to rise to this position: that
they will leave these truly national matters to the truly national voice,
confident as they must be that in no serious respect will an Anglo-Saxon
race inflict a deliberate injury upon any member of our commonwealth.

The Hon. I.A. ISAACS (Victoria)[12.13]:

I think I should be very much wanting in my appreciation of the great
speech we have just heard if I did not preface my own with a tribute of
admiration for the lofty sentiments that have pervaded the expression
which have just fallen from the right hon. the Premier of New South
Wales; and with him as I am, and as most of my colleagues are, in
fundamental opinions on most of what he has said, our admiration for his words are linked with a full appreciation of the reasons by which he has arrived at them. The gravity of the present moment cannot, I think, be over-estimated. I believe there is not a member of this Convention I might even go further, and say there is not a single member of the community that is not consumed with anxiety as to the result of our deliberations on this all important question We have got past the preliminaries of this great subject; we have got past all what we might term the flirtations of federation, and we have come down now to a definite statement of our absolute and final intentions. What we have done in the past, I apprehend, on the whole, while not commanding the assent of us all, will be regarded by the people of Australia as a great and good work. What we have yet to do, I believe, bears with it the fate of the whole movement. I quite welcome the attitude that prevails in this Convention that there must be some provision against deadlocks. I know that there are very strong opinions entertained even by some of my hon. colleagues from Victoria, that the less you do to interfere with deadlocks the better. I know that they still retain the opinions of a very antique period in our history. I know that they cling to traditions that most of us have outgrown. I know that they do not yet fully grasp the change of thought which has taken place throughout the British Empire on this all-important question. But, sir, I believe a majority of us, an overwhelming majority, entertain no sort of doubt as to the necessity at the present moment for inserting some provision and a substantial, effectual provision to avert catastrophes in our legislation in the future. I do not think I can better express the necessity for some such provision as that to which I have referred than in the words of Sir Frederick Pollock, a distinguished writer on political science, when he points out that the view formerly entertained with regard to the British Constitution, that deadlocks were an element of safety, and rather to be courted than guarded against, has now been abandoned, and that we have ceased to regard as a proper form of government a constitution in which the hour and the minute hands and the striking part should all be governed by different mechanisms, with no provision for the various indicators marking the correct and the same time. We are about to ask the people of Australia to accept a huge and a new machine. We know it will be costly. We can at least make it workable, and the people of Australasia will demand of us, not only, what will this machine cost, but, how will it work in actual operation. Therefore, when we approach this question we approach one to which there must be given a somewhat definite answer. I am quite with my right hon. friend, Mr. Reid,
when he says that we should found this constitution on the lines of the British Constitution, so far as that is applicable. I am thoroughly with him when he says that to properly understand the British Constitution we can scarcely go further back than 1832. At the end of the last century where was representative government? As we now understand it, it did not exist. It was still in the womb of time. About 6,000 individuals could return at that time an absolute majority to the House of Commons, and when, in 1832, the question that my right hon. friend referred to was agitated by the British public, the House of Lords maintained the position that it was a co-ordinate branch in all respects of the British legislature. The Duke of Wellington maintained that if the House of Lords gave way there would be a violation of the British Constitution, yet that noble lord not long after, to save the Constitution, counselled the house, of which he was so distinguished a member, to give way. Since that time, Sir Frederick Pollock tells us, the organism has worked well, deadlocks have not occurred frequently, and when they did occur, were easily mastered, not because there are checks and balances, not because we have to depend on the mere good will or the moral silent force of public opinion, manifested to the satisfaction of the legislature, but because it is recognised that in the last resort there is only one power in the nation. If you apply that test to the state, the answer is easy; but apply it to the federation and it is not so easy. That is the difficulty which confronts us at the present time. While I agree absolutely with my right hon. friend,

Mr. Reid, while I assent unreservedly as a matter of argument to the opinions he has urged, still I see that we have not maintained those opinions in our progress through this constitution. If the right hon. gentleman had taken up his present position absolutely upon the question of equal representation-

Mr. TRENWITH:
As we ought all to have done!

The Hon. I.A. ISAACS:
If he had taken up that position upon the question of equal representation, and if he had refused to move from it, he would have been, if I may be allowed to say so, much more consistent than he is at the present moment. My right hon. friend, the Premier of Victoria, said last night, and I desire to repeat it today, that if we can in this Convention select matters which are of exclusive national importance, then he would not yield one jot in depending, in the last resort, upon a national referendum to settle them.

Mr. TRENWITH:
We ought to put nothing else in the constitution!
The Hon. I.A. ISAACS:

My right hon. friend and I are in perfect accord as far as my individual opinions are concerned. But can my right hon. friend hope to satisfy everyone that those opinions are correct? If he could have done that, there would not have been so much objection to equal representation. It seems to me that we are narrowing down to the question, whether we are to stand, as the right hon. member, Mr. Reid, said, each in his last entrenchment, and defy the other whether we are each to stand in our last entrenchment and say-

An Hon. MEMBER:

We are being driven back to them gradually!

The Hon. I.A. ISAACS:

Whether we are to say, "This is our ultimatum; we will not take federation on any other terms." I admit that there is a limit beyond which no one can go. I refuse to adopt a policy of surrender, but I am willing and always have been willing and my opinion in that regard is strengthening to admit that we are bound to conciliate and compromise. I believe that the position taken up by my right hon. leader last night is a true and correct one. If my right hon. friend, Mr. Reid, can put down on paper, not what I believe are national matters, but what will satisfy the people of all the colonies, are national matters and not state matters.

Mr. SYMON:

And every incident that may possibly bear on state questions!

The Hon. I.A. ISAACS:

If my right hon. friend can do that, I think there will be no difficulty in obtaining assent to his proposal. But on the other hand, once we have arrived at the conclusion that the fears of the smaller states as to the invasion of what they think are state rights are not unreasonable and from that point of view we have conceded equal representation then it seems to me not unreasonable also to weigh with a good deal of fairness their claims in regard to this final arbitrament in disputes in the legislature. Now, my right hon. friend took the tariff and some other subjects. I would like to put to him one question, and I would ask him how he would decide it. Suppose, at some time or other, the proposal were agitated in the federal parliament to divide the states, for the electoral purposes of the senate, into six portions. It might be fairly claimed, and according to my opinion it would be rightly claimed, that it was a national matter. According to the arguments we have heard here, members of the smaller states might say that it was essentially a state matter. They might say, "The senators represent the states as states, and the states are right in deciding to allow no
alteration to be made in the provision as to one electorate."

Mr. HIGGINS:
Suppose you made an exception of that?

The Hon. I.A. ISAACS:
And of what else? Can the hon. member enumerate the exceptions? I feel the impossibility of doing so. I can understand the position we have taken up, that the things we have placed in the constitution are or ought to be deemed to be national matters.

Mr. SYMON:
You cannot tell how they may affect the states!

The Hon. I.A. ISAACS:
They all affect the states more or less. The question, according to my mind, is this: Is the matter a national matter; if so, put it into the constitution; if not, leave it out. Of course, everything affects the states in some degree, or the states would not be concerned.

The Hon. R.E. O'CONNOR:
That is what we are dealing with now-state interests in national affairs!

The Hon. I.A. ISAACS:
I was about to say that I can understand one position, and I can also understand the other position, of the smaller states, that in all these matters they insist upon having a voice as states in one house of the legislature. But I feel the strongest difficulty in picking out matters which I can offer to the smaller states and say, "You ought to admit, consistently with all you have said before, that these, at all events, are purely and exclusively national matters."

No policy could affect them as-

The Hon. I.A. ISAACS:
You can never tell until the question arises, and at this stage in the formation of a constitution, you cannot predicate whether in the course of our development those new problem which will inevitably arise are exclusively national or state matters. That is a task which none of us tainted with the weaknesses of humanity can ever hope to accomplish.

Mr. SYMON:
It is not arguable!

The Hon. I.A. ISAACS:
If it can be done, I am prepared to assent as firmly as any man to a national referendum on those subjects; but I cannot fail to perceive-I have not failed all through the passing of the bill through the Victorian legislature to perceive, and to give weight to the consideration that if we
are to have a federation including the smaller colonies, we cannot hope to force upon them the national referendum even in the last resort in all matters. I am forced to this conclusion much against my will. Hope sprang with some degree in my breast yesterday, when I heard my hon. friend, Mr. Holder's admirable, patriotic speech, and I waited with some degree of anxiety, and a large amount of desire, to hear similar sentiments from other of my hon. friends from the smaller colonies.

The Hon. J.H. Howe:

The hon. and learned gentleman was disappointed!

The Hon. I.A. Isaacs:

I was disappointed. I venture to indorse, with all my heart, every word that my right hon. friend has said with regard to the views expressed by my hon. friend, Mr. Holder. I believe that in the future, as this federation proceeds, public sentiment will become enlightened, and the views we have urged, and the views to which that hon. gentleman gave expression yesterday, will be admitted to be the right ones. I believe that in the actual working of the constitution it will be found that those matters which we have included in the bill will be matters that will not concern one state more or less than any other; but we cannot persuade our friends of that at the present moment—we cannot hope to persuade them. We have to get the assent of the smaller colonies before this constitution can come into operation, and I would like to say this: that if we accept the double dissolution and the dual referendum as we believe they will yet be accepted, because Victoria can certainly claim that and if it should be found in the future that the

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are not sufficient, and if the public sentiment in the other colonies should then be willing to concede what we think now is the right provision, the provision which we now seek to insert will not be unalterable. If it be found in the future that collisions arise that might lead to such disastrous consequences as civil war, then, if the two larger colonies think that the matter is really of such vital importance, one of the smaller colonies would at least be found to join in averting the disastrous catastrophe by assenting to a change of the constitution. That is a matter we can hope for in the future; it is not a matter, I am afraid, that we can insist on at the present moment. I would like to be able to say that I am satisfied that this Convention will yield at least what my right hon. friend, Sir George Turner has asked for. I believe, from what I have heard, that there is a sufficient majority to grant that. I am not one of those who are prepared to say that, without that, federation is dead, but I will say that, unless that at least is granted, I fear very much the fate of it. I believe that the people of these
colonies will not be satisfied with the provisions which were framed a hundred years ago in the American Constitution, and which have been found sadly wanting. We have been told by speaker after speaker, who evidently had forgotten his "Bryce," that collisions did not occur in the American legislature. Turn to that author, and you will find that collisions are of frequent occurrence. It is true that be points out that no great block occurs, in administration.

Mr. GLYNN:

He says that they are mere academic displays!

The Hon. I.A. ISAACS:

He says that no great block occurs in administration; but he adds that if the same collisions occurred in countries having responsible government, the consequence would be much more serious. He points out in words of warning, as it seems to me, that it is because the executive government is; removed from the legislature that these collisions such as they are, take place without overturning the state. We are bound to take advantage of all-that history, and that writers in their observations upon history, afford us, in order to frame for ourselves-to the advantage of our constituents, if not to the honor of ourselves, a constitution that soon be as free as possible from the disadvantages we have seen around us. We should much prefer that the houses, if they differ, should not in the first instance be subjected to the penalty of dissolution. We have embodied in this constitution a provision for the dissolution of the house of representatively and I should like to say to my hon. friends from the smaller colonies that if that were left standing unaccompanied by any other provision, it might lead to very serious consequences for those smaller colonies. There is no doubt that if we are to have responsible government we cannot do without a provision for the dissolution of the house of representatives; but I would like to picture this-in the event of a collision between the two houses of the legislature, and there being a mere provision in the constitution for the dissolution of one house, to ascertain the will of the population, if that house came back, strengthened, it may be, by the voice of their constituents, consisting of the people of the various colonies as a whole, and if the senate refused to give way under those circumstances, what would be the result?

The Hon. A. DOUGLAS:

But why should the senate not give way?

The Hon. I.A. ISAACS:

The hon. gentleman knows that to maintain the position of equal rights, he must adhere to the position that the senate is not bound to give way to the views of the house of representatives.
The Hon. A. DOUGLAS:

The senate would be open to reason as well as the other house!

The Hon. I.A. ISAACS:

Yes; I am sure that the senate would be open to reason, but the people of the larger colonies will not be satisfied with that argument.

The Hon. A. DOUGLAS:

Nor any, other!

The Hon. I.A. ISAACS:

Therefore, I would put it, as a matter for careful consideration, to my hon. friends from the smaller colonies, whether it is not necessary, for their makes, as well as for the sake of the opinion of the larger colonies, that some provision for averting deadlocks should be inserted in this constitution. There is no doubt about it. I think that they are absolutely satisfied that the larger colonies will not go into this federation without some such provision-without some provision which would be effectual, and they are satisfied, I have not the slightest doubt, that a mere provision for dissolution would not be deemed sufficient for the larger colonies, because, as I put it to my hon. friend, Sir Joseph Abbott, yesterday, suppose that a double dissolution takes place, what will happen? I should like hon. gentlemen who entertain any doubt as to the result of a double dissolution to consider how it practically, works. We will assume that the two houses are at variance. We will assume the matter to be of such importance that a double dissolution, will all its expense, is determined upon. The senators go back to their constituents. The question is a matter of state rights, as they think. Does any one imagine for a moment that, whether the people of the smaller states think with or in opposition to their representatives, they will reject them? Will it not be an overwhelming argument for any senator to Say to his constituents, who, presumably, are satisfied 'with him on every other point, "Are you going to reject me for my action? Are you going to reject me for standing by the rights of your colony? Are you going to be guilty of such ingratitude as to eject me from the senate because, in opposition to the desire of the large colonies, I wished to preserve your rights and privileges?" There could be only one answer to that question, and the result would be that the senators would come back, and the senate would not only be in as strong a position as it was in before, but it could not give way because it had received what would be considered to be a new and imperative mandate from its constituents. On the other hand it might be that the electors of the states would be of a different mind, and if so the double dissolution would have
done its work. If, as I apprehend, that might not be effectual, and in any question of state rights, or so called state rights, it would not be effectual, then, if we had the dual referendum, we could say to the people of the states, "We ask you to avert a catastrophe in the commonwealth." The people themselves could do it with dignity. It is their rights and their privileges that are in question, and while their representatives and senators, as trustees of the will of their own constituencies, cannot, dare not, yield, the people themselves, who are masters of their own destiny, may say, "On the whole we are prepared to waive what our representatives in their fidelity to us have thought to be necessary to us. We are prepared to meet the larger populations." Or, on the other hand, the larger populations may say, "We are prepared to meet the smaller ones." To my mind it is a mode, in ninety-nine cases out of a hundred, of effectually settling any deadlock. The hundredth case may safely be left to take care of itself. But it is also a means of conserving the dignity of both houses; because as Sidgwick points out as my hon. friend, Mr. Dobson, a student of that authority, will remember-one house may not be able with dignity to yield to the other house; but either house may with dignity yield to the people. And, after all, what is the theory of our constitution? Government by the people. Why not effectuate it? What is the inherent objection to it? What is the objection to put into black and white, into actual practice, this theory which is vaunted by every parliamentarian? We are told that it is destructive to responsible government. I do not believe it. I believe it is the crown and roof of responsible government. What is responsible government? In the first place, responsibility of a ministry to parliament. But why to parliament? Because parliament represents and is responsible to the people. And if we say that the end and object of responsible government is that the will of the people shall prevail, why should we tie ourselves down to institutions that, perhaps, at the present day prevent us from attaining the end they are designed to serve?

The Hon. J.H. GORDON:

We have different peoples here. This is not a homogeneous state. My people are not necessarily thy people!

The Hon. I.A. ISAACS:

I think my observations give full weight to that idea. I am now dealing with the objection of some hon. members who point out the supposed danger of the referendum. I am putting it to them, why should there be any objection to a referendum on the ground of its being an appeal to the people?
The Hon. S. Fraser:
Because it may be used to their disadvantage in times of excitement!

The Hon. I.A. Isaacs:
I can understand the swaddling clothes theory. I can understand the old story that the people are ignorant.

The Hon. S. Fraser:
No!

The Hon. I.A. Isaacs:
If they are not ignorant, why should they not be allowed to decide their own fate? I can understand the argument, which, perhaps, some of my hon. friends have not shaken themselves clear of yet, that the people are best governed when they are not allowed to govern themselves. That, I think, is a theory that ought to pass away as soon as possible. What is the argument? When my hon. friend, Mr. Fraser, stands in that chamber of which he is such a distinguished ornament, and resists a measure which has been passed by the lower house-

The Hon. Sir W.A. Zeal:
The Factories Bill, for instance!

The Hon. S. Fraser:
The Products Export Bill!

The Hon. I.A. Isaacs:
A very good instance.

The Hon. Sir W.A. Zeal:
One Chinaman, one factory!

The Chairman:
I do not think we ought to discuss Victorian politics.

The Hon. I.A. Isaacs:
I am trying to put this as an illustration. What would my hon. friend, or any other member of the legislative council, say, in opposing a measure sent to him by the popular chamber? "The people are opposed to this." That is the answer; and if there was a dissolution on that question, and if the assembly came back reinforced, the other chamber would pass the bill. Why? Because the people had declared in its favour. If that is a sincere objection, what can be the reason of the opposition to taking the views of the people in the clearest manner possible?

The Hon. S. Fraser:
With sufficient time I have no objection to that!

The Hon. I.A. Isaacs:
That is a great advance. I am very glad to hear that. I still have hope of my hon. friend.
An Hon. MEMBER:
Ten years!

The Hon. I.A. ISAACS:
I should like to ask my hon. friend if the time is not past when we are to regard a second-hand interpretation of the people's will as the only mode of gathering it? Why are we to say that members of parliament, elected as they are at the present time, are to be the sole means of obtaining a recognition of the people's will? Do we not know as has been said so truly by my right hon. friend Sir George Turner that at an election each constituency deals with its candidates as it pleases, and not necessarily on one subject or on another? Do we not find that where there are double constituencies, as there are still in some of the colonies, there are men with distinctly opposite opinions returned by the same constituency to parliament? How can it be said that the people's will has been expressed definitely in such a case? We know very well that there are a multitude of considerations which determine the selection of a member? Therefore, if ever a great question arises between the Senate and the house of representatives a question of such a grave and important character that expense is to be disregarded, that a dissolution is to be resorted to, and still the matter is to be left in doubt and in contest and if, still further, it is deemed of so urgent a nature that the will of the people should be definitely ascertained to prevent what is worse-I would ask my hon. friend what legitimate objection there is to asking the people the necessary question in the clearest, the shortest, and most definite manner possible? The observations of my hon. and learned friend, Mr. Barton, last night, should be weighed well by every member of the Convention. He said that if the double dissolution were interposed between the quarrel and the final solution or what was hoped to be the final solution it would give time for education, it would give time for reflection, and it would give time and opportunity to put before the people the true nature of the question and the arguments for and against it.

The Hon. E. BARTON:
And exhaust the principle of responsibility!

The Hon. I.A. ISAACS:
And, as he puts it, exhaust the principle of responsibility; I do not quite follow that, but still it is a matter which no doubt would have great weight. If that is done, what possible objection remains? I do not think all that preliminary course is necessary. One hundred years ago people had not the facilities for the interchange of thought, for self-education, and for
obtaining the views of their friends and fellow-citizens, which they have now. But in these days, with all the industrial improvements which have been made, with the existence of railways and telegraphs, with the magnificent; apparatus of the press, they have every opportunity for the interchange of opinions and the collection of thought, and, therefore, why should we not adopt the best means possible, those means which have been adopted in other countries, for converging public opinion at critical moments upon definite questions, and thus focussing the desires of the people upon the question which demands a perfect solution?

The Hon. S. FRASER:
All the countries, in which these means have been adopted are foreign countries; they are not countries in the van of civilisation, as British communities are!
The Hon. Dr. COCKBURN:

The Hon. I.A. ISAACS:
I am prepared to accept what is good; I care not whence it comes. I am quite prepared to accept a measure, whatever be the place of its origin, if it commends itself to my reason and intelligence. But I should like to point out that the countries to which my hon. friend refers are not foreign to us in their origin, in their primitive modes of thought, or in their ideas of freedom. We know that every state in the American Union, with the exception of Delaware, has accepted the principle of the referendum. Millions of people in America are governed by state constitutions in which the principle is embodied.

Mr. GLYNN:
That is to stop legislation, not to precipitate it!
The Hon. I.A. ISAACS:
I was going to observe that it is mostly of a negative nature. But there is a strong movement on foot in America at the present time that the power of initiative should be, embodied in some form or other even in the federal constitution. In Switzerland a form of referendum exists which is closely, analogous to that which we now suggest.
The Hon. A. DOUGLAS:
The application of the referendum after legislation!
The Hon. I.A. ISAACS:
The hon. member speaks of the referendum being applied after legislation. I would like to point out that there is a very common error upon this point In Switzerland the federal constitution has been changed many
times. As Mr. Winchester has told us, there has been a gradual development from the provincial idea to a grand national idea, and that is growing day by day. The Swiss in their constitution of 1848 were far behind what they were in 1874. In 1874 their constitution made this provision for amendments:

Article 118. The federal constitution, may at any time be amended.

Article 119. Amendment is secured through the forms required for passing federal laws.

So that there they can amend the constitution without any reference at all to the people in the first place.

Article 120. When either council of the federal assembly passes a resolution for amendment of the federal constitution and the other council does not agree; or when 50,000 Swiss voters demand amendment, the question whether the federal constitution ought to be amended is, in either case, submitted to a vote of the Swiss people, voting yes or no.

I would like to state to my hon. friend, as he has no doubt observed, that that: is where there is a disagreement of the chambers.

The Hon. E. BARTON:

We provide for that whether there is a disagreement or not!

The Hon. I.A. ISAACS:

No, not when there is a disagreement; only when they agree. Article 120 continues:

If, in either case, the majority of the Swiss citizens who vote pronounce in the affirmative, there shall be a new election of both councils for the purpose of preparing amendments.

Article 121. The amended federal constitution shall be in force when it has been adopted by the majority of Swiss citizens who take part in the vote thereon, and by a majority of the states. In making up a majority of the states, the vote of a half canton is counted as half a vote. The result of the popular vote in each canton is considered to be the vote of the state.

These provisions of the Constitution were adopted in January, 1874, and the book from which I am quoting was published in May, 1891. Up to that time the Swiss people had the right of initiative only in regard to amendments of the Constitution. Since then, however, they have gone further, and I will quote from a book called "Direct Legislation by the People," written by Mr. Cree. He, at page 179, gives a very important extract from the Berne correspondent of the New York Evening; Post, under date of 30th July, 1891, giving an account of the adoption by the Swiss of the initiative as to federal laws.

The republic has taken the most advanced step towards democracy upon which it has ever ventured, namely, the application of the initiative, or
what may be better called the imperative petition, to federal laws. The institution of the referendum, or the submission of laws just enacted to popular vote, when demanded by 30,000 citizens, was already in existence; but the power to demand that a given project be made law has just this month been assumed by the people. On Sunday, 7th July, the necessary constitutional amendment was voted upon in a general election, and passed. The vote was very light, but the majority in favour of the law quite decisive. A special session of the Federal Assembly was called for 27th July, and yesterday the law which sets the initiative in operation passed the Lower House.

I pass over a portion of the account which is not material, and on page 181, I find it stated:

The substance of the new law is to the effect that when 50,000 voters petition for an amendment to the constitution, or for the adoption of a statute, the federal assembly must submit the requested proposition within a given time to popular vote. The government may, at the same time, present a project of its own for choice, but in any case there can be no avoidance of the duty of giving the people a chance to say whether they want such a law or not. If a majority of all votes cast, and at the same time a majority of all the states, are in favour of it, the proposition becomes law.

I have read those extracts for the purpose of correcting an impression that I find prevalent that there is no provision anywhere, even in the Swiss Constitution, for settling a deadlock by means of the referendum or for passing legislation which has not been passed by the Parliament. They go even beyond what we propose. We propose that if after due deliberation, after exhausting the means of conciliation, of compromise, of mutual good feeling and understanding, there shall still prevail misunderstanding between the two houses of legislature, and after the full play of public opinion has been allowed to exert itself by means of the platform and the press, and all other agencies known to our civilisation, upon a measure which has been passed by one legislative body, there still exists a strong feeling on the part of one of the legislative agencies of the people that the measure should be passed into law, while there also exists an equally strong objection on the part of the other legislative agency of the people to its being passed into law, the principals to the dispute properly adjusted as the states and the nation shall be called upon to decide the question. I am told that this provision is not absolutely and completely effective; but is not that the result of the federal constitution as we are framing it? If we are to have a proposal that is to be absolutely effective it may mean in certain cases the annihilation of the principle of equal representation, and having
granted that principle it behoves us to be loyal to it.

[The Chairman left the chair at 1 p.m.; the Convention resumed at 2 p.m.]

The Hon. I.A. ISAACS:

I have not very much to add to what I have already said, and after the exhaustive manner in which the Right Hon. Sir George Turner dealt with the matter last night, I should have been well content to leave this Convention to arrive at a determination without further words from me; but after the splendid deliverance of the Right Hon. G.H. Reid, and the views he put forward, and in consideration of the magnitude of the subject, and the great importance of the issue, I should be wanting in my duty if I did not venture to place before the Convention the views I have expressed. I know that debate on this matter may not be useless at any stage. I recognise the importance of settling this matter in some way before we disperse; because, if we do not, a severe blow will be given to the confidence of the people in the various colonies. But I also recognise the great difficulty of arriving at a conclusion that would be eminently satisfactory to all concerned. There is a vast amount of truth in what has been urged on behalf of the smaller colonies, that they cannot consent to a national referendum on all questions. There is a vast amount of truth in what has been urged by the Right Hon. G.H. Reid, that there may be some questions on which it would be right that the smaller states should concede that a national referendum would be desirable. I think I am right in saying that it would be impossible to predicate in advance what subjects properly appertain to the two classes. It may be that, seeing the smaller states will be represented in the house of representatives according to population, they can see their way to consider and perhaps accept a via media—a mode which would enable the particular question to be determined as it

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it was a national matter to all intents and purposes, a national referendum might be employed for the determination of the question. That, if adopted, would enable us to have the matter determined on the spot. However that is a question for consideration. But I do think that, having accepted the principle of equal representation, we must not take a step that will cause our friends from the smaller colonies to possibly lose the benefit of the concession which we have made. I know that, in making the observations I have the honor to address to the Convention today, I run counter to the opinions of a good many of my fellow colonists. I know that in some respects the conclusions at which I have arrived will not command the assent of a journal in my colony.

The Hon. Sir JOSEPH ABBOTT:
Never mind them.
The Hon. I.A. ISAACS:
But I do mind them.
The Hon. Sir JOSEPH ABBOTT:
We do not!
The Hon. I.A. ISAACS:
But I do, and the people of Victoria mind them. It is a journal that must be recognised as a most important factor. I simply say that on this great question of federation and I am sure my remarks will not be misunderstood, because it is a fact it has a right to be taken into consideration. It has urged views that are acknowledged by all to be powerful as well as patriotic. It has placed its views before the public in the various colonies, and particularly in Victoria in language that has reached both the reason and the emotions. At the same time we have all to perform our duty as we as we can. While on the one band I see that, if we accept the national referendum in all cases without qualification, it means the utter failure of the scheme as it stands, that we shall see to a certainty our best hopes dispersed, our greatest aspirations baffled; on the other hand if we accept what Victoria has put forward, there is, in spite of the observations of the Right Hon. G.H. Reid, not only a certainty of our friends from the smaller colonies coming in, but the strongest probability of New South Wales joining us. I do not entertain any fear that New South Wales will stand out if the Victorian proposal is carried, but I do say that if neither the Victorian proposal nor the national referendum be carried, there is, if I judge the matter rightly, an absolute certainty of New South Wales standing out, and in all probability Victoria also. I am not prepared to accept the responsibility of giving a vote that must necessarily end in disaster. We have determined upon a course which has been explained to the Convention by my right hon. leader, which we have the strongest hopes will end, if adopted, in the consummation of federation. At all events we shall not incur the responsibility of failure. We shall ask our respective populations to accept it, and their will must in this case be the highest law.

Mr. WALKER:
Whatever may be the result of this division?

The Hon. I.A. ISAACS:
If our proposal is accepted.

Mr. WALKER:
Oh!

The Hon. I.A. ISAACS:
I am perfectly frank. We have departed to a large extent from what we have urged, and we say we will not take a course which we say we know
will end in absolute disaster. But we shall do our best to frame a
colony that will offer the strongest possibilities of acceptance, and we
shall hope for acceptance by our respective peoples. But its rejection, if
that should unfortunately take place, must be the work, not of ourselves,
but of our constituents. I am sure I shall not be misunderstood when I say
to my friends from the smaller colonies that I invoke all the patriotism
which I know animates them to help us in
this emergency. I ask them not to allow any too rigid adherence to their
particular views-
The Hon. J.H. Howe:
We recognise the feeling which the hon. member expresses!
The Hon. I.A. Isaacs:
I am glad my hon. friend recognises it. I am sure the time approaches
when the practical application of that feeling will become necessary, and I
do hope we shall all unite, I trust unanimously, to pass a constitution that
will convince the people of the various colonies that we have done a great
work, that we have done a work which, if it achieves ultimate success, will
reflect honor and credit upon ourselves and our children. I do sincerely
trust that at this supreme moment we shall not fall into disunion, that it
shall not be said of our efforts on this occasion that its end was failure,
because I doubt in that case if the people of Australia would again in our
lifetime nerve themselves to another effort such as that which has brought
us here.
Mr. Higgins:
Surely they are not so lifeless as all, that!
The Hon. I.A. Isaacs:
They are not lifeless, but this is not a work that can be undertaken every
day. Therefore, I trust this may bring forth good fruit, and that it shall not
be said of us and of our work:
'Tis an old tale: Jove strikes the Titans down,
Not when they set about their mountain piling,
But when another rock would crown their task.
Mr. Clarke (Tasmania)[2.16]:
As I come from one of the smaller states, which holds a very strong
opinion on this subject, I desire to state the position I intend to take up. In
Tasmania, which I have the honor to represent, the public opinion is that
there is no necessity to insert in the constitution a provision for dealing
with deadlocks; but, all the same, although that is the strong opinion of the
Tasmanian people, I think we must look at the question now before us
from every point of view. We must take into consideration the opinion of
the people of the larger colonies. We must take into consideration the fears and the prejudices of the people of New South Wales and Victoria, and, if we possibly can, give into these fears and prejudices in a reasonable way consistently with our own safety and honor. I think we are bound to do it for the purpose of bringing about federation. That being the case, we have now to consider the proposals which have been placed before us. I think that this Committee owes a debt of gratitude to its learned leader for the able and statesmanlike speech in which he put the whole case before us last night. The first step that he suggested was a double dissolution. Although I am prepared to go a long way with the representatives of Victoria and New South Wales, yet, as at present advised, I object to a dissolution of the senate under any circumstances. It may be that hereafter I may see fit to modify this view; but at present I think we should not consent to any dissolution of the senate. Such a course as that would destroy the continuity of that body, and would prevent it from being in the degree we wish it to be, the guardian of state rights and interests. But while I object to a dissolution of the senate under any circumstances, such as would be the case in a matter of deadlock, I am perfectly willing to concede the principle of the double referendum. The people of Victoria and New South Wales want some scheme of referendum, and I believe if we wish to bring about federation it is absolutely necessary for this Committee to devise some system of referendum. Now, two schemes have been placed before us: there is the mass referendum and there is the double referendum. I am in favour of the latter system, because it preserves the rights of the various states. The federal principle, as I take it, as I have enunciated time after time in the Convention and in this Committee, is that all federal legislation requires the assent of a majority of the nation, and the assent of a majority of the states. If you give a mass referendum you violate this principle. You blot out our state boundaries, you ignore our state life, and you might just as well enact at the start that, if the house of representatives and the senate differ on any question, the senate shall always go under. That is my view of the mass referendum, and it is for that reason I am thoroughly opposed to it. We had an able speech today from the Premier of New South Wales. It was eloquent in many passages, but I could not help asking myself when he had finished, as some members of the English Parliament used from time to time to ask concerning the speeches of Mr. Gladstone, "after all what in reality has he said; what are really his opinions, and what does he propose?" As far as I can gather, the hon. gentleman said that we ought to separate in clause 52 of the constitution the number of subjects which
ought to be dealt with by a mass referendum, and that we ought to apply the mass referendum for the purpose of getting over deadlocks arising on any of those subject. That is a project which, in the words of Mr. Gladstone, I may say passes the wit of man. I do not think any member of this Convention is capable of distinguishing between those subjects which, under no circumstances involve state rights or state interests, and those subjects which do. The right hon. gentleman went through all these subjects in clause 52; but, in my humble opinion, if there is any subject out of the thirty-seven subjects mentioned in that clause which does not involve state rights and state interests, it has no right whatever to be there. We have enumerated in clause 52 a number of matters which we consider can be better discharged by the federal parliament than by the state parliaments individually. It is for that reason that we propose to assign those matters to be dealt with by the federal parliament. But when we separate those subjects which can be better dealt with by the federal authority, in what kind of way do we want the federal parliament to deal with them? We want these subjects, according to my view, to be dealt with federally, and not in the way in which the parliament of a united commonwealth would deal with them. We have handed over these subjects as matters of federal concern, and not as matters that are to be dealt with by a parliament representing one people. If the project of the Premier of New South Wales were carried out, what would the result be? We should enumerate a number of subjects which would be dealt with by the federal parliament, as the representatives of one people. We should be establishing a system of unification, and not a federal system. We were sent here to form, not a constitution for a unified Australia, but a constitution for a federated Australia. For these reasons I do not think there is any virtue in the proposal of Mr. Reid. The right hon. gentleman was good enough to compare the double referendum to a last ditch, in which he said the constitution of Australia would find itself, and its last position would be worse than the first. I do not think the right hon. gentleman was quite correct in his comparison, but I would like to say that if the project of a mass referendum were carried out, that referendum would be the ditch into which the house of representatives would pitch the senate. As we want in federation the assent of the people of the states to all legislation, we should carry out the principle to the utmost, and we should not introduce into this constitution any system of dealing with deadlocks which would violate that principle. There must be the assent of the people, and of the majority of the states, and in as much as the double referendum does not violate this principle, which I consider the main principle of a true federation, I
am, therefore, in favour of supporting, as one means for getting rid of deadlocks, the proposal that we should have this double referendum.

The Hon. Dr. COCKBURN (South Australia)[2.24]:

I have only a few words to say; but I do not wish the debate to close without expressing my views on the subject. As the last speaker has said, we have listened to an exceedingly able and eloquent speech from the Premier of New South Wales. The effect which that right hon. gentleman produces on any assembly he addresses is very marked, whether it be in the Centennial Hall or in this Chamber. It takes some time before the effects of the magic of his eloquence can be dissipated; but when the whole of his speech is winnowed down, his contention comes simply to this—and, to my mind, it involves somewhat of a contradiction in terms that, in federal matters—matters under the jurisdiction of the federal parliament there shall be unification. That is a contention which I never heard raised until the Convention met in Sydney. Certainly, during the elections which preceded the formation of this Convention, such a proposition was never considered in the colony of which I have the honor of being a representative. The proposition really comes down to this: that, in federal matters, you need only have one house; that the senate is absolutely useless, because, sooner or later, the majority of the most populous colonies is to prevail. Of course, we have been treated with the greatest possible candour by the representatives of the larger colonies in this matter. The hon. member, Mr. O'Connor, admitted that, in the last resort, unification was his intention, and it has been very properly argued, and with irrefutable logic, that if that is so in the last resort it may just as well be so in the first instance. Men will not struggle against anything when they know the result is inevitable. Reasonable men always yield where they know the greater force exists against them. If I offend against the standing orders of this Convention, and I am named by the President, and the Sergeant-at-Arms touches me on the shoulder, I walk out at once without any display of force, because I know I have to go. I know that in the last resort I have to go; therefore, it is just as well to go at once; and the senate will know that, in the last resort, it has to give way, and it may just as well give way without an idle struggle, of which the result is absolutely assured. Therefore, I say the question really comes to this: that we have had it gravely proposed here, after all these years of debate about the functions of the senate, that, practically, the senate is a useless body in a federation. The way in which this opinion has gradually come to be expressed with this frankness has been very insidious. When we met in 1891, you, Mr. Chairman, remember that we had an overwhelming majority in favour of a senate, as a co-ordinate
house, with equal powers and equal representation to that of the house of representatives. I have not the Hansard of 1891 before me, but I am perfectly sure that that was the deliberate opinion of two-thirds of the representatives when first they assembled here. Then committees were appointed, and by some means or other the two-thirds dwindled down until we found ourselves in a minority. The senate was not to have co-ordinate powers; but it was to have what those who refused these coordinate and co-equal powers maintained was practically the same thing. We were to have the power of suggestion, which it was maintained was equal to the right of amendment of money bills. So the matter closed at that stage. Then the question was raised of equal representation, and we had to fight that, after conceding the other point. Then it appears that that point is yielded, but only in order to undermine us by something which takes away the value of the power of suggestion, of equal representation, and everything else in connection with the senate. If we are to have an ultimate appeal to the popular majority on federal matters, then those who somewhat grudgingly gave us the principle of equal representation in the senate might, without hesitation and without endangering, their position in the slightest degree, have given us equal representation, or even have given the smaller colonies the representation of two to one-twelve members instead of six in the senate. Even then they would have been perfectly safe, because in the ultimate resort they would be bound to have their way.

Mr. HIGGINS:

It is illogical; but have we not been told again and again that we are not to be logical?

The Hon. Dr. COCKBURN:

We have to deal with practical questions. We have to consider what would be the cases in which the senate would dare to stand out against the popular majority in the whole of Australia or a majority in the house of representatives. It would be only in cases where some injustice or coercion was threatened against one or more states. These would be the only cases in which, practically, the senate would stand firm, and these would be the very cases in which the deadlock provisions would be brought into play. The result would be that the constitutional provisions for deadlocks would only be brought into play when they were meant to buttress up, support, and perpetuate some contemplated injustice or coercion. I say that between the two houses the great remedy for deadlocks must be reasonableness on the part of men, and on the part of colonies; but this reasonableness must be in view of no present or prospective compulsion. However, I am quite willing for one to concede the principle of a reference to the people
whenever any deadlock or difficulty arises. I have always been an advocate of the referendum. I think, in 1891, I was one of the few advocates of it in this chamber. If I remember rightly, I think I proposed the referendum on that occasion. I believe no harm could ever be done in taking the views of the people; but I want to know who are the people whose views we are going to, take? The voice of the people must rule, of course, but we want to be sure about what we mean when we talk about the voice of the people. When the Premier of New South Wales talks about the voice of the people as being necessarily supreme, he means the voice of the people of the larger colonies, and, to a great extent, the voice of the people of his own colony. But I consider the voice of the democracy of South Australia has also a right to be considered. That is just as much the voice of the people, although the people are not so many; and I say there is no chance whatever of any principle of democracy being endangered by some consideration being given to the opinion of the people of such a state as that of South Australia. The voice of the people must prevail in the long run because the people understand best what is for their own interests. I would put my hands willingly into those of the men who advocate the right of the people to govern their own affairs, but not necessarily to administer the affairs of others without some check or restriction. As has been said by one of the authorities I think Freeman—the question of local bondage or local liberty does not at all depend upon the form of the central government. You can have local freedom under the veriest autocracy which ever existed, and you can have local bondage under a representative government. The people can be trusted to manage their own affairs, because they know what their own interests are; but the people cannot be trusted to manage the affairs of others without some check. It has been suggested that we should take out of clause 52 all those subdivisions which are purely matters of national interests. I notice that the Premier of New South Wales read through thirty of them, but he did not go as far as the 31st.

The Right Hon. G.H. REID:
I did not know what the 31st was!

The Hon. Dr. COCKBURN:
It is only the question of the right of South Australia to have some voice in the management of the Murray waters within her own territory.

The Right Hon. G.H. REID:
I was afraid of wearying the Committee by reading them all!

The Hon. Dr. COCKBURN:
In the thirty sub-clauses which the Premier of New South Wales read there are many which, although dealing with matters of national
importance, also very seriously and vitally touch the interest of the states. I do, not think it is possible to point to a single one of those sub-clauses which may not at some time or other become a question of vital interest to one or more states. We had an eloquent speech from the hon. member, Mr. Wise, in which he pointed out most conclusively that even a line in the tariff, although a national question, might be of so much importance to one or more states as practically to threaten their deepest interests. We have only to consider this, and we shall see that the hon. gentleman was perfectly justified in what he said. We have all sorts and conditions of climate in Australia, and an industry may become of the most vital importance to one portion of Australia which may not be one of the larger colonies possessing the larger population. And is no adequate consideration to be given to the views of the representatives from that colony, whose interests are so deeply affected, as to what the tariff is to be? When we have federation the industries of Australia will become localised, and having free-trade within our own boundary, those industries will spring up to which the conditions of the localities are most favourable. We may have, I believe we shall have, in South Australia one or two industries which, if they are not absolutely confined to our boundaries, will, at least flourish there to their greatest possible extent. Yet the question of the maintenance or development of those industries may not be at all a vital question to the eastern colonies, who have large populations. We all know that, as regards the question of the tariff, there is an infinite difference of opinion. The interests of the consuming population may be opposed to the interests of the producing population. The tariff may favour the consumer, who wants the article free of duty, although the taking it out of the tariff may have the most detrimental effect upon the producer who raises the particular article. Then we know that there are what are termed manufactured products which from another point of view are regarded as raw material. So one can quite foresee that upon questions affecting some of the industries of the colonies, not on the eastern coasts, but possibly in South Australia, possibly in the Northern Territory, possibly in Western Australia, possibly in Tasmania, there may be a complete difference of opinion as to the desirableness of this or that article being put within the pages of a protective tariff. This may be a matter of vital interest, and you cannot expect the smaller states to surrender practically all their voice in the matter, as they would if there were a mass referendum. I think we may well be pardoned for having some little fear as to the conditions of the future. Still I do not think the panic as to the future comes from the smaller states, although from their unprotected condition they have most to fear. It seems to me that gentlemen from the larger states have been those who
have been most fearsome as to what may occur. But they are men in armour; they have nothing to fear.

The Right Hon. G.H. Reid:
Your side has been safe all through!
The Hon. Dr. Cockburn:
We have given up one after another of our props.
The Right Hon. G.H. Reid:
Still you have a number left!
The Hon. Dr. Cockburn:
But the right hon. gentleman, if he had his way, would take them all from us.
The Right Hon. G.H. Reid:
No, I would not; I would provide for every state right in the constitution!
The Hon. Dr. Cockburn:
It seems to me that we have given everything away until we have come to this prop, which is our all, and I think it behoves us, seeing that all the tendency is to put power into the hands of the large populations, to be a little timid. A little timidity on our part is not out of place, but it is not becoming for those who have the great force of numbers with them to display in this matter such unreasoning fears as they do. I shall certainly support the principle of the referendum not the mass referendum, but the double referendum so ably put forward on so many occasions by the Attorney-General of Victoria. I would like to say again with regard to the proposition of the Right Hon. the Premier of New South Wales to differentiate in the sub-divisions of clause 52, and strike out all those questions which are of state interest, that it is not possible to make any such differentiation. Let me give a few instances. Take the question of postal, telegraph, or telephone services. Are there no state interests connected with those services? At the present time, we have the sole management of those affairs in our hands, and we know how it is possible so to administer the department as to assist the development of the colonies we represent. Is that continuance of good management within our own boundaries, in this respect, of no importance to us? When you are opening up a new country, I say that it is of infinite importance-
The Hon. I.A. Isaacs:
That would be rather a matter of administration than legislation!
The Hon. Dr. Cockburn:
We know the importance of having some voice in legislative chambers, even in matters of administration. The opening up of a wheat market may
depend upon whether you can get a line of telegraph constructed, in order that the producer and the buyer may be brought into intimate relations. Is not that a question in which the states, having enjoyed absolute autonomy in such matters, should be considered? Then take defences. Under the heading of defences you can do almost anything. With unlimited means to spend you can make roads, bridges in fact, you can make or mar the destinies of a whole portion of Australia.

An Hon. MEMBER:
   Leave that out!
The Hon. Dr. COCKBURN:
   You cannot leave it out, because it is one of the great national questions. The questions of defence and of tariff are national questions of supreme degree.
Mr. HIGGINS:
   Why should they not be nationally treated?
The Hon. Dr. COCKBURN:
   Because we propose to federate.

An Hon. MEMBER:
   You assume a certain narrow meaning for federation?
The Right Hon. G.H. REID:
   According to the hon. member "federation" means the rule by the minority of the majority!
The Hon. Dr. COCKBURN:
   No, it does not. What I say is that a certain right of veto should be given to a majority of the states when their interests are threatened. The right hon. the Premier of New South Wales asked us to point out those matters which involved state interests. Take ocean beacons and buoys and light-houses.

The Right Hon. G.H. REID:
   Are they subjects for a
The Hon. Dr. COCKBURN:
   No; but in the administration of those matters you may make one port and mar another.

The Right Hon. G.H. REID:
   -
The Hon. Dr. COCKBURN:
   A government will do what it has the power to do.
The Right Hon. G.H. REID:
No; it will live as quietly as it can!
The Hon. Dr. COCKBURN:
It will, knowing that it has the power, often go near to the full exercise of it. A true federal government would not do so, because we should have an adequate voice in a federal government. There is the senate in a federal government to be considered, and we do not pre-suppose that the senate will be composed of men of straw, who ultimately must give in, who have the right to their opinion only until the cloture is put on them. We should not have any rights at all. What would be the rights of the senate if in the last resort it had to give way? Of course, even cases of the greatest injustice would not be called injustice, because we know that injustice is never perpetrated under that name; but a central authority very often errs through ignorance of the local conditions. It does not want to do an injustice, but it does not fully appreciate the conditions of distant localities. One of the objects of the senate in which every colony would have adequate representation is to protect interests which might be invaded under such circumstances; If you adopted the mass referendum you would strike at the very root of the power of the senate. You would practically render its deliberations futile. The representation of the smaller states would become a negligible quantity in the commonwealth. Then take the question of quarantine. That would appear to be a matter in which no question of local interest could arise. But in a continent so huge as this island of Australia, where there is every variety of climatic condition, even the question of quarantine may become a question in which the very existence of a state is threatened. We have a tropical climate, we have a sub-tropical climate, and we have a temperate climate. The northern portion of the island is tropical. A tropical disease may threaten Australia which we know cannot obtain any footing in the eastern, southern, or western provinces. Protection against this disease may be of insignificance to the larger populations, those living in the temperate climate to the south, but it may be a question of the most vital importance, a question of the very existence of the population which may ultimately gather on our northern seaboard. We hardly know these conditions yet, but I could enumerate half a dozen diseases.
The Right Hon. G.H. REID:
We have a common interest in preventing disease from decimating Australia?
The Hon. Dr. COCKBURN:
But it would not decimate Australia, because it could only affect a few people, a comparatively small portion of the northern parts of this
continent.
The Right Hon. G.H. REID:
But it might travel!
The Hon. Dr. COCKBURN:
I mean diseases that would not travel; diseases that are strictly tropical.
The Right Hon. G.H. REID:
If they would not travel they ought not to come under a federal act!
The Hon. Dr. COCKBURN:
You cannot pick out these things. The question might be one affecting two or three colonies possibly it might affect Queensland and South Australia only, or possibly also a portion of Western Australia. It might be a question of vital importance to those colonies, but of not the slightest importance to Tasmania, Victoria, or New South Wales.

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The Right Hon. G.H. REID:
Surely the Government would do what was right!
The Hon. Dr. COCKBURN:
The Government would do what was right if they had not the ultimate power to do what was wrong.
The Right Hon. G.H. REID:
The Government would not have any, interest in doing what was wrong!
The Hon. Dr. COCKBURN:
We all know that, in representative chambers, the view that ultimately prevails is in accordance with the representation in that chamber. If a district is fairly represented, it gets justice; if it is inadequately represented, and can be disregarded, it very often does not get justice. It would be the same in the case of the senate, if its views could be set aside by a mass referendum. Even the question of marriage and divorce is of importance to all the colonies. At present, we have absolute autonomy in that respect; we make our own laws. It would be an injustice to say that the laws of marriage and divorce, which are to affect South Australia, should be framed by any parliament in which that colony had not an adequate representation. If there were power to set aside the wish of the senate, in which we would have a fair representation, you would make us really a quantity which need not be taken into account at all you would totally abolish our autonomy in these matters; and I say autonomy is too dear a privilege to be lightly got rid of in this way. We all of us now manage our own affairs according to our own views. We have a Federal Council, in which each colony is represented equally. Of course, I admit that the Federal Council has not anything like the power which this federation is to
have; but still, in connection with the Federal Council, it was recognised that the colonies were to have equal representation in the one house which would represent Australia. The smaller colonies have now admitted that there must be one house in which they are, practically, to have it very small representation; still they want to maintain a fair representation in the other house which would be adequate to protect their interests. It was said very truly by the hon. member, Mr. Deakin, and the hon. member, Mr. Higgins, and many other gentlemen representing the large populations, that in America the Congress is never divided on the question of state rights or state interests. But we must be very careful how we choose our analogies.

Mr. HIGGINS:
That is hardly the statement I made. I said that there was no conflict of interests as between states as states and the commonwealth!

The Hon. Dr. COCKBURN:
But politics in America are dominated by huge party machines which deal with legislation, and, to a great extent, with administration, and would never allow any injustice to be done to any state. The parties would never allow any coercion to be applied to any state, or any of its rights to be interfered with, because, if they did, they would lose their influence in states on which the existence or predominance of their party depends. The hon. member, Mr. Deakin, says that we should have party government in Australia. So we should; but nothing like to the same extent as they have it in America.

The Hon. A. DEAKIN:

The Hon. Dr. COCKBURN:
It is a different thing. In America, party government depends to a great extent on the election of the president that takes place every four years, and in regard to which the parties strive with their utmost force. It is that which keeps parties together in America; but we should have nothing of that kind here.

The Hon. A. DEAKIN:
There will be an election every three years, at least!
Look at your own parties in South Australia, and at the parties in Victoria!

The Hon. Dr. COCKBURN:
They are altogether different from the parties in America.

The Hon. A. DEAKIN:
It is quite sufficient for this purpose!

The Hon. Dr. COCKBURN:
The parties in America have really lost sight of their original intention. Goldwin Smith uses words to the effect that:

The casks that contained the party spirit no longer retain the odour of the liquor with which they were once filled.

The Hon. A. DEAKIN:
That does not affect the issue here?

The Hon. Dr. COCKBURN:
I do not think that we should have party government, or party spirit, in this commonwealth as we understand it in our parliaments now. How far are our present parties of any value to us? Do not I find myself voting here time after time with gentlemen from the other colonies whom we recognise as ultra conservatives. Does not the hon. member find himself voting time after time with gentlemen whom he must recognise as ultra conservatives.

The Hon. A. DEAKIN:
No; they are all liberals who vote with me!

The Hon. Dr. COCKBURN:
Do we not see that party lines are so blurred that hon. members who are in principle opposed to the referendum have actually supported it, because they think that their state would lose nothing by having it.

The Hon. H. DOBSON:
Does the hon. member call me an ultra conservative?

The Hon. Dr. COCKBURN:
No; I was not thinking of the hon. member, nor of anyone from Tasmania. I am only too glad to hail under any circumstances those who are willing to vote for a referendum; but I say that it shows how little you can carry the experience of parties into new conditions if we may judge from what we see here, because we see so-called democratic measures advocated by so-called conservatives. That shows that original party lines have no value here. I myself have been regarded as a conservative for voting for what I believed to be state rights.

Mr. HIGGINS:
The phrase "state rights" is used as a stalking horse by reactionaries!

The Hon. Dr. COCKBURN:
State rights or any other question is used here just as it suits those who
are arguing, and I was much amused yesterday to hear, some of those who were unwilling to give any more powers to the senate than they could help, because it might be ultra-conservative, admit that probably the senate would be the more liberal and democratic of the two houses. That shows how blurred our lines of party government have become. I would be not only willing, but glad, to support my hon. and learned friend, Mr. Isaacs, in the matter of the double referendum. I think that the hon. and learned member, Mr. Wise, in spite of his magnificent speech today, made a little mistake when he said that in the past the referendum had been used as a weapon of personal despotism.

Mr. Wise:

Napoleon III expressly justified it because it was the only way to escape from the bondage of parliamentary control!

The Hon. Dr. Cockburn:

What has not been used for personal ends and ambitions? But as was pointed out, I think, by the Right Hon. Mr. Reid, last year, in the New South Wales Parliament, when he moved the adoption of the referendum, in a speech that was second to none ever delivered on the subject it does not alter the fact that in the old days the referendum was the guardian of liberty, and that the greatest legislatures the world has ever seen have been content to make all their proposals subject to the veto or the assent of the people. Why, Sir, the senate of Rome, the assembly of kings, as it has been properly called, could only frame their laws, could only decide upon what they wished their legislation to be, subject to the veto or the assent of the people. Why, sir, the senate of Rome, as it has been properly called, could only frame their laws, could only decide upon what they wished their legislation to be, subject to the veto of the people. When, after all their labours and after all the wisdom they could bring to bear - and I do not suppose the world ever saw grander or more intelligent assemblies than the senates of Greece and Rome - after all their combined wisdom had been brought to bear on these questions, they then had to go with the proposal in their hand to the people and say, "Do you or do you not accept this law as one under which you desire to live?" Instead of the referendum having been used to any great extent as the agent of despotism, it has really been the guardian of the liberties of the past. I will support my hon. friend, Mr. Isaacs, in his proposal for the double referendum. But I need not say that I shall oppose with all my power the mass referendum, because it strikes at the existence of the senate, renders that body of no value whatever, and we might just as well start our federation with one chamber, and have no more nonsense about it. I know it is the knowledge
of this that brings my hon. friend, Mr. Isaacs, and his right hon. chief, Sir George Turner, into this position. They see that if we are going to have a mass referendum we might just as well have one house and from many points of view I should like to see one house. I want to see no second chamber erected to stand in the way of the will of the people. I do not want to see any checks on what is called the popular will. I simply want to see a chamber erected to protect the rights we have at present as autonomous states, and to see that they are not endangered.

Mr. HIGGINS:

On one side the hon. member is a radical, and on the other side a conservative!

The Hon. Dr. COCKBURN:

Of course we are all conservatives in a sense. We have proved many things, and we hold fast to that which is good. But, in the sense the hon. member means, I have not a conservative bone in my body. The hon. member knows that quite well, and everybody in this Convention knows it too. My struggles for the Senate have simply been struggles for autonomy, for home rule, for local government; because I believe you will have no local government whatever if you neglect the state majorities. There is no sound autonomy in the world that can be founded on the deconstruction of state majorities. The mass referendum of my hon. and learned friend is absolutely out of the question, not only from the point of view which I have endeavoured to touch upon that it would render the senate incapable but also because you cannot have two referendums in this federation. You cannot have two different forms of referendum. No one proposes that the referendum with regard to a change of the constitution should be other than the double referendum. We should endanger the double referendum in regard to a change of the constitution if we adopted the principle of the mass referendum in deadlocks. It would be an inconsistency to have two forms of referendum in one commonwealth, and, sooner or later, we should find, if the mass referendum were established for deadlocks, that there would be an attempt to introduce the same principle into the settlement of questions relating to amendments of the constitution. And, logically, there would be no holding back from that position. If we adopted the mass referendum now, we might just as well wipe out the referendum with regard to a change of the constitution, throw ourselves entirely into the hands of the majorities of the large, colonies, and say that autonomy in Australia is a thing of the past, that we centralise and unify now and for ever. If we do that, we say goodbye to democracy. We say goodbye to the will of the people, goodbye
to what we know as popular government, because sooner or later a central authority is bound to become a tyranny. No truer words were ever uttered than those of Sir John Hall at the conference of 1890 "Democracy demands that the government should be conducted within the sight and the hearing of the people." The states are within the sight and hearing of the people. We must protect their privileges, otherwise we shall have the whole of Australia under one government, which, although it may be local to one state, will be infinitely distant to a great portion of the commonwealth—will be 2,000 miles away, and the voice of liberty will not carry that distance.

The Hon. I.A. ISAACS:
The referendum will protect their privileges!

The Hon. Dr. COCKBURN:
I would not depart from the principle of the referendum. The principle of the referendum in a federation is recognised. There is no referendum in any federation I ever heard of which is not a double referendum, and I think it would be extremely dangerous to depart in the slightest degree from that principle.

The Right Hon. Sir E. BRADDON (Tasmania)[3.2]:
I think it very desirable at the outset that I should correct a misapprehension that has arisen as to the attitude of Tasmania, and of the Tasmanian legislature, in regard to this matter. It has been said in the Convention and outside that Tasmania is one of the four colonies that have suggested provisions for meeting a deadlock. That is incorrect to this extent: that one branch of the Tasmanian legislature, and only one branch, has made a suggestion qualified in this way:

This amendment is suggested by as in the event of the Convention deciding to make provision to avoid deadlocks, but not otherwise.

The Tasmanian legislature, through its House of Assembly, has practically said, "We do not regard any provision as necessary; but if you are going to have one, then let it be this one." And this one I should hope will receive some attention from hon. members inasmuch as it provides for a system of internal referendum, a referendum within the parliament itself, and one also which without putting the commonwealth to any very great expense, secures absolute finality. They say "If any solution for a deadlock be necessary." One cannot help marvelling how the necessity for this solution, for some mechanical arrangement for meeting deadlocks, has arisen suddenly after all these years, and has assumed the prominence it has done. In the bill of 1891 there was no provision at all for dealing with deadlocks. At the meeting of the Convention held in Adelaide some suggestions were made in this regard; but those suggestions were disposed of, and the bill passed without any machinery to meet deadlocks. We are
now told that public opinion in this direction is gaining ground, and that machinery to meet deadlocks has become a matter of paramount necessity. Looking in the two local journals published in Sydney, this morning, to find light on the subject, I observed that while one paper advocates this machinery, the other paper is distinctly opposed to it, and points out an objection to the referendum which I do not think has yet been noticed in the Convention an objection of very serious importance. It is that the referendum transfers the responsibility of the ministry from the parliament to the people.

The Hon. I.A. ISAACS:

Have not the people to bear all the burden? Why, then, should they not take what responsibility they like?

The Right Hon. Sir E. BRADDON:

I certainly do not want to take away from the ministry of the day their responsibility to the people through the parliament. When this question was raised in Adelaide, it was disposed of upon arguments which I think are almost unanswerable, and I should like to read two very brief passages from speeches which seem to me absolutely convincing. The hon. and learned member, Mr. Barton, when this matter was under discussion at Adelaide, said:

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 endeavoured 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.

I should like to read a passage from the speech of another distinguished
member of the Convention:

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 favour of the party that holds the power. There can be no question that if a strong party in the country hold a view in favour 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 when you have a house elected by the people whether the house of representatives or the senate it should be brought into constant touch with the people. It should, by a process of election, have its members 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 is 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 is coercion?

An Hon. MEMBER:

From whose speech is the right hon. gentleman quoting?

The Right Hon. Sir E. BRADDOON:

I do not wish to mention the hon. member's name, because I do not think that the opinions which be expressed then are quite the opinions which he holds now.

The Hon. E. BARTON:
The right hon. member is looking at me. He is perfectly at liberty to quote anything that I said at Adelaide, because I have not departed from the opinions which I expressed during our sittings there!

The Right Hon. Sir E. BRADDON:

I mentioned the hon. and learned member's name in connection with the passage from his speech which I quoted. In discussing this matter, I have not only to explain the action of the Tasmanian legislature, but also my own position, because I am a very strong advocate for the dissolution of the legislative councils of our colonial parliaments and also of the referendum. I am an advocate of the referendum where it can be applied safely and it can only have a restricted application and for the dissolution of the second chambers in the colonial parliaments. But I recognise to the fullest extent that which I do not think is always recognised: that the senate of the federal legislature will occupy a position entirely different from that occupied by the legislative councils in the colonial parliaments. I feel that very strongly, and I think that it is our bounden duty to respect the continuity of the existence of the senate to the fullest extent, and to carry out the suggestion made in the last paragraph which I read. It is suggested that some of the subjects which are to be referred to the federal parliament should be so separated that there could be no difficulty in discriminating, between those which might involve interference with state rights and those which involved other matters. I agree, however, with the hon. and learned member, Mr. Isaacs, and other hon. members, that it would be absolutely impossible to make this discrimination. You cannot see at what point there will be a divergence from a national question, which will make the matter a provincial one-one of state concern, and, therefore, jeopardising state interests and state rights. While, as a friend of the referendum, I should be disposed to accept the proposition that after a dissolution of the lower house there should be a dual referendum, I do not see that it is possible for us, having regard to our duty, to safeguard the senate, and to preserve to it such limited powers as have been left to it, to go one whit further. If we did that, it would be, I should say, by way of compromise, and a very large compromise indeed.

Mr. HIGGINS (Victoria)[3.14]:

I had not meant to speak in this general debate, because I intended to confine my remarks to the specific proposals which, I understand, will be brought forward for the prevention of deadlocks; but, having regard to the course which the debate has taken, I think I should avoid misunderstanding better by speaking now, when, as it seems to me, we are approaching
nearer and nearer to the dilemma which I feared from the very start of our deliberations in Adelaide. The dilemma appears to be although it is not, I am happy to say, quite expressed yet; and I hope it will never be a real and final dilemma that the larger states will say, "We cannot federate unless you leave the sovereignty at any rate, in the final result in the mass of the people." The smaller states will say, "We cannot federate if you do put the sovereignty in the final result in the people as a whole." I feel, when we approach a dilemma of that sort, that we should use language of the greatest moderation. It is a stage at which the greatest self-restraint is necessary, if we are to bring out any good result from our deliberations. I have heard with great regret the strong language which the right hon. the Premier of South Australia and the hon. members, Mr. Symon and Mr. Howe, addressed to the Convention yesterday. The Right Hon. C.C. Kingston said that he would stump the country against federation unless a certain proposal of his were carried. Then the hon. member, Mr. Symon, spoke as if he were going to lead an army with a free and flashing sword against the larger states if there were any infringement of what he considered to be the rights of the smaller states. As for the hon. member, Mr. Howe, his frenzy went beyond all limits. I feel as strongly as they do on my side of the question, but I hope I shall be able to speak with moderation, and without indicating that I shall regard any particular clause or any particular condition as essential to federation. I have carefully abstained from that. I think hon. members know very well how strongly I feel on certain subjects, but I will abstain from that to the end. I say we have no right, seeing the endless complexity of the provisions which may be suggested for this constitution, to lay down any condition as final, or to use what are called "carpet-bagging" threats of taking up one's carpetbag and going away. Approaching the question in that way, I was greatly impressed by the speech of the hon. member, Mr. Holder, yesterday. I felt that it was the most hopeful half-hour for federation that I had yet seen. The hon. member, Mr. Holder, is a minister in one of the less populous colonies; he is responsible to a constituency in that colony; he has held office for three or four years; and he knows the way in which his utterances and votes will be canvassed.

The Hon. J.H. GORDON:
He will be very much surprised to find the way in which they will be canvassed!

Mr. HIGGINS:
I have no doubt whatever that the hon. member, Mr. Holder, gauges public opinion in South Australia as correctly as the hon. member.
The Hon. F.W. Holder:

I accept the full responsibility of it!

Mr. Higgins:

As I have said, that half-hour was the most hopeful for federation that I have yet seen. There is no doubt whatever that that is the case. That speech was aided by the masterly and statesmanlike speech of the hon. member, Mr. McMillan, who I thought before, took a different view. It is quite true that there is an inconsistency between the extreme state rights view of the consent of the states being necessary, and the view taken by the hon. members, Mr. Holder and Mr. McMillan. If there is one thing that has been drummed into my ears continually, ad nauseam almost, it is that I must not be logical. Surely if that is a good lesson for me to learn, it is also a good lesson for others to learn. All I want is that if I am the goose for whom the sauce is provided, it shall also be applied to the gander. If it is inconsistent, if it is illogical, to give equal representation on the one hand, and to infringe on the principle with the other hand, still there is a via media which any reasonable man can see, and which may, and will, justify hon. members who have taken that via media. Is it not consistent for those who still are haunted by what I regard as the fallacy as to the consent of the states to say, "It is true we must give the states the right to protect themselves, to delay measures and obstruct measures which they think are unjust, until it comes to the last resort. But in the last resort, in place of the physical force which Mr. Wise puts as an alternative, let us have the peaceful operation of an appeal to the people as a whole." I regard the referendum as merely a peaceful mode of effecting the solution to which the hon. member, Mr. Wise, invites us. He says the majority of the people have the physical force, and can do what they like. That is quite true, but-

Mr. Wise:

I would like to point out that I said the majority could never be coerced, because they had the physical force. That is very different from saying they could do what they liked.

Mr. Higgins:

The hon. member said that when we came to a question of coercion the majority could not be coerced, because they have physical force. It is perfectly clear that by vetoing a measure which the majority want, you coerce the majority. I say, therefore, that those who can put a permanent veto upon legislation enact, in effect, that the existing state of things shall continue.

Mr. Wise:

The hon. member has not understood my argument!
Mr. HIGGINS:

I am very sorry, but I hope I will understand the argument hereafter when I read the report of the debate. I understand the hon. member says that owing to the physical force which the majority have, the majority cannot be coerced. I say that in place of having coercion rendered inoperative by physical force, let us have the coercion rendered inoperative by the peaceful solution of a vote by the people. I think there was a good deal in the distinction drawn by the hon. member, Mr. Holder, a distinction which in my addresses to my constituents I referred, between an alteration of the constitution and the alteration of a law which is under the constitution. He says you ought, at all events, to render absolutely essential the consent of the states to an alteration in the constitution to which they have agreed. I perfectly concede that. If men enter into a deed of partnership, they ought not to have put upon them another deed of partnership to which they have not consented. But in matters within the scope of the deed of partnership, it is only right the majority should rule. That distinction ought to be emphasised. Strong as my view is with regard to the rights of the majority of the people, I say, certainly, that if the states, and the people of the states, are coming into a deed of partnership, that deed of partnership the constitution ought not to be altered without at least the consent of a majority of the states. It is a very different thing when you are dealing with a measure which is under the deed of partnership. A great deal has been said to the effect that we must provide for deadlocks. I think that phrase hardly expresses the idea. It is not deadlocks that you must provide for; but what you must provide for is that the wishes of the people, the matured wishes of the people, after a full discussion, shall not be permanently thwarted. The thwarting of the will of the people is not always productive of a deadlock, and therefore a good many of the arguments to show that there is no danger of a deadlock do not affect me in the slightest degree. It is quite true, however, as has been said, that the differences between the two houses will not in any considerable number of cases be differences as affecting state interests. I take it that, although one is a state's house, and the other is a people's house, the differences will be on the ordinary lines, which we are familiar with in these colonies on the ordinary lines with regard to protection or free-trade, liberalism or conservatism, and so forth. I quite agree also to this, that there is much danger of a conflict, I do not say a deadlock, between the two houses having regard to the circumstances under which the two houses are elected. Both houses being elected on a very liberal franchise, each will feel itself stronger, and be more apt to resist the wish of the other, and there will be a tendency, no doubt, in the senate, as it feels itself to be a states house under the equal representation.
clause, to look more to the interests of the states as against the commonwealth. It will be a house that tends to provincialism, to all that is selfish, to all that is provincial, for in the early days of the United States they acted on the principle that a senator was bound to act in the interests of his state, was an ambassador of the state, without regard to the interests of the commonwealth. Several proposals have been made, not only for settling deadlocks, but for giving effect to the will of the people, even when there is no deadlock. The first proposal is that for a double dissolution. I have to remind hon. members that in Adelaide I proposed a double dissolution; I tabled an amendment for that purpose, and the hon. and learned member, Mr. Barton, asked me to postpone the clause so that it might be recommitted, but meantime my hon. and learned friend, Mr. Wise, had brought forward an amendment which provided for a dissolution of the senate after the dissolution of the house of representatives, if that house should still persist in its opposition. I was beaten on that amendment; I had only seven votes, including my own. If I may judge from appearances, there will be very many more votes given in favour of a double dissolution this time. Even my hon. and learned friend, Mr. Wise, voted against it.

Mr. WISE:
I will vote for it this time!

The Hon. E. BARTON:
So will I; I will go that far!

Mr. HIGGINS:
A double dissolution I cordially support. I think it will go a very long way towards rectifying some of the evils which will arise from this complicated system of a state's house and a people's house. I take it to be, as the hon. member, Mr. McMillan said, unfair to let one house have a means of scourging the other, and that is the means which the senate will have unless we give power to have it dissolved also, because the senate can apply the scourge to the other by saying "If you press this legislation you must go to the country." The answer under the proposed solution will be, "Well, if you oppose the legislation we will both go to the country, and see if the country sustains us." I take it that unless there be a provision for a double dissolution the house of representatives will be treated grossly unfairly. It is just as if you had two lots of men, with a rope between them, having a tug of war, and you allowed one lot to have firmly embedded rocks against which to rest their feet. In this case the senate would be strongly entrenched, would be resting against the rock of a six years' tenure without any liability to dissolution, and it is not difficult to see what the
result of a tug of war of that sort would be. If you have one house with a liability to dissolution in the case of a difference, and the other house with no liability to dissolution in the case of a difference, but with a six-years' tenure, and with perhaps half of the members having still a five or six years' tenure to look forward to before they must go before the electors, there is no doubt that the power would ultimately tend to fall into the hands of the senate. For that reason, and for others, I am strongly in favour of it, but I hold that a dissolution is by no means a solution of the difficulty. First it brings into play a number of by issues as to persons and as to other matters. A man is often returned to Parliament on this consideration, "Oh, he is a good fellow on the whole, and although he differs from us on this point, we will send him in generally." Besides that, as a dissolution will send the senate to the colonies, you may have each colony backing up its senators and just leaving things as they were before. But, still, I do recognise that the mere fact of a possible dissolution impending over the head of the senate, will make them chary to some extent in withstanding the strongly expressed wish of the house of representatives and the country. Now, I will approach the next matter. It is said then, after a dissolution of both houses let us have a referendum. In the Legislative Assembly of Victoria, I was one of the joint authors of a bill for a referendum. I need hardly say that I am strongly in favour of the principle. I am not frightened by that cant about mechanical contrivances. I am not frightened by that cant with regard to its enabling members to shirk their responsibility. Every governmental contrivance, even electing a parliament of any sort, allowing the issue to go by votes in the parliament, is a "mechanical contrivance," one of those cant phrases we have heard used by ministers this morning. As to the shirking of responsibility, there is nothing in that idea. You cannot have a referendum unless there has been a vote in parliament on the subject, and as all reasonable referendums are proposed, you must have a vote first in one session and then in another session after a sufficient interval, and the thing will be fully discussed in the press, and members will have taken sides. Although I am strongly in favour of a referendum, I shall certainly, without the least hesitation, vote against the referendum which is called the double referendum.

The Right Hon. Sir E. BRADDON:

Hear, hear!

Mr. HIGGINS:

I have the applause of the Premier of Tasmania. I am very happy to find myself in his company. I do not care who votes for it or who votes against
it, I am not going to vote for a thing called "the referendum", which I know will be a sham, which I see to be a fraud, a delusion, and a snare; a thing which is not the referendum but which will have the effect of a device to lead people to think that they are protected by a referendum when they are not protected. I do not expect in this matter to elicit any marks of approval from any side of the Chamber, and I do not court them. But, at the same time, I feel at liberty to say that I will not be a party to any proposal which you may dub a referendum, but which will not have the effect of a referendum. I voted in Adelaide in favour of the referendum to the states and to the people simply because I saw that there was no movement towards a conciliatory method, and that this thing would not be carried, and also that we had not full time to go into the details of it. But I certainly would much rather see this constitution go before the people without anything of the nature of a referendum than have it go before the people with a falsehood upon its face. May I indicate how the figures will work out? Supposing we got two states strongly in favour of a measure, and the other states pretty evenly balanced, but still against the measure upon the total voting. Here is a sample of how it might work. Suppose New South Wales had 110,000 for and 10,000 against; Victoria had 100,000 for and 10,000 against; South Australia, 14,000 for and 15,000 against; Tasmania, 6,000 for and 7,000 against, and Western Australia, 6,000 for and 7,000 against. The result would be that you would have 236,000 votes for the measure and 49,000 votes against. But that measure could not be carried, although the voting was in the proportion of about five to one. Not only that, but supposing in South Australia there was a small reversal of the position, and supposing the figures there were 15,000 for and 14,000 against. In that case you would have 237,000 for and 48,000 against. Even then, according to the proposal of the treble referendum-I might call it a demi-referendum-you would not have it carried, because you would have, perhaps, seventy-six electoral districts, and it might turn out that only thirty-seven went for the measure and thirty-nine against it.

The Hon. I.A. ISAACS:
That is not my proposal!

Mr. HIGGINS:
I remember that, in the Victorian House, my hon. friend intimated that he cordially agreed with the amendment. It was proposed by Mr. Baker, and the hon. member at once said very frankly that he agreed with it, and that it would get over some difficulties.

An Hon. MEMBER:
Our Chamber objected to even the dual referendum!
The Hon. I.A. ISAACS:
Some wanted a national referendum!

Mr. HIGGINS:
I think it will save some time if I proceed upon the assump-

[continued]

...tion that this idea of the electoral districts is abandoned. Is it abandoned or is it not?
The Right Hon. Sir G. TURNER:
It is so as far as I am concerned!

Mr. HIGGINS:
It has come down again to a dual referendum, and we might very possibly have voting throughout the commonwealth, in which there would be 236,000 votes for and 49,000 votes against, and, still the measure would not be carried. What is the alternative? The hon. member, Mr. Wise, says physical force. I do, not want physical force. I want the will of the people to ultimately rule on all Australian subjects. There is one mode of solution which was suggested on a former occasion, and I am surprised there has not been more said about it in this meeting of the Convention. I refer to the idea of a joint sitting of the two houses. Of course, it will be obvious that that will cause far less expense; but, so far as I am concerned, I am strongly against a joint sitting of the two houses, if those two houses are not equally representative of the people. If my proposal for proportional representation had been carried, and if we had two houses upon the same basis, there would be a strong ground for saying, "If those two houses representing the people cannot agree, put them together, and see which has the most votes." Unfortunately, to my mind, we are not putting the senate upon the same strong basis as we are putting the house of representatives. We are not giving them the same strength of character, because we say the senate will represent in the main, and must represent, a minority of the people. I feel that there is a great deal to be said for that proposal. Still I confess I would much rather see something of that kind than see this sham referendum to which I have referred. I am very glad also to find that the Premier of New South Wales has dragged the Convention back to what is really not sufficiently attended to in this discussion. He has dragged the Convention back to a consideration of the subjects to be given to this proposed parliament. He has shown what the subjects are, and although the practical outcome is very hard to ascertain, I must say that the position he has taken up is perfectly correct. He says, "If there is any subject in clause 52 which ought not to be given to the federal parliament let us know what it is, and take it out, and do not let a majority in the commonwealth rule about it."
Unfortunately, I think the Premier of New South Wales qualified that position. He has simply informed us that we could have a, referendum on all national subjects and not upon state subjects, and he has left it to us to find out what are state and what are national subjects. Why, that is the whole difficulty of the problem. How are we, in clause 52, to find what are state and what are national subjects? I say that it is quite possible to limit clause 52 so as to show that there are certain subjects in that clause which might, even from the point of view of the smaller states, be left to the referendum in the final resort. For instance, marriage and divorce. What obstruction in the world should there be to a national referendum in that case?

The Hon. I.A. ISAACS:

Can the hon. member perceive any necessity for a referendum on that matter?

The Hon. A.J. PEACOCK:

That would be very hard on me and Sir William Zeal!

Mr. HIGGINS:

I can perceive this: that it is one of the most difficult social questions of the present day. Why should Mr. Peacock object to having such a matter referred to the people of the whole of Australia? In what way does the hon. member suppose that his interests would be prejudicially affected? Would he not be prepared, as a Benedict of the future, to trust to the people of the whole of Australia? I think the right hon. member, Mr. Reid, has this morning put me in the position of the junior counsel to the senior counsel. The senior counsel opened the case to the jury splendidly. He told them a magnificent story and their passions were thoroughly aroused. Their feeling as to the case was very intense. The junior counsel, having his brief, listened with breathless attention to the splendid opening, and when it was over, noticing his senior leaving the court, he pulled his gown and said, "How am I to prove that case which you opened?" The senior was there to put the case before the jury, and the junior was there to prove it. Now my right hon. friend, Mr. Reid, told us in very eloquent words, "The whole difficulty is solved; you have only to distinguish between state rights and national rights." But my senior counsel does not help me very much when he says that. Who is to make the distinction between national rights and state rights? But although we had not the assistance of the hon. gentleman's acute mind in distinguishing national from state subjects in clause 52, still he indicated in his masterly speech the direction in which we can go if we take sufficient pains, and if we pursue the subject with the same diligence with which the special
Finance Committee has been pursuing its labours during the last few days. I take it that it is quite possible for us to arrive at a compromise upon this 52nd clause that it is quite possible for us to say, "Here are certain subjects, and as to those there can be no referendum." It may be possible also to insert some qualifications with reference to one or two other subjects; and, as I do not wish to commit myself to any particular position, I merely want to indicate the direction in which, perhaps, there may be some solution acceptable to us with our divers modes of looking at the matter. I recognise that, although to my mind the fallacy of the scheme which has been put before us is as apparent as the sun at noonday, my hon. friends who differ from me are acting with a view to the best interests of the commonwealth quite as much as I am. They are, I am sure, quite as much interested in its good as I am, and whether they call me provincial or whether they call me anti-federationist, I claim from them the recognition that I am equally desirous with anyone in Australia for the union of these peoples under a workable constitution.

Mr. WALKER (New South Wales)[3.49]:

It is with considerable diffidence that I rise to say a few words on the present occasion; but in this matter I am in the unfortunate position, as far as I can see, of being alone among the delegation from the colony I have the honor to represent. It seems to me that we are not confined to the referendum in the settlement of disputes between the two houses, and I was very glad to hear my hon. and learned friend, Mr. Higgins, say that he would like to hear the Norwegian system discussed, or some application or modification of that system. Although we might not have a full meeting together of the two houses we might have a certain representation from each house meeting together. Supposing, for instance, you have three-fourths of the senate. If there are six colonies there would be 36 members in the senate, and three-fourths would be 27. I would also have the house of representatives elect 27 of its members, making 54 members from both houses. Let these representatives meet together and discuss the subject in dispute. There surely must be some means of effecting a settlement in the case of differences between the two houses. It afforded me great pleasure to hear my right hon. friend, Sir George Turner, speak in the admirable manner in which he did last night. The right hon. gentleman spoke in a most conciliatory and satisfactory manner to the representatives of the less populous states. He alluded to several of the safety-valves which already exist for the adjustment of differences which may arise between the two houses. My hon. and learned friend, Mr. Barton, also referred to the same phase of the matter. It
seems to me that as one half of the senate retires every three years, there is an opportunity by that means of effecting a settlement of differences between the houses. There is in that provision what may be called a natural safety-valve. Upon this subject of safety-valves, I would take the liberty of reading a short extract from an excellent work in the hands of many members of this Convention. I refer to Mr. Garran's work on "The Coming Commonwealth." He says:

It must be remembered, too, that equal representation in one chamber is balanced by proportional representation in the other. It is in no sense true that the few have equal power with the many. The simple truth is that all federal legislation needs the consent of a majority of the people and also a majority of the states. A majority in the senate may conceivably represent a minority of citizens, but such a majority can never compel legislation it can only prevent legislation; and the legislation which it is likely to prevent is precisely that which in federation ought to be prevented, legislation, that is to say, which is offensive to the majority of the states. Fears of a deadlock may, of course, be conjured up, but deadlocks exist rather in theory than in practice. The possibility of deadlock is inherent in every constitutional government under the sun. The safety is found in the reasonable spirit of those who work the constitution.

He also remarks with regard to the use of the referendum as a cure for deadlocks:

This use of the referendum as an arbiter between the chambers is altogether new. We have not yet adopted it in provincial politics, and a federal constitution which is notoriously hard to alter is not the place for experiments. The referendum cure for deadlocks promises well, but it ought to be tried on a provincial scale before it is deemed worthy to rank as a federal institution. No one can foretell how a new political invention will work; and, though experiments must be made, they should not be made, in the first instance, on too large a scale.

It occurs to me that you have always the amendment of the constitution as a safety-valve.

An Hon. MEMBER:

The hon. member just said it was so difficult to amend the constitution!

Mr. WALKER:

I should think a clause might be devised which would make it not very difficult to do so in certain circumstances. I think that if you are to have a safety-valve which is not at present in the bill it might take the form of a dissolution of both chambers. I think that, as the house of representatives has to be dissolved under certain circumstances, "what is sauce for the
goose ought to be sauce for the gander," and that under certain circumstances the senate also ought to be dissolved. That is a wholly different thing from the referendum; in the way of which there are difficulties. The double referendum seems to me to involve exactly the same difficulties. I am surprised that our friends from Tasmania have not on this p

The Hon. I.A. ISAACS:

Three-sevenths, consisting of a majority of senators in a majority of states!

Mr. WALKER:

Well, strike out that part if you like. I do not object to that being done, though I think the smaller colonies might. It seems to me that that is one means of settling a deadlock. I should like to know if any hon. gentleman can inform me whether there is a constitution in which a settlement of deadlocks is provided for?

The Right Hon. Sir G. TURNER:

That argument will stand against all reform!

Mr. WALKER:

I will read a few extracts from an address delivered by a gentleman who is highly respected and honored by all of us the hon. member, Mr. McMillan in which he refers to this very important matter of the referendum. He says:

What is a bi-cameral government? A bi-cameral government, after all, is an artificial system not to prove the sovereignty of the people, but to obtain the best results. Government is a practical thing. Legislation is a practical thing. You would not go and take the first 125 men of 21 years of age, electors of this country, out of the streets at random, and say, because they are of age and are electors of this country, they are fit to sit here and make the laws for the people of the country. The great bulk of the people in this country know nothing about legislation.

The hon. gentleman also says:

I want, in a practical way, to point out to hon. members some of the dangers of this bill, and the danger of introducing a purely artificial mode of procedure, instead of the higher, better, and nobler system of compromise and concession.

I ask hon. members to look at the condition of this country. Let us contrast it for a moment with the home of the referendum.

Where is the home of the referendum? Switzerland, I suppose.

In Switzerland, as in most Continental countries, you have communities
who have grown up from generation to generation. They can trace their ancestors back for hundreds of years. There is little comparative movement in such communities. But what is the distinguishing characteristic of our people?-their nomadic habits. I understand that between 40,000 and 50,000 people who voted in the election of 1894 were disfranchised in the election of 1895 because they had changed their residence. Wherever there is a gold fever in another colony a great number of our people are drawn there. We are a community of change, as are most communities of Britishers who have left their own homes. Suppose a measure is sent to the people at some time when there is no general election in progress, will those who live in sparsely populated districts take the trouble to record their votes? I say that they will not, and the result will be to give a very unfair monopoly in regard to the referendum to the people residing within the metropolitan areas. It may be agreed that measures should only be sent to the people at the time of a general election; but I am perfectly convinced that if it comes to a deadlock between the two houses, unless some other expedient than this is proposed, the expedient which is now ready at hand of waiting for a general election, and then reintroducing the bill is far more sensible, more largely based upon our own experience, and more likely to bring about moderate and useful legislation.

With regard to the referendum, it appears to me that it is very much like referring from the more intelligent to the less intelligent. I do not wish to disparage the average elector, but, as a matter of fact, the electors are supposed to choose the more intelligent men to represent them in parliament.

The Hon. I.A. ISAACS:

Are they not supposed to express their views on a particular question, too?

Mr. WALKER:

But the members' views and theirs will be in consonance to a certain extent I suppose. It seems to me that this system of referendum, if carried out in its entirety, would reduce representatives to the position of mere delegates, to voice the views of those people who send them into parliament.

The Hon. I.A. ISAACS:

They have to give pledges at the present time!

Mr. WALKER:

It seems to me that on some people the mention of the word "referendum" has the same effect as that fine old word "Mesopotamia" had on the
Scotch lady who came home from church, and was asked what she had heard. She said that she had heard "that blessed word, Mesopotamia." It seems to me that with some people if anything is called "referendum" that is all they want. We have no guarantee that there is any great cry for a referendum. I have not heard of any petitions to this Convention in favour of it. We have had petitions on another matter both in this Convention and at Adelaide. The petitions at Adelaide did not seem to have much effect, and perhaps that has discouraged the people who want the referendum. I can only say that they do not show as much desire to obtain it, as hon. members seem to think they have.

The Hon. I.A. ISAACS:
Three parliaments have asked for it!

Mr. HIGGINS:
Not this referendum!

Mr. WALKER:
Several gentlemen, after the result of the Convention election in this colony, told me that the referendum had not somehow or other resulted as was anticipated by some, and that therefore the desire for the referendum was considerably moderated. I think that if a whole colony is treated as one constituency, you ought, if possible, to have a representation of minorities. In the United Kingdom there is not equal representation on a population basis. I remember, not many years ago, when Ireland had 105 members and Scotland only 53; but matters went on peaceably enough in those days. It was before Home Rule.

Mr. GLYNN:
They have not got Home Rule yet!

Mr. WALKER:
I mean before the Home Rule cry. I hope that there will be an adjournment of this Convention to allow Queensland to come in, and also to let our Victorian friends have sufficient time to consider the financial and other questions, and when this question comes before us again we shall have more information, and will no doubt be able to vote upon it. I voted against the referendum at Adelaide. It seems to me that a great deal may be said in favour of a double dissolution, but for anything beyond that I do not see any absolute necessity. At the same time, I reserve to myself the full right to vote as I think proper when the time comes, and if I find that it is necessary to give a vote to prevent three colonies from leaving us, I will certainly vote in that way. On the other hand, if hon. members will be content to take the dual referendum, I do not see any great harm in it. It seems to me it is very much like the same thing over again. Both houses will virtually go before their constituents, and will come back again. I think
that with reasonable courtesy, to one another any difficulties that might arise ought to be settled without any of those artificial and mechanical means. If I understand the spirit of British parliamentary life, the principle has always been not to send particular questions to the country; but to send parliament itself, and when the members come back they have the latest views of their constituents.

Mr. GLYNN (South Australia)

At this late stage of the debate for any one to get up and attempt to say anything new on the subject would be to fall into the error of the ladies in the "Vicar of Wakefield," who "simply continued the conversation, but not the argument." However, the matter is an important one, and I will endeavour, in the few moments that I shall occupy, to state my opposition to the referendum as a general policy or from the point of view of consolidation, and at the same time to say that, for the purpose of furthering the federal question, I am prepared to subordinate my personal convictions against the referendum as a policy, and thus, following the example of so many other members of this Convention, display, perhaps, some federal spirit.

Mr. HIGGINS:

Would the hon. gentleman say that the double referendum is perfectly harmless?

Mr. GLYNN:

I would not say that. Sometimes it may be productive of a considerable amount of good; but a referendum in some respects will do harm, as I shall endeavour to show. I do not share the fears which have been emphatically expressed by some representatives of the smaller colonies, that if we went so far as some of the representatives of the larger colonies would go, and adopted a mass referendum, we should be striking at and in practice destroy the very essential character of the upper house by making it a unified rather than a federal one; in fact, would be giving the principle of equal representation on the one hand, and destroying its efficacy on the other. I do not share that fear in its intensity, and I may state at the outset one of the reasons why I do not. The combinations that are possible on any state question are not combinations of states. You will not find on the one side a combination of the large states against the small states. When a state question arises, the chances are that you may find one state largely interested in it, a small state, and perhaps the opinions of the representatives of the small state will be shared by the representatives of the large states. So that I fail to see that any state question can arise that is
likely to differentiate the states as large and small in the federation. If that is so, the power of the larger states will not be used so as to destroy the so-called liberties of the smaller ones. I say this because I am afraid that, by leaning too much on these generalities, we shall imperil the success of the constitution. If we feed the people with prejudices on this point, tell them that if one particular form of settling possible constitutional difficulties in the parliament is not adopted, or another form is not adopted, the chances are that some of their liberties will be imperilled by the encroachments of the other states we shall do no good. I do not share any fear of that kind. I will go the length of saying that if federation were carried with a referendum which amounted to a mass referendum, the good sense of the people would, on the whole, make the constitution work properly. At the same time, we are dealing with men with strong and national prejudices. We are dealing with states that have been agitated by proposals, even during the last few years, in reference to this very question of the referendum, that necessitate our taking into account the very strong prejudices that exist. It was said in an exceedingly able and eloquent speech by my right hon. friend, Mr. Reid, this morning and it shows the effect which a speech of eloquence and ability may sometimes have in diverting attention from the true issue before us that unless you adopt this mass referendum, at the very outset, of your federation you may find yourself in a deadlock you may be financially blocked. We are told, for instance, that possibly within the two years during which the tariff is to be passed and upon that point I agree with the sense of the interjection by the hon. and learned member, Mr. Isaacs, that the word "shall" may not be restrictive to the two years; because you have to read the whole text of the constitution to understand what it means we were told, I say, by the Right Hon. Mr. Reid, that unless you make provision at once for deadlocks, you may find that your constitution will exist without the power on your part to accomplish the very first purpose for which it has been passed a uniform tariff. The plain answer to that is this: We are not going to create a a piece of political machinery in order to get over a difficulty that can be wiped off at once by a stroke of the pen. If you want to get rid of the possibility of the tariff not being passed, the true solution is not to create a remedy against deadlocks but to strike out the provision that the tariff must be passed within two years. Again, the hon. and learned member made a very ad captandum appeal to the passions rather than to the reason of his audience by pointing out the enormous advance which has been made in the expression of the popular voice in the last sixty-five years. I quite agree with him that the
prognostications made in 1831, that if reform was granted the pillars of the constitution would be broken down, have been falsified utterly by the event. We all agree with him also that the voice of the people must prevail. But what we do not agree with the hon. gentleman in is this: that you can always get the educated or efficacious opinion of the people by a referendum. It is one thing to say that the will of the people must prevail; but it is another thing to say that you can get a body of people who are not experts to point out the true lines of social development.

The Hon. I.A. ISAACS:

Mr. GLYNN:

Undoubtedly they are. Why do we have parliamentary institutions at all? Men in the ordinary course of life have not time to study political questions. Are we not told time after time by writers that one of the most difficult things a man can take up is the question of politics? It is a task upon which we all enter with very light hearts, no doubt; but to bring together and reconcile upon some fair basis the conflicting interests and classes of society is one of the biggest tasks to which any man can set himself. Upon that point I have only to say that Buckle, after so splendidly dealing with this subject in that great work of his on "Civilisation," says that the greatest difficulty is to find the method of legislation, and not the desire of the people. The appeal we had from the Right Hon. Mr. Reid simply amounted to this: The opinion of the people ought to prevail; but I answer him by saying that the people must have an opinion before they should be asked to express it. The people must be in a position to form an opinion upon the details of a particular act of parliament before it becomes expedient to refer that act of parliament to them for their yea or nay. Look through the whole of the thirty-seven matters for federal legislation. Suppose the tariff turns up, and suppose there is a deadlock upon that point. You would have on the one side protectionists arguing the facts, giving statistics and analogies drawn from history, and indulging in sweeping generalisations as to the evils of free-trade; and you would have on the other side gentlemen equally emphatic in pointing out the evils of protection, each party claiming to be specialists as to the method of accomplishing social reform. We refer this contested question to people who have not had time to study the subject, and we ask them upon an abstract matter of politics and the details of an act of parliament to say what ought to be done. The people have adopted the wiser method of choosing men who can pay attention to the work, and become experts to settle these questions, and we ought not to cast upon them a task which they cannot accomplish in the way it ought to be accomplished.
The Hon. I.A. ISAACS:
But suppose the experts cannot agree!

Mr. GLYNN:
Should we ask the people to settle it before they have all the facts before them? Should we ask them to study the details of an act of parliament, and to say whether one house or the other is right as to a matter of public policy? That is really what we are doing, and it strikes at the very root of the adoption of the referendum, viewing it from the point of view of consolidation. We hear it said that the will of the people will be frustrated unless we introduce some measure to get rid of dead-locks. Is not that an assumption that the popular house will always be right in its judgment, and the senator always wrong?

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It is a curious fact that in four out of five cases of the application of the referendum in America the action of Parliament had been negatived. The hon. and learned member, Mr. Isaacs, has kindly put before the Convention some of the results of referring constitutional amendments to the people in California in 1892. I presume that these are cases in which the voice of the Parliament that is, the voice of the representative body, rather than the voice of the Upper House-

The Hon. I.A. ISAACS:
The voice of both!

Mr. GLYNN:
Yes, no doubt; but, as a matter of fact, we know that in America, as in England, the moving power in legislation comes from below and the blocking power from above. However, I will put it in any way you like to put it. Here we had questions referred to the people for their opinion, and what did they do? Instead of adopting the suggestions of Parliament they negatived them, in the one case by a majority of four to one, in another by a majority of three to one, in a third by a majority of three to one, and in a fourth by a substantial majority. So that, in four cases out of five put before us by the hon. and learned member, we find the voice of the people opposed to the wishes of Parliament.

The Hon. I.A. ISAACS:
No; the voting was a decision of the dispute between the two houses!

Mr. GLYNN:
The people were called in to act as arbiters. These policies would not be brought before parliament if it were not that parliament desired them to be brought into operation. Parliament desired that these constitutional amendments should be made, but the popular voice was asked for, and in
four cases out of five it was given in substantial opposition to the voice of parliament. The hon. and learned member, Mr. Isaacs, referred to Switzerland. Before I deal with the details of the voting in Switzerland, I would point out that we cannot rely much upon Switzerland as an example. It was only this century that Switzerland adopted representative institutions for the cantons, which were established on the principle of having only one chamber. They practically set up representative government there on the principle of an oligarchy, without understanding very much about it. They were therefore of necessity driven back to the adoption of the referendum to check the autocracy of the single houses. In 1874 however, they saw the desirability of establishing a federal constitution, and the reasons which had operated with them at the beginning, and the cantonal precedents, induced them to adopt the referendum again after a very hot debate. Therefore, we cannot rely upon Switzerland to furnish an example, either from the point of view of historical analogy, or of expediency. Now, let us consider how the Swiss system has worked out. I refer to this matter because the representatives of the larger states have put their reliance upon the fact that the will of the people is the will of the larger house, and that deadlocks will occur through the blocking from above. That is about the end of their arguments on the point. I think it would be idle to imagine for a moment that there is any fear of legislation, initiated by the senate, being blocked by the house of representatives, and of this necessitating the provision of machinery against deadlocks. What has occurred in Switzerland? I find that in the majority of cases in Switzerland, proposals, suposed by the representatives of the people to be the expression of the popular voice, have been negatived by the people. Between 1882 and 1885 every measure introduced into the Swiss Parliament, and referred to the people, was negatived by them. It is stated by Mr. Lowell, in his work upon government and parties in continental Europe, that:

During the first three years after the adoption of the present constitution five laws were re-
jected and only two accepted. Then there came a quiet period of five years, in which no measure passed by the Assembly was condemned by the people, and, in fact, a popular vote on an ordinary statute was asked for only once. The calm was followed in 1882 by a storm of discontent, for the people had become so thoroughly out of sympathy with the radical tendencies of their representatives, and were so disgusted at the conduct of the party in power, that for three years they rejected every measure presented to them. Here we are asking for the adoption of a provision to give expression to
the popular voice as represented by the house of representatives.

Their ill-will culminated in May, 1884, when they voted down four laws at a single stroke; but with this explosion the popular irritation seems to have exhausted itself, and, perhaps, we may add the legislators learned to be more cautious. Another period of quiet began, and during the next seven years the people again ratified everything. In 1891 the spell was broken, and out of five measures submitted to popular vote, two were voted down by large majorities. This was, indeed, the precursor of a third era of rejections, for during the last three years the popular vote has been negatived in almost every case.

So that, viewing the matter from a unitarian point of view, you are more likely to get the true expression of the people's will by leaving matters alone, and letting the upper house speak in the way of delay, than by adopting any expedient to precipitate legislation. That is justified by statistics as to the operation of the referendum in Switzerland. My remarks, however, apply to any referendum. I accept the solution offered by the hon. and learned member, Mr. Isaacs. By doing so, however, I am sacrificing very deep-rooted convictions in regard to the policy of adopting any referendum. If I had my will, I should leave the adoption of the referendum for future legislation. I would make this one of the matters which might be legislated upon by the federal parliament, even though in doing so, I am going a great way further than any of my colleagues, except, perhaps, the hon. member, Mr. Holder, would go, because this step would allow the federal parliament to adopt the principle of the mass referendum. Why should we not leave these matters to the federal parliament? Why should we anticipate the probability of deadlocks by creating machinery to prevent them?

The Hon. I.A. ISAACS:

How would you do if one house wanted to pass a law providing for the referendum, and the other would not hear of it?

Mr. GLYNN:

No doubt the hon. member's interjection is very pregnant. But there is no use in sticking to one rule for the passing of all amendments. I would provide that in the clashing of two houses you should offer greater facilities for the amendment of the constitution than exist in the bill as drafted. The hon. member has quoted from the Constitution of Switzerland, where we find that, if a certain proposal for legislation is made by one house and obstructed by the other, you can put it to the people without referring it to the other house at all.

The Hon. I.A. ISAACS:

The people and the states!
Mr. GLYNN:
I will go further and say: If you propose an amendment to the constitution which will enable an amendment to be carried providing for future deadlocks without in the final resort even the consent of one house I will adopt that suggestion.

The Right Hon. C.C. KINGSTON:
What would the hon. and learned member provide for?

Mr. GLYNN:
I am merely speaking generally. I do not want to bind myself down to details, because these are matters which have only arisen during the debate. I would allow facilities for the amendment of the constitution with a view to making provision against deadlocks. In that case, I would provide that the measure should be carried into law without reference to the majority senate at all.

The Right Hon. Sir G. TURNER:
Would that be after a mass vote by the people?

Mr. GLYNN:
Yes, a mass vote; but it must be borne in mind that I am only dealing with a provision that would give some means of getting rid of a deadlock by legislation.

The Right Hon. Sir G. TURNER:
Would you allow the house of representatives, supported by a mass vote of the people, to pass a measure into law without the consent of the senate?

Mr. GLYNN:
Yes; I would as a last resort allow one house to make any provision it liked with regard to deadlocks under the conditions I have mentioned.

The Right Hon. Sir G. TURNER:
That is further than we propose to go!

Mr. GLYNN:
I would be inclined to go that length myself, believing the emergency would never arise.

An Hon. MEMBER:
That is going farther than the Victorian members wish to go!

Mr. GLYNN:
I am prepared to trust the good sense of the people. That is when the hon. member is right!

Mr. GLYNN:
I would not say that. I have a great respect for the hon. member's acumen and ability; but when we are dealing with the destinies of the country, I
think, sacrificing the credit of a smart repartee, such remarks might be
dispensed with. I therefore will not be tempted. I am glad the hon. member
has given me the strength of his support. I have made this suggestion for
the consideration of the Convention. I can see no danger in allowing an
amendment of the constitution, making provision for deadlocks, even
though you have to dispense with the voice of one house.

The Right Hon. Sir G. TURNER:

Who is to say what the provision is to be?

Mr. GLYNN:

The house which introduces it. The house passes a measure and sends it
to the second chamber, and they say, "No, we will not pass it." If a
deadlock occurs, you can make provision for avoiding that deadlock, but
only for the deadlock arising in connection with that measure. The object
of other proposals making provision for avoiding, deadlocks is to fix the
provisions in the constitution. I would leave it to the federal parliament to
make provision for deadlocks rather than tempt a clashing of the houses by
making provision for deadlocks in anticipation. I am simply giving a
general indication of the liberality with which I would deal with the
question of amendment. I shall not detain the Convention any longer upon
this question. I believe that the referendum as a matter of general policy is
a step in the wrong direction. At the same time, I know there is a strong
and deeply-rooted conviction among some people as to the necessity of a
provision against deadlocks being embodied in this constitution. I know
that during the last two years in Australia we have had five attempts to
introduce the referendum into our constitutions. Victoria actually went the
length, on the recommendation of a commission, of introducing a bill that
would on the reference of a matter to the people dispense with the
necessity for a second house. So that I cannot be so far wrong in the
suggestion I throw out when in Victoria it was proposed that after a
referendum had taken place you could legislate by declaring that one
particular house, the legislative assembly, with the consent of the people
and without mentioning, the upper house at all, had resolved that any
particular measure should become law. Again, in Tasmania, New Zealand,
South Australia, and, I think, in one of the other colonies, within the last
two years attempts have been made to embody the referendum in the
constitutions. It is evident, therefore, that there are strongly-rooted
prejudices in favour of the referendum, and those prejudices I intend to
respect.

The Hon. I.A. ISAACS:

It is rather hard to call them prejudices!

[P.697] starts here
Mr. GLYNN:

Of course the hon. member will excuse me for saying that as I argue against the referendum altogether, I would say that this is nothing but a concession. As there is a strongly expressed opinion in favour of the referendum throughout the colonies, I respect that prejudice, and believing that we must make some concession to that strongly expressed opinion, I believe the best mode was that suggested by Victoria, but I would like to make a separation, if possible, between matters which are of a unitarian character, and those which are state questions. That you cannot do it by the method suggested by the Right Hon. G.H. Reid goes without saying. You cannot fix in the constitution beforehand what are and what are not state matters. If the tariff question comes up you cannot make provision in the constitution for the case of one colony, which may say that the tariff will be disastrous to it.

The Right Hon. G.H. REID:

You do not give the larger colonies a chance of saying that the tariff will be disastrous to us. Why should that be given to the smaller states?

Mr. GLYNN:

I am quite willing that the fallacy of the hon. member's argument should be extended to both the large and the small states. Whether they affect the large or small states, we cannot define in the constitution the nature of the questions that will arise; but you might, as suggested to me by the President of the Convention in private, allow a minority in the parliament or senate to declare that if in any matter of legislation state interests were affected, that question could be separated from ordinary legislation and the dual referendum could be applied to it. That is a suggested addition to the Victorian proposal for dealing with deadlocks. I think the smaller states might very well accept such a proposal. I do not see that it could do any harm to their interests, and it would certainly be a concession to the demands of the larger states.

The Hon. H.W. VENN (Western Australia)[4.33]:

Those who have not addressed the Convention up to the present time have enjoyed a great advantage in listening to the speeches which have been already made. It is not now necessary to weary the House by a recapitulation of the arguments contained in the many great speeches we have listened to. We have now come to the point at which we must give a decision on the important question which will be put from the Chair in a few minutes. That question is: is it or is it not desirable to manufacture some means of providing against deadlocks? I myself, I hope in conjunction with many others, believe that it is not at all desirable to provide a medicine for a disease that we never expect to suffer from. I am
too firmly convinced of the ability, wisdom, and education of the future senate and house of representatives of the federal parliament to believe that a deadlock will ever affect Australia prejudicially. The opinions expressed by some of the ablest members of the Convention in this debate are thoroughly in accord with my convictions on that subject. The hon. member, Mr. McMillans, speech must have carried conviction to the minds of every hon. member who listened to him. Without desiring to give a silent vote on this question I will content myself by saying that I will be found in the ranks of those who think it is undesirable to import an element of this kind into our constitution.

The Right Hon. C.C. KINGSTON (South Australia)[4.35]:

I would not rise to address the Convention a second time on the same subject did I not feel that the occasion is so grave that our maturest consideration might well be given to the matter which is before us. When my hon. and learned friend, Mr. O'Connor, sat down yesterday with the word "unification" practically on his lips, I felt warmly. I rose immediately, and spoke strongly, perhaps more strongly than on maturer deliberation I would have wished to do. At the same time I spoke, being unable to divest myself altogether of the character in which I came here, bound to do my duty to the commonwealth at large, but sent here by the voice of the electors of one of the smaller states. When the word "unification" was employed, I applied it not unnaturally to some questions affecting the states as opposed to the nation, affecting the state from which I come, say such a question as the Murray waters, in which I think our state interests are of such a character that it would be highly undesirable that there should be any power in the federation to legislate on them finally, unless there was a consensus of opinion between a majority of the nation, and a majority of the states. I spoke from that point of view, and I felt that I was entitled to resent the suggestion that, in a matter in which the state interests were so vitally concerned, the state individuality should be practically exposed to the risk of extinction by the voice of the nation without due consultation with the states. I hold, however, that we should approach a question of this sort from every point of view, and, if we are bound to disagree with the expressions which are used by any other member of the Convention, we should endeavour, as far as we possibly can, to put ourselves in his place, and for the purpose of securing a solution that is fair to all, to picture to ourselves what our feelings would be were we circumstanced as he is. Under these circumstances, I asked myself what would be the position which, as a representative of a larger state, I would be inclined to adopt
when it was proposed that, in a matter in which we were not concerned as states, in a matter of purely national importance, a provision was to be adopted by which a combination of the smaller states, representing only a small section of the community, might for a considerable period prevent effect being given to what undoubtedly was the national will. Under such circumstances, the resentment to which I tried to give expression yesterday, and which was natural under the circumstances, would be as nothing to the resentment to which I might properly give expression as a representative of the larger state when national interests were subordinated to provincial notions by a combination of that character, and in which state rights, as a matter of fact, were not really concerned. Now, sir, is there any way out of this difficulty? I think there is. I think that, whilst there are questions to which we may properly apply the term, "state interests," in which the states have a right, I will not say to a predominating voice, but to such a voice as will prevent them from being finally dealt with, unless there is the consent of a majority of the representatives of those states; still, on the other hand, there are questions to which no such term can be properly applied, Which, are national questions, and with which the states have no right to interfere practically as states-certainly not for any considerable period to subordinate the well expressed will of the nation to their own independent view, and when they have no independent interest in the matter. How then is it possible to differentiate between these two different classes of cases?

The Hon. H. DOBSON:

It is impossible!

The Right Hon. C.C. KINGSTON:

I do not think you can do it within the four corners of the bill.

The Hon. H. DOBSON:

Certainly not!

The Right Hon. C.C. KINGSTON:

I do not think you can do it by picking out from the constitution various provisions, and saying, "This may affect state rights that will have no such effect." It seems to me that whether or not a question affects state rights is capable of determination at the time that question arises, when those who are called upon to decide it have before them all the circumstances which may affect the interests of the nation or the provinces. I am adopting, to some extent, a suggestion which has been made by my hon. and learned friend, Mr. Isaacs. I put it to hon. members: Can we not hit on some middle course in connection with this matter? Representatives of the smaller states on one side, and representatives of the larger states on
the other all representatives of the nation that is to be; is not there any possibility of making an arrangement which will conserve the rights of the provinces, and, at the same time, have due regard for the interests of the nation? I think it can be done. To put it within the four corners of the constitution by specifying the powers will be impossible. There seems to be a consensus of opinion as regards the propriety of the double dissolution, and no doubt that will be carried. But suppose that that does not remove the difficulty, does not, as it were, sweep away the deadlock, what are you to do? The referendum is suggested. To whom should the referendum be applied? Some say, "Refer the question to the nation"; while others say, "Provide for a dual referendum," a referendum in which double majorities are required of the nation and of the state. I suggest that it should be to the nation as a mass, unless you have good ground for believing that state interests are concerned in the matter, and then that it is a question which, for its solution, will require a consensus of opinion between majorities of the people and majorities of the states. How are you going to decide? I suggest this way, and I am prepared to take this course, having every reliance on the responsibility under which a vote of this kind can be given. You cannot let the majority of the senate decide, because the supposition is that they are in opposition to the will of the house of representatives. They may decide-I am putting a hypothetical case on provincial grounds. You cannot take a majority of the house of representatives, because they being in opposition to the senate, would be supposed to decide on national grounds. But provide for taking the referendum by the people, unless by an expression of opinion from a section a representative minority of the house of representatives-it is declared that state rights are involved, and a poll of the states is demanded.

The Hon. Sir J.W. DOWNER:

Then you sacrifice the people to the representatives?

The Right Hon. C.C. KINGSTON:

I sacrifice the people to their representatives, how? The position is this: There is a possibility of the dual referendum, subordinating, it seems to me, the interests of the nation to a combination of the states. Let us, a minority of the people, provide, therefore, that that shall not be the general rule, but at the same time let us take care to conserve the interests of the state, and if there is any real reason in favour of the question being treated as a state question, in which state rights are concerned, send it on to a dual referendum, and do not act unless you get a double majority. What I would put by way of suggestion for the acceptance of the Convention is: that if, say, one-third, I am not wedded to any particular proportion of the house of representatives declare
The Hon. E. BARTON:

Would not a clearer way of putting it be for a majority of two-thirds to declare that state interests are not involved.

The Right Hon. C.C. KINGSTON:

That is a matter of the most absolute detail; it is the same principle. Members of the Convention will see this: that the result will be that when practically there is an overwhelming majority in the house of representatives in favour of the matter being treated as a national question, it will be so treated; but still, at the same time, the interests of the smaller states will be covered by a provision of the character to which I refer, and which will enable them, although in a position of being only one-half of the majority which is against them on the question as long as there is a substantial representation that the matter is a state question, to have all the protection they can possibly desire by means of the dual referendum. I have risen for the purpose of making this suggestion. It is not a new matter. I dealt with the question in 1891, when I submitted that the operations of the senate, called into existence for the purpose of protecting state rights, should, as far as possible, be limited as regards practical interference to cases when those rights are concerned. I have since been embarrassed by the difficulty of securing anything in the shape of a definition which will mark the line of demarcation between state questions and national questions. I make the suggestion I have made in the hope that it may be of some little assistance in the solution of the question.

The Hon. Sir J.W. DOWNER:

Not the slightest!

The Right Hon. C.C. KINGSTON:

I am very sorry, indeed.

The Hon. Sir J.W. DOWNER:

That is my opinion!

The Right Hon. C.C. KINGSTON:

I am sorry, indeed, it does not meet with the approval of my hon. colleague. I think the principle is generally recognised that in national questions the vote of the nation shall prevail. In state concern there should be a double majority before definite action is taken, and it is for the purpose of assisting, if possible, in securing some effective mode of giving effect to principles which, at least, will recommend themselves to the Convention—very difficult of accomplishment—that I have made these remarks.

Mr. SYMON (South Australia)[4.51]:

I only rise to re-echo the sentiment which has just been expressed, that it
is the duty of everyone of us to lend what assistance we can to the solution of this very difficult and intricate problem—a problem not only difficult and intricate, but one the wise solution of which involves so much in connection with the great cause we are here to promote. As at present advised, it seems to me that the contribution we have just heard rather adds to the existing obscurity than tends to dissipate it. It is absolutely bewildering to introduce at this particular stage another referendum. We have been dealing with two or three modes of solving the problem of deadlocks, but we are now to have introduced into the constitution two kinds of referendum. We shall never know what sort of referendum is to be adopted whether it is to be a dual referendum or a mass referendum. I am not going to say, at this moment, whether there is anything to commend it in the suggestion which has been offered, but what I suggest is that upon a matter of this kind, after a debate which has lasted two days, dealing with the amendments which are on the papers in our hands, we might well ask to have this suggestion thrown into some tangible form and put in print before we begin to absolutely discuss it.

Mr. HIGGINS:

Certainly! Mr. SYMON: I dare say the hon. member, Mr. Higgins, has control of the whole subject, and that he is going to settle the question right off. I have not that quickness and acuteness of intellect of my hon. friend. I have been endeavouring to do the best I could with the materials at my disposal in connection with the proposals which have been submitted during the last two or three days, and I am not prepared now, just at the time we are about to adjourn, to enter on a new field of investigation and deal with something which, at any rate, whether successful or not, is imposing a fresh complication on this very difficult problem. That is all I rose to say except this: that, on the face of it, this is a relinquishment of everything we have been contending for with regard to the mass referendum. If a two-thirds majority of the house of representatives is to decide a question of state interests as against the interests of some particular state, however small, then I say we had better abandon the whole thing. But, again, I say I do not ask any hon. member I do not ask myself to accept that view as in any respect final. I hope hon. members will not suppose for a moment that I intend to throw any cold water on the subject, but that we will give it the best consideration we can, and if we find that it is not obnoxious to the objections which seem to me, if I may use a legal phrase, to prima facie surround it we may be able to evolve something out of it. At present it is a waste of time to further discuss it.
The Hon. Sir J.W. DOWNER (South Australia) [4.55]:

I listened with great pleasure to the speech of the right hon. the Premier of New South Wales. I intended to say nothing in reference to it had it not been for the speech we have just had from the right hon. the Premier of South Australia. As far as the speech of the Premier of New South Wales is concerned, I must confess I was confused and bewildered to know exactly what it meant. I knew it to be an able speech, because everyone said so. I know that it was delightful to listen to, because I had the enthrallment effects. I knew it was a humorous speech, because everyone laughed, and notably one of the hon. gentlemen from Victoria. But what it all came to boiled down I could not for the life of me make out.

The Right Hon. G.H. REID:

I think the people of New South Wales will know what it came to!

The Hon. Sir J.W. DOWNER:

The right hon. gentleman, with his back to the Chairman-

An Hon. MEMBER:

The speech was not meant for us!

The Hon. Sir J.W. DOWNER:

Addressed those who sat in the front gallery. I myself did not know exactly whom the hon. member was addressing, but the hon. member himself undoubtedly knew exactly whom he was addressing.

The Right Hon. G.H. REID:

I represent them too!

The Hon. Sir J.W. DOWNER:

Sitting here as a member of the Convention who thought that we were entitled to be addressed, and not so much those in the galleries, I felt myself rather confused both to know the line of reasoning of the hon. member and the persons whom he addressed.

The Right Hon. G.H. REID:

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The Hon. Sir J.W. DOWNER:

The right hon. gentleman may interject as much as he likes; I shall take no notice of his interjections. But I want to know what his speech, after all, came to. It was an able speech.

The Hon. J.H. HOWE:

Bluff!

The Hon. H. DOBSON:

This speech is not helping federation!

The Hon. Sir J.W. DOWNER:

I do not think the speech of the Premier of New South Wales helped
federation. I have had the honor to be on friendly terms with the right hon. gentleman, and I certainly wish to say nothing which will offend him in any way; but his speech undoubtedly suggested many things, and meant nothing. We understood that there were to be some cases in which there should be a popular referendum, and other cases in which there should not; and we have heard from the Premier of our own colony, who seems to be moving on the same lines, that he is of the same opinion. What are these questions to be? That is what I want to know. What are to be the crucial questions which are properly subjects for a national referendum, and what are the subjects which ought to be left to a dual referendum? We have had very little assistance from anyone in arriving at a conclusion on that point. We have certainly had very little assistance from the right hon. the Premier of New South Wales on the subject. I understood in a general sort of way that the question of finance, and particularly the question of free-trade and protection, was to be one of the subjects to be left to a national referendum. But it was put in such a hazy ill-defined form that we, who are trying to draft a bill to make a constitution, have the greatest difficulty in understanding precisely what it comes to. Take, for instance, the question of customs. We consider that that is a matter which can be talked about only by the selected of the people's representatives in Committee. Upon this question, upon which member after member speaks again and again, which is considered line after line, which is considered one of so much importance in detail that those who are supposed to have more knowledge upon the subject than have the general public, have to approach its consideration with the greatest caution, there is to be a reference, after all, to the general public for their "aye" or "nay." It seems to me quite impossible that such a question could be intelligently answered by the public in any shape or form. Then it is proposed that all questions involving money are to be sent to a national referendum. We are practically saying that everything should be sent to a national referendum, because all matters which affect the public mind are so intimately connected with money that it would be difficult to find a bill which did not rest at bottom upon the question of money. We either have to say, therefore, that we will have a national referendum altogether, or we have to say we will not have any at all. There is no intermediate way. To my mind, it is quite impossible to select any subjects which you could say were proper subjects for the nation to speak upon and to distinguish them from other subjects which it would be proper for the states to speak upon, and yet other subjects upon which it would be proper for both to speak upon. Everything in life is so
intimately involved that things are constantly overlapping. You never know precisely where you are upon many questions.

The Right Hon. G.H. REID:
You make yourself safe all round, and I am dissatisfied; I want to be a bit safe too!

The Hon. Sir J.W. DOWNER:
I sympathise with that view, and I think it would have been much better had the right hon. gentleman taken us more into his confidence and told us what he meant; if, instead of making a very able speech, to which we all listened with delight, he condescended to bring himself to the humble position of the Drafting Committee.

The Right Hon. G.H. REID:
What are the Drafting Committee for?

The Hon. Sir J.W. DOWNER:
To find out what you mean. They have not succeeded so far, and that is what I am complaining about.

The Hon. E. BARTON:
We are not here to explain the milky way!

The Right Hon. G.H. REID:
If the hon. gentleman agreed with me, he would soon find a means of drafting!

The Hon. Sir J.W. DOWNER:
I always find that I agree with the right hon. gentleman more and more as most of us do when we come to closer quarters; but at present, I say, upon my honor, I do not know what he means; and I say, on my honor, that I do not believe he himself knows what he means. I do not know at the present moment what my hon. friend means what he wishes the referendum about. I do not know either what the right hon. the Premier of South Australia wants.

The Right Hon. C.C. KINGSTON:
That is the hon. gentleman's misfortune, not my fault! It is the duty of my hon. friend to so instruct less intelligent persons as to let them know a little bit only a little bit-edgeways what he is up to. I cannot, for the life of me, understand myself what he is up to. I understand the hon. gentleman is very strongly in favour of popular representation. He wants always the people's voice, and not the voice of any one else. Yet an arbitrary third of the house of representatives, without any question of the relation of the states or the number of representatives they return, is to determine the matter. In other words, only the voice of the nation in the house of representatives is to
determine whether a matter is to be sent to a national referendum, or is to form the subject of a dual referendum.

The Right Hon. C.C. KINGSTON:
Two-thirds can demand a national referendum; one-third can prevent it!

The Hon. Sir J.W. DOWNER:
I understand that.

The Right Hon. G.H. REID:
Then the hon. gentleman did understand what my hon. friend said!

The Hon. Sir J.W. DOWNER:
I understood what he said.

The Right Hon. G.H. REID:
What more could you expect?

The Hon. Sir J.W. DOWNER:
As I have said, I never listened with more delight to any speech than to that of the Premier of New South Wales; but it did not involve any particular position it was a most able speech, and full of points, full of humour, perfectly delightful, but in the end we all said, as the public will say tomorrow when they read it in the paper, "What does it all mean?" I do not know. I know it means something

The Hon. S. FRASER:
Let us get to closer quarters!

The Hon. Sir J.W. DOWNER:
I think that at this stage of the discussion we might have asked the right hon. gentleman to be a little more precise.

The Hon. S. FRASER:
Well, we will force him into closer quarters!

The Hon. Sir J.W. DOWNER:
I would not like to do that. The right hon. gentleman's weight is too much for me. I like to keep him at a respectful distance. But I say that the right hon. gentleman's speech, while delighting me, left me at last in a state of bewilderment delighted, but still wondering what this glorious victory was all about and I feel just the same at the present moment. We are here trying to settle a question which is of vital importance—are we or are we not to leave federation? There is an agreement all round that if there is to be a general referendum, it is so against all the principles, so against all the history, of federation, so inconsistent with the very essence of that which we call a federation, that the matter is ended, and our discussion need proceed no further; and yet we have at the same time all this refinement, and a middle course is suggested by the Premiers of New South Wales and South Australia, which is to segregate certain subjects, which they are not good enough to define.
The Right Hon. G.H. Reid:
I am glad that I suggested something. I did not think that the hon. and
learned gentleman understood me a bit!

The Hon. Sir J.W. Downer:
I am going to show the right hon. gentleman
that I did not. The right hon. gentlemen proposed to segregate certain
subjects which they were not good enough to define, and to say that those
were proper subjects for the referendum, knowing the absolute
impossibility of any one defining those subjects, mentioning questions of
finance, but mentioning them only for the purpose of showing how they
ran through everything in legislation; and they were forced at last to the
suggestion that the test should not be the views of the people of the
different states, which they profess so strongly to represent, but the views
of a certain proportion of the members of the house of representatives not
of both houses which had no necessary relation at all to their constitution
with regard to the different states, and which might in fact represent one
state, and one state only.

The Hon. I.A. Isaacs:
That is all the better!

The Hon. Sir J.W. Downer:
The two-thirds which those right hon. gentlemen are in favour of might
all come from one state.

An Hon. Member:
That could not be!

The Hon. Sir J.W. Downer:
And then they would have the general referendum, and that one state
would rule, federation would be at an end, and Australia would become a
consolidated concern.

The Right Hon. Sir G. Turner:
The right hon member, Mr. Kingston, said that one-third could demand a
double referendum!

The Hon. Sir J.W. Downer:
I care not whether one-third or two-thirds could demand it. I say that the
result would be that powers which those right hon. gentlemen say belong to
the people would be transferred to the members of the house of
representatives. I hope that the right hon. member, Sir George Turner, does
not misunderstand me, for I agree with a great deal of what he said. A
certain majority I care not what of the house of representatives might, by
their action, destroy the rights of the smaller states, force a national
referendum, and leave the question of dual referendum out of consideration altogether. The speech that I heard from the right hon. member, Sir George Turner, like most of his speeches, had a ring of honesty that recommended it to me.

**The Right Hon. G.H. Reid:**

Because he agreed with the hon. and learned member!

**The Hon. Sir J.W. Downer:**

I do not mind that. I admit that when a man agrees with you, you do not like him any the less for that; but he did not agree with me.

**The Right Hon. Sir G. Turner:**

Nobody could absolutely agree with the hon. and learned gentleman

**The Hon. Sir J.W. Downer:**

There is only one person who generally does, and that is not far from home. But what I recognised in the right hon. gentleman's speech was a true federal spirit quite apart from my local limitations.

**The Right Hon. G.H. Reid:**

We know what a true federal spirit means. The little chap "collars" the lot!

**The Hon. Sir J.W. Downer:**

I am quite sure that the Right Hon. Sir George Turner said just what he thought. Anxious for federation, he told us something I did not care for, and which I mean to oppose; but still he recognised the foundation principle that throughout all this discussion I have had in my heart and mean to contend for, when he said that there should be a federation, and that this Convention should not result in something which it is not our mission to create the consolidation of the whole of the colonies. Whether the senate is or is not forced back to its constituents, as the house of representatives may, of course, be, I look upon as a matter of detail about which we need not trouble ourselves very much. There is great force in the view which the right hon. the Premier of Victoria takes that we should have some sort of guarantee that the members of the senate as well as the members of the house of representatives shall truly represent the persons who return them. So far as that is concerned, I see no obstacle in the right hon. member's views to the federation of Australia; but if we go beyond that if we go beyond the question of the dissolution of one, or the dissolution of the other, or the dissolution of both, or, if you please, even a referendum although I hate it-

**The Right Hon. G.H. Reid:**

Call it an appeal to the people!

**The Hon. E. Barton:**
No; that is a dissolutions different thing!

The Hon. Sir J.W. DOWNER:

A dual referendum, although I detest it, still I will accept it in my enthusiasm for federation rather than see the great cause fail; but when we have introduced, first of all, the national referendum which is destructive of all we have come here to construct, and which we have been very industriously and laboriously constructing or a refinement of it, which practically leaves us just as we were, and throws on the majority which has no reference to states, and which might in effect be composed entirely of one state the power of bringing this same destructive, anti-federal spirit about, then I feel it my duty, strong views as I entertain on this subject, to express my opinions adversely to it. Although we may all speak as often as we please at this stage of the Convention, I had not intended, after the many able speeches in which the views of hon. members have been represented, to say any more about this question; but I do think that I have not trespassed too much on the time of the Committee, and that I have only done my duty to myself in rising now to enter my vehement protest against the suggestion that is now made, and to express my determination to do all I can to prevent any so-called federation from coming about on terms such as these.

The Hon. C.H. GRANT (Tasmania)[5.14]:

I trust that hon. members will bear with me a few moments while I make a few remarks, which I am sure will here be of an unpopular character, drawing attention to the character of our legislation in regard to this federal movement. When we first commenced the consideration of a federation constitution there is no doubt that we were all imbued with a much more conservative spirit than we have at the present time. We have been gradually widening our platform, and have, so far, framed a new and original constitution, one of a unique character, and, therefore, we might well consider whether it will work satisfactorily. We should be very careful before going further in a democratic direction, and should consider well before deciding to give effect to the referendum, which, of all democratic ideas, is one of the most extreme. When the Convention sat in 1891 it was never intended that the senate should be elected in the manner now proposed in this bill. It has assumed a character quite unique, and is now in a form calculated to do violence to the feelings of those who are conservative in their ideas, because it is such a large departure from what we have been accustomed to consider as necessary in such an august body as a senate. We have now decided that the senate shall be based on manhood suffrage, and have thus given it the very widest possible basis. At the Adelaide Convention we attempted to give it an element of continuity
by providing that its members should have a six years' tenure of office; that
one half of the members should vacate their seats at the end of the first
three years, so that, as regards half the senate, the voice of the electors
should be ascertained every three years. We are now

asked to depart from that principle, and as far as the referendum is
concerned, the departure would be a very serious one indeed, and one
which should only be adopted after the most mature consideration. We
have always been accustomed, and rightly so, to consider the lower branch
of the legislature the popular house. We do not complain that it is also
based on the widest franchise and that it is truly representative of the
people as component parts of a nation. But we have always been in the
habit of regarding the senate as a chamber to be constituted on a different
basis, as senates have been, and are at the present time, in other countries,
and as being distinguished by continuity of office. We know that the
Senate of Canada is a permanent body. We know also that the House of
Lords, which is in one of the models of our Constitution, is a permanent
body. The senates of our local legislatures are, in some cases, permanent
bodies, and in other cases elected for considerable periods. But we are
proposing to destroy altogether that idea of continuity, and fixity of tenure
in the senate, and revert to a referendum whenever differences arise. I do
not see much objection to the dissolution of the senate composed as it is;
but I think it would be better that we should not go even to that extent. We
might very well give up any notion of being troubled with deadlocks.
There will be no occasion in the constitution we are framing to make any
elaborate provision against deadlocks, and in my opinion it is unnecessary
that there should be a referendum or even a dissolution of the senate on any
occasion whatever. The two houses will be e to their constituents at any
time, will not have. I look with apprehension upon any attempt to interfere
with that continuity of office in the senate, or any attempt to deprive it of
that exclusive and conservative character which we have always been
accustomed to regard as belonging to an upper house. That being so, it is
not desirable that we should take into consideration the question of
providing for deadlocks. We might safely leave it to the good sense of the
two houses we propose to construct under this bill to settle any differences
that might arise between them. In all cases the more permanent body,
having regard to their constitution, and knowing that they are not so
immediately in touch with their constituents, have always been ready to
how to the will of the popular branch, and I do not doubt that it will be so
in the case of the proposed senate. The upper chamber is not only so
constructed that, on its first election, it will be "broad-based on the peoples
will," but every three years there will be a reference to the people on the part of half its members. It will, therefore, always be in full touch with the constituencies, and we should consider whether it is advisable to derogate from its prestige by sending all its members to the country in an attempt to settle disputes, and thus belittle them in the estimation of the commonwealth. It would be very unfortunate to so constitute the senate that its members could be sent back to their constituents at any time. The chief function of a senate is exercised in times of popular commotion, so that in case of any exceptionally stirring event, or serious difficulty arising, it can allow the people time to recover from their temporary agitation, and consider the matter with calmness and deliberation. I notice that in the provision for the referendum, this view has received some consideration, inasmuch as a certain period of time has been allowed before the referendum can be applied, or before the senate can be dissolved. But I think we should go further than that. We should not make any provision whatever for dissolving the senate. But should we do so, the proposal of the hon. and learned member, Mr. Symon, I think would be the best, that after the house of representatives has been dissolved, that house and the senate should be dissolved together, and thus the concrete will of the people at the time ascertained.

Mr. SYMON (South Australia)[5.24]:

You intimated, sir, that the question you proposed from the chair was put in order to give the Committee an opportunity of expressing their views on the subject without committing themselves to anything definite. I intend to move the omission of all the words of the amendment after the first word "If," with a view of carrying into effect the intimation you were good enough to give from the chair. The first thing to be decided is whether a majority of the Convention is, as I apprehend, in favour of making some kind of provision for the prevention of what has been referred to as deadlocks. The question could be decided upon the proposal to omit these words. If a majority of the Convention decides in favour of their omission, the way will be clear for the submission of each successive proposal.

The Right Hon. Sir G. TURNER:

But if we omitted these words could their insertion be submitted to us?

Mr. SYMON:

I think so. At all events, I only desire to clear the way in order that we may record our votes upon the question of making provision against deadlocks.

The CHAIRMAN:
I would point out to the hon. member that if he wishes to insert new words I can propose the insertion of these words after the word "If." Then, if that amendment is negatived, anyone who wishes a modification of the clause as it stands can move another amendment.

The Right Hon. Sir G. TURNER (Victoria)[5.26]:

Might I make a suggestion? I understand that my hon. and learned friend does not want the whole of this clause to be voted upon at once. He wants to take a test division upon the question whether we should provide any mode of settling disputes between the two houses of legislature. The hon. and learned member will see, however, that if he moves to strike out the words which he proposes to strike out, the question will be, "that the words proposed to be omitted stand part of the clause."

The Hon. E. BARTON:

He can move his amendment by way of insertion!

The Right Hon. Sir G. TURNER:

I would suggest that he move the omission of the first word in the clause, the word "If." We might accept a vote upon that question as a test vote upon the question whether we should provide any means for settling deadlocks. If we decide that the word "If" should stand part of the clause, we shall be perfectly free to deal with any suggestion that is made afterwards.

Mr. SYMON (South Australia)[5.27]:

Undoubtedly the solution offered by my right hon. friend seems simple. The first question to be decided is whether we are to make any provision against deadlocks. If we decide that the word "If" shall stand, we shall have affirmed the proposition that provision should be made. Then to show what was in my mind-I propose to move an amendment, providing for the double dissolution, as it exists upon the statute book of South Australia. That proposal will come first in any event. What I understand is and I want to be quite clear upon this point that the proposed referendum, whether it be a, dual referendum or a mass referendum, is meant to be a proceeding subsequent to the result of the dissolution of the senate. Therefore there may be, and possibly there will be-but I do not make any prediction, although I know how I am going to vote myself-a majority of the Convention in favour of the dissolution of the house of representatives first, then of a successive dissolution of the senate, or of a dissolution of both houses at once, which is a matter of detail to be determined after; and then we should have to deal with the question whether a dual referendum or a mass referendum, such as has been described, should be adopted.
An Hon. MEMBER:
A national referendum!

Mr. SYMON:
A national referendum! That is the better and more euphonious phrase. I apprehend that the first thing we have to do after deciding that some means shall be provided for preventing deadlocks is to deal with the question of dissolving the senate. Having dealt with that question, we then proceed to decide whether or not there is to be a referendum, subject to modification in regard to the provisions made for a dissolution. I will accept there commendation of the right hon. member, Sir George Turner, and will move the omission of the word "If."

An Hon. MEMBER:
The hon. and learned gentleman cannot do that, because he is in favour of making some provisions against deadlocks.

Mr. SYMON:
Well, if I cannot move the omission of the word myself, I hope that the amendment will be moved.

The Hon. E. BARTON (New South Wales)[5.29]:
As we are not going to sit tonight, I do not think that a vote can be taken upon the proposition which I understand the hon. and learned member, Mr. Symon, intends to submit. I suggest, therefore, that Mr. Chairman's recommendation be adopted. The hon. and learned member might begin his proposition with the words "the senate," and move its insertion after the word "If." I make the suggestion for the reason that this gives a clear opportunity for adopting or amending his proposal. If the amendment is rejected, the paragraph will remain as it stands now, and will be open to amendment in every particular, so that all the details in it and the preceding paragraph will be subject to such modifications as will suit the desires of the Committee.

The Right Hon. Sir G. TURNER:
If the course suggested by the hon. and learned member is taken it will not enable those who desire to do so to have a test vote upon the question whether we should or should not provide means for the prevention of deadlocks. I would suggest that we should get a vote upon the question by dividing upon the omission of the word "If."

The Hon. E. BARTON:
I take it that those who are against providing any means to prevent deadlocks will find exercise for their aspirations by voting against each successive proposal. It seems to me that the right way to deal with the
proposal of the hon. and learned member, Mr. Symon, is that suggested by the Chairman. However, if the right hon. member, Sir John Forrest, wishes to move an amendment prior to that of the hon. and learned member, Mr. Symon, the course is open to him to do so. Of course, we could then take a division upon the general question as to whether means could be provided for preventing deadlocks.

The Right Hon. Sir JOHN FORREST (Western Australia)[5.33]:

With a view to getting a test vote upon the question whether the Committee desires that provision should be made for the prevention of deadlocks, I move:

That the word "If" at the beginning of the paragraph be omitted.

Question-That the word proposed to be omitted stand part of the clause-put.

The Committee divided:
Ayes, 30; noes, 15; majority, 15.

AYES.
Abbott, Sir Joseph Kingston, C.C.
Berry, Sir G. Leake, G.
Brunker, J.N. Lewis, N.E.
Carruthers, J.H. McMillan, W.
Clarke, M.J. O'Connor, R.E.
Cockburn, Dr. J.A. Peacock, A.J.
Deakin, A. Quick, Dr. J.
Fraser, S. Reid, G.H.
Fysh, Sir P.O. Solomon, V.L.
Glynn, P.M. Symon, J. R.
Gordon, J.H. Trenwith, W.A.
Henry, J. Turner, Sir G.
Higgins, H.B. Wise, B.R.
Holder, F.W.
Howe, J.H. Teller,
Isaacs, I.A. Barton, E.

NOES.
Briggs, R. Henning, A.H.
Brown, N.J. James, W.H.
Crowder, F.T. Lee-Steere, Sir J.G.
Dobson, H. Venn, H.W.
Douglas, A. Walker, J.T.
Downer, Sir J.W. Zeal, Sir W.A.
Grant, C.H. Teller,  
Hassell, A.Y. Forrest, Sir J.  
Question so resolved in the affirmative.  
Progress reported.  
Convention adjourned at 5.38 p.m.
Friday 17 September, 1897

Commonwealth of Australia Bill - Communication from Queensland - Commonwealth of Australia Bill.

The PRESIDENT took the chair at 10.30 a.m.

COMMONWEALTH OF AUSTRALIA BILL.

In Committee (consideration resumed from 16th September, vide page 709):

Amendment suggested by the Legislative Assembly of New South Wales, again proposed:

Insert new clause to follow clause 56:-

57. (a.) 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 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.

(b.) The proposed law passed and transmitted in the second session may include any amendment agreed to by both houses in the first session.

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.

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.

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 the house to which it has been transmitted has passed the same.

Such vote shall be taken in each state separately, and if the proposed law is affirmed by 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.

Mr. SYMON (South Australia)[10.33]:

I move:

That after the word "If," in the proposed new clause, the following new
words be inserted: "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 governorgeneral should on that account dissolve the house of representatives, and if,
within six months 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 with substantially the same objects, 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 governorgeneral may dissolve the senate and the house of representatives, and thereupon all the members of both houses of the parliament shall vacate
their seats."

The object of this amendment is to affirm the principle that upon a
difference between the two houses which cannot otherwise be solved, the
senate shall be liable to dissolution in a certain event. Substantially it is the
provision in force in South Australia; the phraseology is altered a little by
an amendment moved at the Adelaide session by my hon. and learned
friend, Mr. Wise. I do not wish to argue the matter. I only wish to say, as
far as the phraseology, or the drafting, or the form, is concerned, I do not
submit this amendment to be finally affirmed. I move the amendment with
a view to affirm the principle that, in the event of the senate disagreeing
with some measure sent up by the house of representatives, and a
dissolution taking place, and the house of representatives adhering to the
measure which has been so rejected by the senate, or so amended that the
house of representatives disapprove of it, if the senate still refuses to give
way, then a dissolution shall take place of both the senate and the house of
representatives. So long as the Committee affirms the principle that there
shall be, at any rate, one safety-valve, one method of securing cohesion
between the two houses, then the form of it may be dealt with and adjusted
afterwards. It is, as the right hon. gentleman, Mr. Reid, put it yesterday, a
very great concession; it may be, as he added, a proper concession as well.
At any rate, there are some of us who feel that, whether consistent or not with the continuity which we are seeking to preserve in the senate, and with its position as a house representing state interests, and also as a check on legislation, it is proper in this respect that it may remove we hope will remove efficiently obstacles that lie in the path of some of our friends who sincerely desire federation. It is a great concession. It is one which some of us believe will be actually sufficient. At all events, it leaves entirely open anything further which those who think that this is insufficient may desire to propose. With a view to test the principle whether there shall be, under these conditions, a dissolution of the senate as well as a dissolution of the house of representatives, I submit this amendment.

The Right Hon. Sir G. TURNER (Victoria)[10.48]:

I am glad that my hon. and learned friend, Mr. Symon appears to have come to the conclusion that sooner or later, with the view to settling disputes between the two houses, there must be a dissolution of the senate, as well as a dissolution of the house of representatives. The only difference between us is, that I fail to see why, in the first instance, we should be called upon to penalise the house of representatives. If a dispute should arise, and the two houses, after having tried every mode of conciliation, and all the conferences which we know in our various parliaments are adopted to settle disputes, should fail to settle the dispute, why should we then select one of the houses, which in all probability is not to blame, or may not be to blame, and compel that house to go to the country, to incur all the expense and trouble that members individually will have to incur, and again come back and resort to this mode of procedure? After having penalised the one house, if that house comes back with the voice of the country behind it, the senate has not to carry out that voice, but both houses are again to be sent to the country. That is, assuming that the senate has come back with the voice of the country behind it, it has again to be penalised, and the members are again to be put to all the trouble and expense of a general election throughout the large areas which they have to contest. Surely that is not fair or reasonable: it is not just to the house of representatives, and it is holding, practically, a threat over the house that if they do not agree to the senate's proposals they have to go to the country. They have to take all the risk of coming back, and after they have come back they will have to take the risk of going a second time. I think the proposal is not a reasonable one so far as it penalises the house of representatives in the first instance, and I trust the Convention will agree to the provision that if the two chambers cannot agree, and fail, after having made every effort, to come to a satisfactory arrangement, then
the two chambers at the same time shall go to their respective constituents and obtain the voice of the country as well as they possibly can obtain it. Holding these views, and believing a double dissolution in the first instance will, in nine cases out of ten, be the mode of settling the dispute, I am willing to support that portion of the proposal; but I cannot see my way to ask the Convention to support the suggestion that, in the first instance, the house of representatives which may be in the right, should be penalised, without at the same time penalising the other house.

The CHAIRMAN:

Does the right hon. gentleman move an amendment?

The Right Hon. Sir G. TURNER:

No I shall vote against the addition to the new clause.

Mr. WALKER (New South Wales)[10.42]:

I move:

That the amendment be amended by the omission of the words "and the house of representatives, and thereupon all the members of both houses of the parliament shall vacate their seats."

That carries out the wishes of the Premier of Victoria.

The Hon. A. DEAKIN (Victoria)[10.44]:

The question before us is as much one of procedure as of anything else—that is to say of the order in which the proposals are to be taken. The proposal of the hon. member, Mr. Walker, practically embodies one of the suggestions which have been indorsed by the Victorian Parliament; but in moving it now he may imperil the chances of support which it might receive if the other amendment were disposed of. Some of those who are in favour of the amendment he is proposing may at the same time be unwilling to vote against the whole of the proposal of the hon. member, Mr. Symon, and by that means the hon. member, Mr. Walker, will not obtain all the votes of those who would separately support his proposition.

I feel somewhat at a loss how to suggest a better method of procedure, unless it is understood that if we negative Mr. Symon's clause, we should then be free to consider something which might very closely approximate to his clause in the form submitted by our parliament. I take it, therefore, that if the hon. member, Mr. Symon, intends to press his amendment, we had better deal with it as a whole, and those who object to it on any ground should vote against it, knowing when they do so that they are not precluded from adopting some other form of the proposal, any variation being sufficient under the circumstances to justify its being considered as in order. If we endeavour to amend the proposal of the hon. member, Mr. Symon, we shall inevitably lose votes for the various amendments which
may be proposed. If we negative his proposal, we shall practically have a clear field to deal with other suggestions on their merits.

Mr. WALKER:

With the permission of the Committee, I will withdraw my amendment at the present time.

Amendment on the amendment, by leave, withdrawn.

The Hon. A. DEAKIN (Victoria):[10.46]:

I do not propose to discuss the suggestion of the hon. member, Mr. Symon, because my remarks would be mainly a repetition of those advanced by the Premier of Victoria; but I would point out that even the hon. member could scarcely say that after an appeal had been made to the whole of the electors by means of a dissolution of the house of representatives, and the electors had given a distinct verdict on the question submitted to them, and had returned an absolute majority to the new house in favour of the course proposed, it would be reasonable six months afterwards to send the same members back to the same electors to ask the same question.

Mr. SYMON:

That was Mr. Walker's amendment!

The Hon. A. DEAKIN:

Not at all; he provides for only one dissolution of each house. You propose to put the same question twice to the same people, and to penalise the representatives who endeavour to give effect to the popular verdict. It appears to me to be most inconsistent and indefensible in that respect.

The Hon. E. BARTON (New South Wales):[10.48]:

I think I shall be compelled, unless I hear good reason to the contrary, to vote against the proposal on the grounds stated by the Premier of Victoria. If there is to be a dissolution applicable to the senate, as well as to the house of representatives, I take it that the most convenient and the least expensive way, and the way best calculated to bring about an agreement, is to dissolve both bodies at the same time. If the amendment does not find acceptance, it will be necessary to amend the paragraph of the proposed new clause, because I take it that an in

The Right Hon. Sir G. TURNER:

Ought not sub-clause b to come in?

The Hon. E. BARTON:

Perhaps it ought, and the other matter after that.

The Right Hon. Sir G. TURNER:

What I propose to do is to pass sub-clauses a and b, and then to insert a
sub-clause providing for a double dissolution. That is the simpler way!

The Hon. E. BARTON:

We must all recollect that in passing the matter in that shape, the actual form will be recast. I should like to indicate that that is the course which I favour, and if the Committee go that far it will be simply a question whether they will proceed to other measures.

The Hon. I.A. ISAACS (Victoria)[10.49]:

I quite agree with the hon. member, Mr. Barton, that the question of six weeks or thirty days is merely a matter of detail. If we agree on principle I do not think there will be much difficulty in agreeing upon the mere lapse of time which is to take place, provided, of course, it is not extravagantly long or inordinately short. If we adopt the double dissolution in the first instance, no doubt the observation of the hon. member, Mr. Barton, made, will apply to the following sub-clause, which might conveniently come out. But that also is a matter of detail. On the main question I think, if I may be permitted to say so without offence, that we should be taking up the time of hon. members needlessly if we attempted to discuss the merits of an alternative dissolution, because I think a majority of the Convention has already expressed its mind that that would be unsatisfactory. I think it must be plain that it would not be acceptable to the Convention to propose that in case of a dispute between the two chambers it should always be assumed that one of the two chambers is wrong. Why should it be so assumed? If this proposal were to say that no matter where the proposed bill comes from, no matter what may be its merits, no matter what may be the unofficial expression of public opinion, no matter how the particular house proposing the bill—whether the senate or the house of representatives may be supported by the general colour of public opinion outside, it must always be one particular house which must go to the country, I say that that is not fair.

An Hon. MEMBER:

One house is elected for six years!

The Hon. I.A. ISAACS:

The other house is elected for three years. Now, I cannot conceive of any element of justice in saying that one particular house should be penalised. If you say that a dissolution will be an inducement to the house of representatives not to press its claims too strongly, surely it is equally fair to say that the fear of a dissolution will induce the senate not to press its objections too closely. If there is to be a means of conciliation, let the conciliation be reciprocal. Now, I do strongly urge upon my hon. friends
that they should come to some decision upon this question as soon as possible. We have to deal with a good many other matters today in any of them important matters and when we reach some of them, no doubt, the debate will be longer; but upon this question there is such an evident majority against the proposal that I do not think we need occupy time by discussing it further.

The Right Hon. C.C. KINGSTON (South Australia):[10.54]:

I suggest that this clause should not be pressed in its present form. Of course the idea is that, by a double dissolution, we shall ascertain whether or not the houses are in touch with their constituencies. But what does this clause really propose? It undoubtedly proceeds upon the assumption that the doubt will invariably affect the house of representatives, and that it ought to be sent to its constituencies first. I put it that the constitution of the two chambers suggests an altogether different conclusion. As regards the senate, one-half retires every three years; but the whole is not submitted to the verdict of popular opinion except after the lapse of six years. What is the case with the house of representatives? The whole of the house has to go to the people every three years. Under these circumstances is there not a prima facie case in favour of the probability of the house of representatives being more closely in touch with the constituencies than is the senate? There might be a difference between the senate and the house of representatives in the first session of the house of representatives. The house of representatives is hot from the country, but the senate has been subjected to no such test. Yet what is the proposal? Not that the house of representatives should be regarded as representing public opinion under the circumstances, but that it should be sent again to the country while the senate stands idly by, laughing, you might almost say, at the inconvenience to which it has subjected the other house. Then, when the house of representatives comes back again, reinforce by public opinion, not only the senate, but both houses, are sent to the country. Practically there are three references to the country by the house of representatives before an expression of popular opinion is secured as to the action of the senate. Now, it seems to me that that is monstrous.

An Hon. MEMBER:

It is an invitation to obstruction!

The Right Hon. C.C. KINGSTON:

It is not only an invitation to obstruction, but it amounts to an immunity from the results which ought to accrue from obstruction. I think it is highly undesirable that either house I do not care which it is—should have the right
of sending the other to the country, and submitting it to the verdict of popular opinion without submitting its own conduct to that verdict at the same time. I think we should adopt a provision under which, if there be a substantial dispute, the question should be decided by the constituencies as to the conduct of both houses, and not of one of them. As to this amendment, it is, I presume, intended to be based upon the South Australian provision; but in one important particular it does not, if I recollect rightly, and I am pretty sure I do, follow that provision, because it is here provided that the first dissolution of the house of representatives must be a penal one on account of a difference with the senate. There is no such provision in our constitution.

Mr. SYMON:
No; that is taken from the amendment on the paper; but we can strike that portion out!

The Right Hon. C.C. KINGSTON:
That removes one objection. No doubt the first part ought to be struck out, but the latter part ought also to be struck out; and, since there is very little health left in the middle of the clause, I suggest that it would be more convenient, if we were to accept the suggestion of our right hon. friend, Sir George Turner, and negative it, in order that we may proceed to the consideration of the other proposals.

The Hon. S. FRASER (Victoria)[10.58]:
I hope that the members of the Committee will be moderate this morning, and not show such a disposition to drive members like myself beyond that which we consider reasonable. I yesterday voted for some remedy for deadlocks, not because I think there is any necessity for it at all.

An Hon. MEMBER:
They are rather good things!

The Hon. S. FRASER:
I do not say that, but I say that the British communities all over the world have got on remarkably well without any such provision. I have travelled all over the world several times, and I have seen no countries which have made similar progress to that made by British self-governing communities under our existing constitutional forms. I then asked myself, and I submit it to this Convention, what is the necessity for any sudden and foreign change? I am prepared, as the representative of one of the five colonies which passed the enabling bill, to go beyond my own views in deference to the wishes of the mother colony; but I deny that there is any necessity, so far as our own colony is concerned, to go beyond the present bill. I believe that the other members of the Convention would also be prepared to accept
the present bill. I say so unhesitatingly, and I believe that I know the opinion of the people of our colonies just as well as the average man, or the average delegate, if you like the word better. Why should we, therefore, go in for some extreme revolutionary change? My hon. and learned friend, the Attorney-General of Victoria, laughs. In this draft bill there are provisions for amending the constitution. If the federal parliament and the people of the united colonies should determine in favour of having some further provisions for enforcing their wishes, they could obtain a remedy by means of a bill amending the constitution. Therefore, I say, why go to extremes at one jump?

There is no necessity for it. Something has been said about penalising one house. It is not penalising one house. The senator is not intended to be an active house like the house of representatives. It is only created for the purpose of delaying hasty legislation. The upper house never does stand in the way of recording the opinion of the people when those opinions are definitely known beyond question. It has never done so in the old country. It has never done so in any of the colonies, in Australia or in Canada. If we were establishing a senate not subject to dissolution the same as the House of Lords and the Senate in the Dominion of Canada, and the same as the Upper House in this colony, Queensland, and Western Australia—I would admit that there was some justification for the course now proposed.

The Right Hon. Sir G. TURNER:

It would not be necessary then, because there is power to add to the numbers.

The Hon. S. FRASER:

That power is seldom used. History shows that it has never been used more than once, I think, in any British country once in New South Wales. That supports my argument that there is no necessity for this drastic legislation.

The Hon. I.A. ISAACS:

Does the hon. member say that the lower house must prevail?

The Hon. S. FRASER:

I do not say that the lower house must prevail; but I say that a bill that was sent up to the senate might be a bill affecting only a small section of the community. It might not be a bill that affected the whole community at all directly. It might affect only the butter industry, or the farmer, or it might exclusively affect the miner, or perhaps only a section of the miners. It might be a butter export bill a bill affecting only a section of the people of the country. What would the town citizens know about a bill like that?
You would be referring the bill to people who knew little or nothing about the matter that was referred to them.

An Hon. MEMBER:
Ignorance of the people!

The Hon. S. FRASER:
All my political life I have been as willing to go upon any platform as any man. I have never feared going upon any platform when I thought I was in the right, and I have always believed in my political opinions. They may be conservative. I do not think so. At any rate, I am prepared to go upon any platform and argue with any other candidate. I do not believe in the ignorance of the people. I say that the bulk of mankind, who have to labour in order to earn their living, have not the same opportunities of becoming well versed in politics as a politician, or as an educated man who has ample time at his disposal to post himself in such matters. It is not the honesty of the bulk of the people that most men have a fear of; they have no fear of that. The working man, the stone-breaker, is as honest and fair as the ruler of the country. They are all alike in that respect; but will hon. members tell me that the people of Greece, the other day, when they forced their Government to go to war, were well posted up?

The Hon. Sir JOSEPH ABBOTT:
Stick to Australia!

The Hon. S. FRASER:
Other gentlemen have gone into many questions of politics. I have just as much faith in the people of Australia, or any British colony, as any other member of the Convention has, and that interjection be rejected on that account. I will go beyond my own personal predilections, and support the amendment proposed by my hon. friend, Mr. Symon. I will agree not to subject the house of representatives to a second dissolution I will agree to that so far as to say that, when the house of representatives has been subjected to a dissolution, it should not be penalised a second time. I maintain that the senate would not be obdurate, even the first time, because the senate, knowing full well that they had to appear before their constituents every three years possibly in much less time, on account of the trouble not arising at the furthermost limit of the period would, of course, bow to public opinion, as expressed by either the rejection or the re-election of members to the house of representatives. Therefore, they, as wise men, should not make themselves subject to a dissolution at all. There would then only be one dissolution, namely, that of the house of representatives. In my opinion, that is how the system would
work out. I believe that, on the score of economy, and for many other reasons, it is not necessary to subject the senate to a dissolution at the time that the house of representatives is dissolved. That would be coercion, and, in my opinion, such a course is neither warranted nor necessary, and would probably cause weak members of the senate to do an injustice to their colonies, and to their views, because they would not be independent enough to give a disinterested vote upon the matter referred to them. I hope that, for these reasons, the Committee will not drive hon. members to vote against unreasonable proposals.

The Right Hon. Sir G. TURNER:
Suppose that after the house of representatives is dissolved the senate still refuses to pass the bill!

The Hon. S. FRASER:
No; I would then agree that the senate should be subject to a dissolution. The reason why I would not agree to the other proposal is this: The ministry of the day, although its members might have the interests of country at heart, might be altogether wrong in its views as to the efficacy or advantage of a proposed course of action, and would probably select a time when the passions of the people were aroused, and perhaps inflame those passions and try to work up an inflammatory view of matters in order to have their proposal accepted. There may be no doubt about the wisdom of sending back to the constituencies the members of the house of representatives; but I think that sufficient time should be allowed to elapse to obtain the deliberate and matured opinions of the people before the dissolution of the senate. After such a time had elapsed, I would not hesitate to dissolve the senate.

The Right Hon. Sir JOHN FORREST (Western Australia)[11.13]:
I would suggest to the hon. and learned member, Mr. Symon, that he should leave out the last few words of his amendment, which make it compulsory for both houses to be sent to the country. If the hon. and learned member desires to make provision for the sending of both houses to the country, I would suggest that he should make that proposal separately instead of mixing it up with the provisions contained in the earlier part of his amendment. I am altogether in favour of the proposal brought forward by the hon. and learned member, and I should be glad to give it every support. Yesterday, we devoted the whole day to the discussion of the question whether it was necessary to provide any means for preventing deadlocks, and we decided by a large majority that some provision was necessary. Although I voted in the minority upon that question, I now desire to give the best attention I can to providing means for preventing deadlocks. I do not desire to say anything in the way of
reopening the debate, because I take it that the Commit-
te has decided the question; but I must say that there seemed to be a
decided impression in the minds of very many hon. members yesterday
that the senate was to be established only to protect state rights and state
interests. I do not think that that is so. If that were our only intention there
would be no necessity for upper houses in the various colonial legislatures,
because there are no state rights to be conserved in any of the colonies. I
take it that we are now erecting the senate, not only for the protection of
state interests, but also to provide a revising and controlling force in
connection with legislation generally. If that is not so, we do not want
upper houses in any of the colonies. All that we want is one chamber,
having a free hand to do what it likes in the management of the affairs of
the country. I think that those who are so anxious to reduce and weaken the
senate are those who are opposed to upper houses altogether. I cannot help
feeling, from the remarks of the President, amongst others, that he cannot
forget that for many years he has been in controversy with the Upper
House of his own colony, and he cannot believe that the upper house that
we are erecting will not be similar to that which exists in South Australia.

The Right Hon. C.C. KINGSTON:
We have had a better upper house in South Australia than they have had
in a great many other places!

The Right Hon. Sir JOHN FORREST:
I cannot help feeling that the right hon. member does not like the Upper
House in his own colony.

The Hon. J.H. Howe:
Yes, he does!

The Right Hon. Sir JOHN FORREST:
Then he has a very queer way of showing it. I believe that he has rather a
dislike to upper houses generally, and is of the opinion that except to
protect state rights it would be better to have only one house under this
constitution. It must not be forgotten, however, that at the present time the
various colonies are independent states, and we are not going to enter into
any partnership unless our future position as a state is guaranteed. To
return, however, to the point at issue. Having decided that means are to be
provided for the prevention of deadlocks, the question arises: What is the
simplest, the best, and the most effective means that we can adopt? The
suggestion of the Right Hon. Sir George Turner that, in case of deadlocks,
both houses should be at once sent to their constituents has, at first sight, a
good deal to commend it. Under ordinary circumstances, if two
representative bodies disagreed, the solution of the difficulty which would
occur to most men would be to send them back to those whom they represent, and let them decide the dispute. But would that be a wise provision to make in the constitution which we are now framing? At the time of the dispute, there may be a great deal of popular excitement and clamour, and all sorts of influences might be at work, and is it likely that we should obtain the result we are aiming at if we sent back the two legislative bodies to their constituents in the midst of that clamour and excitement? The chances are that both sides would be inflamed, and would stick to their colours, sending back again to the two houses the persons who represented them there before, and who, it would be said and thought, were defending the interests of the colonies they represented. The chances are that the members of the senate, when they went back to their own colonies, and told their electors that they had stood out to preserve their rights and interests, would be returned to again oppose the particular measure which had been the cause of the dispute. In nine cases out of ten, the house having the greatest power will be the aggressor. Every one knows that no case has; arisen in Australia, nor anywhere else, in which the upper house has been the aggressor, forcing upon the lower house some measure of which it disapproved, and thereby causing a constitutional disturbance. We know that such a thing has never happened, and never will happen. If any conflict occurs in the commonwealth in the future it will be caused by the house of representatives trying to coerce the senate. I think it is only reasonable that the house which causes the trouble—in my belief it will be the house of representatives should go to the country. After a limited time, say, six months or so, having returned from the country with a fresh mandate, with the weight of that mandate pressing upon the upper house, if the upper house still maintains the position it formerly took up, and refuses to give way, I then am willing to send that house to the country. Time will have elapsed six months or more people will have had time to work off their angry passions at any rate their excitement they will have had time to cool down, and the second election will be carried on under far different circumstances as to excitement compared with those of the original election.

The Right Hon. G.H. Reid:

What second election does the hon. member mean?

The Right Hon. Sir John Forrest:

The senate should be dissolved in the second instance. It seems to me that that plan would make the house of representatives much more careful, much less eager to enter into conflict than it would be under other circumstances. We know that no one likes to be beaten. If one has an
important measure to carry through parliament, his whole reputation perhaps may be mixed up with that measure, and he is sure to be desirous that it should become the law of the country. Everyone of us who has had anything to do with leading legislative assemblies knows how closely one associates oneself with the measures it is desired should become law. If you find the leader of a government entertaining these strong feelings, do you think he will rest without taking the verdict of the country upon an important measure at once in the full blaze of excitement? He will at once dissolve both houses and go to the country. Is that the sort of house we wish to erect here? This senate, this stable house this house almost immovable throughout all the colonies and the empire is this the sort of senate which you desire to build up? Do you desire that at any moment, at the will of the Prime Minister, he shall have power, not only to dissolve one house but to send the whole parliament to the country? I do not think that is what we want to build up here. We want to have a stable senate. The senate, in my opinion, should be immovable; but the Convention decided yesterday that that was not to be so. We are desirous of framing something that we have not got at the present time. Our legislative councils in all these colonies, with the exception of South Australia, cannot be dissolved, and if we cannot get a measure through the upper house we have to put up with it. We can certainly, dissolve the lower house, but that is not often taken advantage of, and, furthermore, it is not necessary. We have the highest constitutional authorities in the world telling us that the lower house does not exist at the will of the upper house, and that there is no necessity, no obligation to dissolve the house of assembly because it is not possible to carry a measure through the upper house. We have heard a great deal about the referendum, and, I dare say, we shall hear a great deal more during the debate today; but I think that an election of the senate is as close an approach to a referendum under this bill as it is possible to get. It is really a referendum at every election. Every time we have an election of the senate we appeal to the whole body of the people in the nation, and it is not an election such as occurs when the house of representatives is elected. That house is elected by various constituencies. The election is affected by all sorts of local prejudices and feelings, and is not really an appeal to the whole body of the electors. On the other hand, the first election or any election of the senate, will be to all intents and purposes a referendum. I should say to hon. members, and to all those who are desirous of making, the senate a weak, and, I might even say, a discredited body, as it would be unless it were strong, that there cannot be real federation unless the federation applies to the whole of
Australia. We have had to carry on our deliberations without the assistance of one great colony; but I venture to think that a federation which we might create without that great country would not be the real federation which we all so much desire. I would urge that it should be the desire of those who come from the larger colonies not to do anything which will prevent a real federation of Australia taking place. There have been a great many changes since 1891 in this bill. There have been changes even since the beginning of this Convention; but all those changes have been in the direction of reducing the power and influence of the states and the states house. I accept the verdict of this House with regard to what was decided yesterday. I hope, now that we have got so far, and a means is to be provided for preventing deadlocks, that we shall make that plan as simple as possible, and that the means provided shall not be such as can be too easily availed of.

Mr. MCMILLAN (New South Wales):[11.28]:

I rise at this stage of the debate only to say a word or two. I take it that many of us, those of us who are not possessed of any great degree of originality, are waiting for some concrete scheme with regard to a dissolution of the senate that may be acceptable to the Convention as a whole. But I should like to ask whether there is any necessity for a concrete scheme at all? I take it that the main point at issue is the question of the dissolution of the senate. At the beginning of our proceedings in Adelaide, very few of us would have imagined, probably, that such a proposal as this could have been brought forward with any chance of being carried. But on the principle which most of us have laid down that any ground of settling differences between the two houses should be one of a character that would give time to the people to think, which would give every possibility for the fullest consideration of public opinion, we have come to the conclusion that, while we might think the constitution could be left entirely to its own working, this proposal to dissolve the senate is on the whole the best, and

The Right Hon. C.C. KINGSTON:

Together!

Mr. MCMILLAN:

No, I am coming to that point. Here we are, probably, on the verge of making another rigid arrangement which may not meet the circumstances of the case. Who can tell the variety of circumstances which may bring about a deadlock? I will give an illustration of a practical character. Suppose the house of representatives has lived for a period of two years and nine months, and is within three months of an absolutely necessary dissolution, and suppose some burning question arises in which it seems impossible at the moment to have an agreement between the two houses
what an absurd thing it would be, three months before a general dissolution was to come about, to have a penal dissolution of the senate!

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The Right Hon. Sir G. TURNER:
That is provided for in the Victorian suggestion; the interval must be more than six months!

Mr. SYMON:
This amendment does not do what the hon. member fears!

Mr. MCMILLAN:
I know, and I am only now referring to the desire of some hon. members to make a double dissolution under all circumstances. We want a constitution that will work with the least possible friction and the least possible expenditure. Then, again, we know that every three years, not necessarily at the time of the dissolution of the house of representatives, half of the senate must retire for re-election. Suppose one of these burning questions arose within a month or two of the time when one-half the senate would, under ordinary circumstances, retire, would there then be a necessity for a dissolution of both houses? Do not let us have anything that will preclude that proceeding in which men of common-sense and not lunatics would try to arrange their difficulties on patriotic principles. I do not intend to refer to its machinery, but if ever there was a constitution which was a model of simplicity, which laid down principles and left details to be worked out according to the circumstances, it is the American Constitution—one of the simplest and noblest instruments for a constitution in the world.

An Hon. MEMBER:
The stiffest!

Mr. MCMILLAN:
It may be the stiffest, but we do not intend this constitution to be the stiffest in that sense. I am making a proposal to do away with the rigidity. I have been surprised in this Convention to find that so many of the extreme democrats if I may call them so who point to the rigidity of the American Constitution as a bar to the progress of the people, instead of leaving the parliament and the executive directly responsible to he people to act according to the varying conditions, want to make hard and fast rules to carry out some democratic shibboleth.

Mr. HIGGINS:
Who wants to?

Mr. MCMILLAN:
I do not pretend to have any strong opinion on the subject. I do not pretend to have any original views of my own. I simply rise at this moment to put before the Convention the question whether it would not be better simply to leave in the constitution power to the governor-general, through his executive, to dissolve either house at any time when certain circumstances arose.

The Right Hon. C.C. KINGSTON:

Would not that put the senate at the mercy of the house of representatives?

Mr. MCMILLAN:

Not at all. Because we must take it for granted, as I take it for granted, in everything we do that we are dealing with a responsible government of a patriotic character, responsible to the people of the country and to public opinion. I hold that this dissolution is intended to be more of the character of a deterrent, than that it should be adopted with any expectation that it will ever be put into force.

The Right Hon. C.C. KINGSTON:

The moral effect!

Mr. MCMILLAN:

The moral effect. Who is to judge when matters have come to such an extreme that a deadlock has practically supervened? It must be the executive government, who are responsible for the management of affairs. It seems to me, therefore, that it would be wise not to make any hard and fast rules for the dissolution of both houses under all circumstances when a deadlock seemed to intervene. In my opinion that would be a very evil proposition. It would tie you down at times to take a course which would be utterly inconsistent with a regard to public convenience. As I said before, my own view of the case would be simply to leave that power of dissolving the senate as a co-ordinate power with that of dissolving the house of representatives, and leave the circumstances themselves to decide on what occasion it ought to be carried into effect.

The Right Hon. Sir G. TURNER:

That is a larger power than we are asking for now!

Mr. MCMILLAN:

I do not mind giving the larger power, because you must recollect this: that you must deal with a question of this kind in view of the principles you have laid down in your governmental machinery. We have laid down the principle that this house is to represent the continuity of national life; that it is to have six years of existence, and that one-half must retire at certain
periods. Those principles being laid down, any government and I am willing to trust this federal government to that extent ought to feel that to destroy, or attempt to interfere with, the continuity of that house, would be to take a step of the very gravest responsibility. However, under no circumstances, speaking personally, would I vote for such a drastic arrangement as the dissolution of the two houses at the same time?

Mr. SYMON (South Australia)[11.37]:

In order to disentangle the real question of substance from the rest of this amendment, I desire to move the omission of the words at the end, to which the Right Hon. Sir John Forrest has just called attention, namely, those involving a second dissolution of the house of representatives.

The Hon. J.H. HOWE:

Then we need not talk any more about it. We can go to a division at once!

Mr. SYMON:

What the hon. and learned member, Mr. Deakin, and my right hon. friend, Sir John Forrest, said, has satisfied me that that would be improper. I wish also to eliminate the words" on that account" in the eighth line; so that if there was a dissolution of the house of representatives under this amendment, and the house of representatives, whether on that particular account or generally, acting, in its belief, on the strength of public opinion, passed the measure again, it should have the same effect as though there was a dissolution specially for that purpose.

The Right Hon. G.H. REID (New South Wales)[11.38]:

The suggestion for the omission of the concluding words no doubt makes this amendment less objectionable. But I cannot agree with my hon. friend, Mr. Howe, that when once those words are omitted the task becomes so simple that we shall immediately go to a division. I should like to point out and it is surprising to me that it has not been seen before clearly and easily the utter absurdity of the proposal of the hon. and learned member, Mr. Symon. I should like to take advantage of the speech of the Right Hon. Sir John Forrest, to point out the utterly loose ideas which seem still to prevail in certain quarters with reference to this particular project upon which we are engaged. The right hon. gentleman speaks of seeing that the independence of the states shall be guaranteed. If you enter into a federation, how can you guarantee the independence of each state?

The Right Hon. Sir JOHN FORREST:

We do not want to be taken in body and soul we do not want to be unified!

The Right Hon. G.H. REID:

That is the trouble with us that we cannot get unified in some way or
other; we are all discord. That is one of the difficulties in the way of hon. gentlemen representing the smaller states. No matter how small the state may happen to be, the one thing they look for is a sort of constitution which will guarantee their independence. They forgot that in this federation the larger states might have an interest in the same direction, and want their independence guaranteed.

The Right Hon. Sir JOHN FORREST:

It is of no use to misrepresent me. I did not mean that at all, and the hon. member knows very well I did not!

The Right Hon. G.H. REID:

Indeed I do not. What did the hon. member mean? because I will accept his own view of what be meant. I do not want to take a view opposite to his own.

The Hon. H. DOBSON:

He meant what the hon. member told us yesterday, that the national voice must not drown the voice of the states.

The Right Hon. G.H. REID:

I always find it better that a man should explain himself than that he should have a volunteered deputy. Perhaps my hon. friend will tell me what he meant?

The Right Hon. Sir JOHN FORREST:

I do not want to interrupt the hon. member. I had an example yesterday of the way in which the hon. member treats interruptions.

The Right Hon. G.H. REID:

I am very sorry that my hon. friend should have taken anything I said in that way. I am sure I stood some rather severe and unjust remarks yesterday without saying very much. Could a greater insult be offered to a member of this Convention than was offered to me yesterday, when it was stated that I was addressing people outside instead of addressing those here?

The Right Hon. Sir JOHN FORREST:

I did not say that!

The Right Hon. G.H. REID:

It does not interfere with the friendliness and courtesy of my hon. and learned friend, Sir John Downer, and I do not allow such matters to interfere. I might easily have retorted that it was my duty, in expressing my own convictions, to introduce the opinions of the people of New South Wales to the notice of this Chamber, and that was really what I was doing. Then, again, I did not complain when my hon. friend, Sir John Downer,
complained that I was turning my back on the Convention when I simply had, from the geographic absolute necessity of the position, to turn my back on someone unless I stood on the wall. I did not complain of these pleasantries, because we all indulge in them occasionally, and when they come we ought to take them in good humour; so that I hope my hon. friend will not think that in any interruption I made yesterday I wished in any way to affront him. I assure the hon. gentleman that I took down his words as he spoke, unless our independence is guaranteed.” We ought to clear up misapprehensions of this kind. If we come into this federation, we must all lose a portion of our independence every man in the states, every state. The great trouble between us at this moment is to endeavour to hit a line which will seem to act fairly by us all in our differing circumstances when we do give up our independence in respect of the subjects of this constitution. But we must all give something up, and the gentlemen who represent the smaller states and when I say the smaller states you know I mean the states with the smaller populations must not quarrel with us when we are just as earnest as themselves in endeavouring to secure that the rights of the larger populations shall be respected in this constitution, and unless those who represent the larger populations faithfully and frankly express the interests of those people in this Convention, I do not know where else they ought to be expressed. This is the proper place in which to express them, and we save ourselves infinite and useless labour if we proceed on these lines. I do not accuse gentlemen representing the smaller states, when they utter sentiments which are peculiarly provincial, of talking to their colonies. I quite understand that they must, to a great extent, safeguard those interests, and, small as a state may be, that there are interests there which are just as properly subject to careful safeguarding as the interests of the larger populations of the commonwealth. But I must ask this Convention, which is composed of a majority of gentlemen representing the smaller populations, to show equal courtesy to us, when we are endeavouring to put the views which commend themselves to the larger populations. Let me show the utter absurdity of this proposal of the representative of South Australia. I mean the proposal as it was amended - it was still more absurd as it stood originally. There is a proposal that if a conflict arise between the two houses, there may be a dissolution of the house of representatives, and then if after that dissolution, the difficulty still remains, there may be a dissolution of the senate. Well, the project when two houses are in conflict of cutting off the head of one, and leaving the other to live another six months to see what may turn up in the political world, does not commend itself to me as a pattern of federal justice. What a maimed and lame attempt
this is to solve some burning, perhaps most urgent, question, until the settlement of which the whole commonwealth is thrown into a state of the utmost confusion, say, on a tariff! Now, we all know when questions affecting the tariff, say, a reconstruction of the tariff, especially of a federal tariff, are before the parliament, all the industrial interests of the country are thrown into a state of confusion, enormous loss and inconvenience are caused to the business community of any country whose fiscal policy is in a state of uncertainty and transition. Let us suppose that on that burning question, affecting the daily interests of every man in Australia in a most practical and important way, there is a hopeless difficulty between the two houses. What sort of solution of such a situation is this? Then let me show even a greater absurdity than that. There is a dissolution of the house of representatives, which means that the whole question is remitted to every elector in the commonwealth. The result of that election will show exactly what the public opinion is, not only of the commonwealth as a commonwealth but also of the states as states, and then six months after that -

The Hon. J.H. Howe:

Not necessarily so. The states may be divided, you know, by what we have done previously.

The Right Hon. G.H. Reid:

I am speaking, of course, of the states as they will exist at any time, no matter what the subdivision is, because the moment you subdivide you simply rearrange the electoral boundaries; in fact, as far as the popular house is concerned, the subdivision would not necessarily involve any alteration of the commonwealth electoral boundaries except for the provision which we put in, and which I opposed, that as nearly as practicable the houses should be in the ratio of two to one. That will involve a most awkward and inconvenient arrangement of all the commonwealth boundaries when a subdivision takes place, and that is one of the great disadvantages of the scheme. But for that a subdivision would simply mean a larger number of senators without necessarily any alteration of the commonwealth electoral boundaries. But my argument would not be affected by a subdivision. If the subdivision had been complete and the electoral boundaries rearranged, then when the appeal to the commonwealth electors had taken place, inasmuch as the commonwealth electors will be within certain defined boundaries which will not overlap the state boundaries probably no electoral boundary will be so constructed if it can be avoided as to have half an electorate in one colony and half of it in another, I imagine. The more natural course will be to follow the well known lines of the different colonies. But even if they overlapped, anyone
be easily able, once the house of representatives had been dissolved, and every electorate-in the large electorates remember, not in the small ones; that is, in electorates containing 50,000 inhabitants had expressed its opinion on the subject of reference by the particular candidate elected, then the senate would be in this very comfortable position. If the result of the appeal was to show that in this dispute between the two houses the senate had a majority of their own people behind them that is, the majority in the senate, we will say the senators, of three small states out of five here represented saw that the majority of the electors of their own states were against them there would be no trouble. The head of the wrong man would have been cut off; but there would be no redress for him, because he would be gone; and the other, the offending party the house which had created the necessity for cutting off the head of the popular chamber would quietly allow the measure to pass, and live on peacefully and happily ever after.

The Hon. H. DOBSON:
That is the price we pay for responsible government!

The Right Hon. G.H. REID:
I know. That is the price we are asked to pay for what is called responsible government; but that very expression shows that my hon. friend is rather cloudy as to what responsible government is. The principle of responsible government is that it is subject to the control of the representatives of the people. That is responsible government, and the digression therefore will scarcely apply. But if all the representatives of the commonwealth were the subject of appeal the result of that appeal would be known to us all, and it would be seen whether a majority of the electors in the smaller states favoured the one house or the other. If a majority of the electors in the smaller states favoured the view of the senate, all the dissolutions of the house of representatives would leave the senate absolutely immovable, and we would then be in a state of things, perhaps resembling this and this is the sort of thing the people of the colonies are not likely to stand: the house of representatives might, possibly, come into conflict with the senate on the tariff and I know of no subject more likely to create a conflict than that. There is an appeal to the people, as it is called, and a house of representatives is returned which shows that 2,000,000 people in the larger colonies I have not the number of electors in each colony, strange to say; I have it for two colonies, but not for five, and I must, therefore, go by population-cast their votes in favour of the policy of the house of representatives. In the smaller states there are votes cast which show that on that particular question, out of a total population, at
of 670,000, 500,000 vote in favour of the position of the senate, and that is taking a pretty high view. We have thus this anomalous position: that we have gone through what is substantially a farce. It is a farce to appeal to the people if the people have not the power to decide if, after an appeal has been made, 2,000,000 say yes, and 500,000 say no; and that "no" makes the senate immovable, and enables them to stand to their position with the absolute certainty of success. The terrors of dissolution nearly all disappear when you know beforehand that you are going to be elected without any trouble. The terror of a dissolution is the uncertainty which surrounds it. With this sword of a dissolution before them, the senate know beforehand exactly how they stand. This sword hanging over them is a sort of comfortable arrangement which is represented by the homely phrase, "Heads, I win; tails, you lose." That is the philosophy of this proposal. If the senate find from the appeal to the electors of the commonwealth that they are wrong, they are not punished; they simply subside. If they find from an appeal to the commonwealth that, although an enormous majority of the people say they are wrong, a sufficiently small minority in three of the states say they are right, they are still strong and immovable, and if the sword falls upon them, they simply, by prolonging their opposition to the result of the appeal to the people, go back to the smaller states to receive the political honors accorded to those who successfully vindicate the interests of their country. That sort of arrangement, it seems to me, is one-sided, to say the least. I will only, at present, push these observations to one practical point on this clause, and it is this: that if there is to be any pretence of fairness in applying this great arbitrament to the dissolution, the two houses must be dissolved at the same time. Whatever the constituencies, whatever the constitution, whatever the safeguards gentlemen representing the smaller states think right to put in the constitution on this point, where both have to appeal to the country to have their difficulties settled, both must take the risks of the situation, and that is fatal to the proposal of the hon. member.

Proposed amendment, by leave, amended by leaving out, in line 8, "on that account," and by inserting after "representatives," in line 10, "by an absolute majority," and by leaving out all the words after "senate," line 18. Mr. HIGGINS (Victoria)[11.57]:

I should like to advert to a former proposal of the hon. member, Mr. McMillan, who said that we ought not to do anything rigid, and that it should be optional to dissolve both houses or one. I was struck with that suggestion at the time. Nevertheless I think that it would amount to a
scourge upon the senate. Supposing there is a ministry which has a
majority in the house of representatives, and supposing that ministry to be
opposed in the senate, if that ministry had the option, it would certainly
dissolve the house which is against it, and not the house which is for it.
Therefore, out of justice to the senate, I think it only fair that the ministry
ought to dissolve both houses, and have them both sent before their
constituents. With regard to the proposal of the Premier of Western
Australia, I think the answer of the Premier of New South Wales is
absolutely insurmountable. That proposal simply makes the houses of
representatives a cats paw in order to pull the nuts out of the fire. It simply
allows the members of the senate to see by the voting in the different states
which way the feeling of their states is going, and they will know exactly
then as to whether it is or is not worth while for them to face a dissolution.
Considering that it is boasted that both the houses are based on the broadest
franchise, I can see no possible reason why there should be a distinction
between them. The only course will be, in fairness to both houses, as they
are both based on the suffrages of the people, and both claim to be
representative, to dissolve both.

The Hon. Sir W.A. ZEAL (Victoria)[11.59]:
I shall not obtrude myself on the notice of the Committee for more than a
few moments. I desire to say, and to emphasise in the strongest possible
manner, that if we are to have federation at all it must be on the lines
common to all. This question was debated at great length at Adelaide, and I
thought we had arrived at some kind of finality; but it seems that we are
now rediscussing the whole matter, and all kinds of novel and dangerous
proposals are being submitted to us, to which the majority of the
Convention cannot agree. I was very much surprised, after the efforts of
the Attorney-General of Victoria, and after his able advocacy of the
referendum, that he failed to bring forward a scheme for the adoption of
this novel proposal, based on wider grounder than those which has
submitted. If

hon. members look at what he has proposed, they will find that, with the
exception of one or two, the questions referred to are of the most trivial
nature. It is proposed to revolutionise the whole of the government of the
Australian colonies, and to introduce a system which has no acceptance in
any Anglo-Saxon community in the world. What does the referendum
mean? The effect of the referendum will be to emasculate our parliament,
because if the provision be carried in its entirety, the parliament will
selfishly fall back on the referendum as absolving them from any
responsibility for their action.
The Right Hon. C.C. KINGSTON:
If they can resort to the referendum only after a dissolution, that is not likely to be the case!

The Hon. Sir W.A. ZEAL:
I do not think the proposal for the referendum is one which the Australian colonies will accept. On the other hand, I think the proposal before us is one of the most liberal ever submitted to intelligent electors. It is, if anything, of too democratic a character. However, I am quite willing to accept it. I can quite see the difficulty of my hon. friend, the Premier of New South Wales. The whole of his observations yesterday plainly showed the difficulty he feared; but I would point out to him that the Finance Committee have not been called together, and, if this Convention is not prepared to meet the great colony of New South Wales in a reasonable way, then it will be open to the right hon. gentleman and his fellow colonists to say that they will not come into the confederacy. Let us deal with one thing at a time. No reason has yet been shown why we should have recourse to the referendum.

The CHAIRMAN:
I would point out to the hon. gentleman that there is not now before the Committee any proposal for the referendum.

The Hon. Sir W.A. ZEAL:
It has been referred to as one of the side issues.

The CHAIRMAN:
A general discussion, upon the whole question took place on paragraph 1. That general discussion having taken place, I must now ask hon. members to confine their remarks to the amendment before them, which is that of a double dissolution. The proposal contains no reference to the referendum.

The Hon. Sir W.A. ZEAL:
I cheerfully bow to the Chairman's ruling. I have no wish to take up the time of the Convention unnecessarily; but I think I might be excused for having transgressed the ordinary rules of debate by referring to remarks which have accompanied the proposal in its general aspect I am aware that for the present the referendum has been dealt with, and I will, therefore, postpone any remarks which I may have to make as to that proposal. The proposal of the hon. member, Mr. Symon

The Right Hon. C.C. KINGSTON:
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The Hon. Sir W.A. ZEAL:
It has been allowed to remain from 1882 to 1897, and the hon. gentleman has such power in his colony, and is so much thought of there in one branch of the legislature, if not in two, that I am sure that if he and his colleagues had seen any injustice in the provision they would have given effect to their objections,

The Right Hon. C.C. KINGSTON:
It is a great deal better than nothing!

The Hon. Sir W.A. ZEAL:
I am prepared to accept the proposal of the hon. member, Mr. Glynn, based, as it seems to me, on fifteen years experience in the colony of South Australia. In our colony we have not found any difficulty in this matter. It is true we have had differences with the other Chamber; but the other Chamber has been the aggressor in every instance.

The Hon. I.A. ISAACS:
That is not what the other chamber says!

The Hon. Sir W.A. ZEAL:
But it is what I say, and I can prove it to be so incontestably.

The Right Hon. G.H. REID:
If one man stands still and the other man moves on, the man who moves on is bound to look like the aggressor!

The Hon. Sir W.A. ZEAL:
We need not discuss this proposal a second time. If you are desirous that these colonies shall federate, I think it is time that this discussion came to an end, and that we came down to a vote. If the hon. member insists upon his amendment I shall support it.

Mr. SYMON:
I intend to insist upon it as amended!

The Hon. Sir W.A. ZEAL:
Then I shall vote for it with such amendments as the hon. member may deem it fit to accept.

The Right Hon. Sir JOHN FORREST (Western Australia)[12.3]:
I should like to make an explanation. The Premier of New South Wales appealed to me to explain what I meant. I thought I had better not do so at the time, having regard to what happened yesterday; but the right hon. gentleman sought to hold me up as a most ignorant person-

Hon. MEMBERS:
No!

The Right Hon. G.H. REID:
The hon. gentleman, Sir John Downer, said that I did not know what I
was saying for an hour, and that is pretty rough. But I did not mind, it is only fun!

The Right Hon. Sir JOHN FORREST:

The right hon. member represented me as saying that we wished to maintain our independence, and to have it guaranteed, and that I was under the impression that after a federal government was established the states would have all the powers they possessed at the present time. I think it would be rather absurd if, after sitting in the Convention in 1891, again in the Convention at Adelaide, and now here, I should be under the impression that, having relinquished the powers we are prepared to relinquish to the federal government, we should still occupy the same position in relation to all those matters which we occupy at the present time. I do not think the right hon. gentleman could have thought for a moment that I intended to convey anything of the kind. What I meant was that I was anxious that in the federal parliament the senate, representing the states, should not be coerced by the house of representatives, where the states might have very small representation.

The Right Hon. G.H. REID:

I can assure the right hon. gentleman that he is perfectly correct. I did not suppose for a moment that he was not aware of the matter he refers to; but the bearing of my observation was this: that the hon. gentleman, while aware of that, was fighting all along the line to secure such a state of constitution that the states in a similar position to his own would always have a power equivalent to an independent power in a majority of the senate, leaving the larger states in a position in which they would have no guarantee whatever.

Mr. GLYNN (South Australia)[12.8]:

I might mention, for the information of the hon. member, Sir William Zeal, that the proposal before us is not really founded upon any precedent in South Australia, because, although this provision in the law has been in force there since 1882, it has never been acted upon. The fact, therefore, that the provision is upon the statute book in South Australia is not an argument upon which much reliance can be placed. The legislation was the result of rather a single contest with the upper house. A further pretext for it was that the constitution of the electoral districts of the Upper House had been amended in 1881. That was, I think, urged as one of the arguments in favour of the passing of the provision. As a representative of one of the smaller states, I object to the amendment of the hon. member, Mr. Symon. I think it will be exceedingly unfair to the larger states, and unfortunately hon. members seem to be raising the issue
once more of the smaller as against the larger states.

Mr. SYMON:

That will always be raised!

Mr. GLYNN:

I do not think so. In my opinion the practical result of the operation of the constitution will be a unification with a large measure of protection for local interests, through the principle of equal representation in the senate. I do not think there is any need to raise the bugbear of state interests; in doing so you really endanger the passing of the constitution itself. I would suggest to the hon. member, Mr. Symon, that he should not insist on something that would probably lead to the defeat of this amendment; but that he should accept the evident sense of the Committee, that the dissolution must be a joint one; and in order that the dissolution shall not be too hasty, I would suggest that he should amend the amendment by making it provide for a dissolution after the passing by the house of representatives of the measure in two successive sessions not that a general election should be interposed, for, if so, you might be met by the objection, properly raised by the right hon. member, Mr. Reid, that that would be subjecting the house of representatives to a second dissolution, and the result would be that the initiative in a matter of radical legislation would never or seldom come from the house of representatives. I therefore suggest that the hon. member should omit the following words:

"the governor-general should on that account dissolve the house of representatives, and if within six months after the said dissolution"; and that after the words "the house of representatives" in the next line, he should insert the words "in the next succeeding session." That would mean that if the house of representatives in two successive sessions passed the law, then both houses should be dissolved.

Mr. SYMON:

Without a general election intervening?

Mr. GLYNN:

Yes, without a general election intervening. I cannot understand the position taken up by some representatives of the larger states. Some members of the smaller states are not asking for this. We do not want to make the upper house the stronghold of conservatism.

An Hon. MEMBER:

Nor do we!

Mr. GLYNN:

If you leave out of account the fact that we shall be dealing with unitarian matters under this constitution you may convert the upper house into one
of the most conservative houses that we could possibly conceive. I am justified in saying that, by the, position taken up in America by the Senate on many questions.

An Hon. MEMBER:
How would the amendment read, as the hon. member suggests it should?  
Mr. GLYNN:
It would read as follows:-
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 house of representatives in the next succeeding session again pass the said proposed law in the same or substantially the same form as before, and with substantially the same objects, and the senate again reject or fail to pass the said proposed law or pass the same with amendments with which the house of representative will not agree, the governor-general may dissolve the senate and the house of representatives, and thereupon all the members of both houses of the parliament shall vacate their seats.

An Hon. MEMBER:
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Mr. GLYNN:
There must be at least an interval of five or six weeks. The writs cannot be issued and returned in less than five or six weeks, and during that time there will be an opportunity for members to express their opinions, and for a decision to be come to upon them. If we do not have what I propose, we would take away from the house of representatives the initiation of radical measures, and I will not consent to that. I believe that the legislation of the federal parliament will mostly be on matters of general policy, and not in one case out of a thousand on matters touching merely state interests, and I think that unless such an amendment as I suggest be adopted, the constitution might be endangered by the raising of exceedingly dangerous issues. A double dissolution would have this advantage: If you were to send only one house to the country you might, as at present, have many members returned largely on personal considerations, and the interests on which the test was intended to be taken might be subordinated to those considerations; but if you were to send the two houses to the country together, what would be prominent in the minds of the electors would be the fact that there was a fight between the two houses, and the issue would
turn, not on the personnel of the members, but on the question of one house as against the other, and you would have a very great chance of the house of representatives, if it were in the right, being returned with the same personnel as before.

Mr. SYMON:
So you would if the dissolution was not concurrent!

Mr. GLYNN:
What I say is, that if the dissolution were concurrent the chances of that would be greater, for if you sent the two houses to the country at the same time, the prominent fact in the minds of the people would be that there was a conflict between the two houses, and, if you sent the members of one house only to their constituents, I am afraid that they would lose sight of the great national measure, and would return members largely, as at present, on personal and local considerations; for we know how exceedingly hard it is to get an expression of opinion on measures as against local interests and personal preferences.

The Right Hon. Sir JOHN FORREST:
The people will look after that!

Mr. GLYNN:
There is too much talk about the people and what in the abstract they might do. We must look at the matter from the broad lines of commonsense. We know from experience that we do not get a clear-cut issue at many elections, and that if there is a broad issue put before the electors their judgment is apt to be swayed under present conditions by personal and local considerations. Therefore, if we are to have a penal dissolution, we ought to have the one that applies to a unitarian government, as it exists at present, with the addition of delay and the inclusion of the second chamber. I hope that the hon. member, Mr. Symon, will accept the amendment that I have suggested.

The Hon. R.E. O'CONNOR (New South Wales)
I think that the Committee have pretty generally come to the conclusion that as a step towards settling deadlocks a dissolution of both houses should take place, The difference of opinion seems to be as to whether the dissolution of both houses should be simultaneous, or whether i

and it also means a great loss in the industrial progress of the community, and a great delay in political progress. I say that in the application of any system for getting rid of difficulties between the two houses, we should be careful not to make the settlement of those questions more onerous to the country generally than is necessary, and, therefore, a very strong reason why the two dissolutions should be taken together is that the whole
question at issue instead of dragging on, perhaps, for six months, would be settled at one time through the states, and through the constituencies representing the nation.

The Hon. F.W. HOLDER:
Taking them separately would be doubling the expense, too!

The Hon. R.E. O'CONNOR:
Yes, as the hon. member points out, taking them separately would be doubling the expense, which, because of the immense area of the constituencies, would be a very serious consideration.

The Right Hon. Sir JOHN FORREST:
The second might never come about!

The Hon. R.E. O'CONNOR:
The second might never come about, but we are dealing with a case in which both might, and probably would, be used. The hon. member, Mr. Glynn, has made a suggestion which I do not think the Committee will fall in with. The proposal of my hon. friend, Mr. Symon, seems to contemplate that the senate is the house which is standing out, and which is not in accord with the opinions of the people generally.

Mr. SYMON:
Oh, no!

The Hon. R.E. O'CONNOR:
I should like to point out to the hon. and learned member, and to those who wish to see the senate maintain the qualities of permanence and stability as far as possible under this constitution, that a plan which enables the senate to be dissolved at the will of the majority of the house of representatives is a plan which, to a very large extent, puts that weapon in the hands of a majority of the house of representatives. The original proposal, which the hon. gentleman proposes to amend the first paragraph of the amendment of the New South Wales Parliament deals with this question, it appears to me, on truer lines, from the point of view that the difficulty might arise in either house of parliament, and it provides that if either house disagrees with the other, then the house which passes the bill without amendment, which bill is not assented to by the other house, may be, the cause of the dissolution. That is to say, it is not only in the house of representatives that the difficulty may arise; it may arise in the senate. One can easily understand a political position of that kind. Suppose, for instance, that towards the close of the life of a parliament a ministry thought it had the country and the states with it, but, for some reason or other it was in a minority in the house of representatives, the difficulty would concern both houses, and why should not the majority in the senate be entitled to have the question sent to the country?
The Hon. S. Fraser:
You would be making it the aggressive house then. The upper houses have never been the aggressive houses hitherto!

The Hon. R.E. O'Connor:
The hon. member falls into a confusion of ideas when he speaks about the aggressive house. The house of progressive active legislation is always regarded as the aggressive house by the house which wants to stand still. If a measure is passed by the senate to which the house of representatives is opposed, the hon. member might describe the senate as the aggressive house. The term is one which has no meaning whatever.

Mr. Higgins:
The proposed law is also aggressive!

The Hon. R.E. O'Connor:
What I want to point out to my hon. and learned friend, Mr. Symon, is: that there was a difference of opinion as to whether the dissolution should or should not be concurrent. I am afraid that if the hon. and learned member's amendment is carried, he will lose the very great advantage of being able to use the weapon of dissolution in the case where the senate stands out for its rights, and will only be able to apply it when the house of representatives does so.

Mr. Symon:
I should not like to lose that provision!

The Hon. R.E. O'Connor:
If the hon. and learned member will look at the amendment suggested by the Legislative Assembly of New South Wales, he will find that it reads as follows:-

57. (a) If either house of parliament shall, in two consecutive sessions of the same parliament, with an interval of at least six weeks between -

That is too short a period-

pass and transmit to the other house for its concurrence therein any proposed law which such other house 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.

If the early part of that amendment is left, and there is added to it a provision that, under these circumstances, the Governor shall have the power to dissolve both houses of Parliament, you are applying what is a perfectly just principle that is, that either house may have the advantage of the appeal ensured by the dissolution of both houses.
The Right Hon. Sir JOHN FORREST:
The smaller states have asked for that!

The Hon. R.E. O'CONNOR:
I do not know whether they have or have not asked for it. My endeavour is to make the constitution as just and fair as possible.

An Hon. MEMBER:
We have all the same object in view!

The Hon. R.E. O'CONNOR:
I think we have all the same object in view. I regard this dissolution, not as a weapon to be placed in the hands of the majority of the house of representatives, not as an additional aid to be given to an executive government, but simply as an exceptional remedy to be applied in a case where the two houses cannot agree. It is for that reason that I should like to have this power exercised equally on behalf of the house of representatives and on behalf of the senate. Therefore, I suggest to the hon. and learned member, Mr. Symon, that it would be much better for his view if, in that spirit of compromise which he has been so willing to show hitherto, inasmuch as the sense of the Committee generally appears to be in favour of the double and concurrent dissolution, he will recognise the situation, withdraw his amendment, and accept the first portion of the amendment suggested by the Legislative Assembly of New South Wales, adding to it a provision giving power to the governor to dissolve both houses.

The Hon. S. FRASER (Victoria)
I agree with the hon. and learned member, Mr. O'Connor, that to give this additional power to either house would be a great advantage, and would have a modifying influence upon both chambers; but what I object to, and what I hope the Committee will bear in mind, is this and for the purpose of my argument I will state an extreme case. Suppose a designing executive has set its mind upon some measure. It might possibly get the house of representatives to agree to it. Another session could then be held by design within a few weeks, and the same body would, of course, not go back upon their votes, but would agree to the proposal a second time, as indeed they would, if they were asked to do so, a third, fourth, and even a fifth time. I would ask the Committee, however, to provide for the intervention of time between the first and the second passing, so as to allow the voice of the country to be heard in the meantime.

The Right Hon. C.C. KINGSTON:
Does the hon. gentleman mean by dissolving the house of
representatives?

The Hon. S. FRASER:  
Yes.

Dr. QUICK:  
Why not the senate!

The Hon. S. FRASER:  
I believe, as the Right Hon. Sir John Forrest just now stated, that the opinion of the country obtained through the house of representatives would have just as good an effect upon the senate as if the senate was dissolved.

An Hon. MEMBER:  
Would the hon. gentleman like to substitute the senate for the house of representatives?

The Hon. S. FRASER:  
I do not know that that would be such a great drawback as the hon. and learned member thinks. What I desire is that the opinion of the country may be obtained before any measure is passed a second time. What is the use of passing it a second time unless the opinion of the country has been obtained upon it in the meanwhile? I have seen the time in my own colony, and I think in other colonies, when the house of representatives would have passed a measure a dozen times if necessary, so long as there was no dissolution. Surely legislation is not of such a character that the people of Australia cannot wait a few months to make sure that their matured judgment is in favour of a proposed change.

The Right Hon. Sir G. TURNER:  
To ascertain their opinion would the hon. member agree that the house which refused in two sessions to pass a bill should be the house to be dissolved whichever house it might be?

The Hon. S. FRASER:  
I would agree to the dissolution of the senate if the opinion of the country was obtained by a general election.

The Right Hon. Sir G. TURNER:  
That might be penalising, a house which was in the right!

The Hon. S. FRASER:  
Every general election is in a sense a penal election. At any rate many members think it so.

The Hon. A.J. PEACOCK:  
The men who are "licked"?

The Hon. S. FRASER:  
Yes; the men who are "licked" think it doubly penal. If the government of the day set its heart upon a measure which was not in the interests of the
nation, and the senate refused to agree to that measure, I think that the voice of the people should be heard before the measure was thrust down their throats against their true judgment. Times without number I have seen it illustrated that a house of representatives would pass a measure at the dictation of the government. Every political man in the community and in this Convention knows that a powerful government, and sometimes a weak government, can get a house of representatives to pass a measure without any trouble whatever. I hope this Convention will see that the opinion of the country is obtained by a general election before this power is given to the house of representatives. There is no necessity for rushing this legislation. Cannot we go on in the same way as all other British countries have gone on from time immemorial, and they are all powerful cannot we wait six or even twelve months without any jeopardy to their living interests? Therefore, be moderate.

**Hon. MEMBERS:**

Hear, hear!

**The Hon. S. FRASER:**

I suppose I can sit down after those cheers?

**Hon. MEMBERS:**

No!

**The Hon. S. FRASER:**

I hope the Convention will in

house of representatives need not be in such hot haste that they will force a measure on the senate. Let the ordinary time elapse, it may be only three or six months, and let the opinion of the country be obtained with proper machinery and in a proper manner. If we are going to have federation, surely we ought to rise above the miserable feeling of forcing a constitution on this country which is not on the face of any statute in the British world.

**The Hon. Sir JOSEPH ABBOTT (New South Wales)[11.33]:**

I think I can make a suggestion which may possibly get over the whole of this difficulty, that is that we should pass this proposal, and not make it applicable to the representatives of Victoria in the senate.

**The Hon. J. HENRY (Tasmania)[11.35]:**

It may be supposed that an apology is necessary for a layman to address the Convention, but, perhaps, no apology is necessary on this occasion, seeing that the hon. and learned members of the Convention have spoken at length. I hope hon. members will bear with me while I state the reason why
I am opposed to any proposal for giving the house of representatives practically the power of dissolving the senate. I should like to premise this: that I am on the side of what is called liberal politics, and it is not from any obstinate, conservative point of view that I speak. We have started with this constitution-building, and we admit that the bicameral system is to be portion of the constitution. It occurs to me that there is a strong necessity to see that the second chamber shall be an effective brake on any hasty legislation which is one of the purposes for which I understand second chambers are instituted. The senate which we propose under this bill, as we know, will occupy the dual position of a state house, and also a house which, at the same time will perform the ordinary functions of a second chamber in general legislation. I start with this, and I know it is admitted by all reasonable democrats that a brake on democracy to prevent undue haste is absolutely necessary. The question that arises in my mind is this, whether the giving practically to a majority in the house of representatives the power to dissolve the senate in case of disputes will not impair the efficiency of that brake.

An Hon. MEMBER:

The house of representatives will dissolve itself at the same time!

The Hon. J. HENRY:

I am aware of that, and I will deal with that presently. We know from practical experience of politics that it has happened in the history of colonial legislation that a ministry has used the threat of a dissolution without any intention of executing it to intimidate weak-kneed or rebellious members. If we place this weapon in the hands of a majority, in the hands of the ministry of the day in the house of representatives, it will be exercised as a threat, not necessarily to be put into execution; but I fear it will be used by ministers in exceptional cases against the senate when a conflict arises, so that weak-kneed members of the Senate may be forced to yield, and consent to the passing of a law which is opposed to their convictions. That is what weighs with me in voting against any proposal to dissolve the senate. I, in common with other members, have agreed that a concession shall be made. Although we consider it unnecessary to make any provision for deadlocks, yet we have yielded to the arguments urged by so many hon. members that such a provision will facilitate the great cause in which we all have a common interest. While opposing a dissolution of the senate on any account unless stronger reasons are urged which will remove the doubts I have in my mind on the point. I have just raised, I am prepared to vote for the referendum of the hon. member Mr. Isaacs. I know that you, sir, have ruled that that referendum cannot be
discussed, and I have no wish to transgress that ruling; but I would like to say that it appears to me there is so little difference in effect between the proposal to dissolve both houses and the proposed referendum, that I think it is unnecessary to adopt both measures. The only difference that occurs to me is, that in the one case-that of the referendum you will have an expression of opinion by the whole of the states and of the people, whereas by a dissolution of both houses you will have a doubtful expression of opinion on account of the personal and other considerations which will weigh with the electors in returning members to the senate or house of representatives. For these reasons I shall feel it my duty to oppose any proposal to dissolve the senate. I would further add that, so far as I have studied this question, the great distinction between these two houses one important distinction, at any rate, is that although both are elected by the same franchise, in the case of the senate, the longer tenure of office and the provision that half the members shall retire every three years, secures continuity to that body. If you give the proposed power to dissolve the senate, you will impair or destroy that conservative element in the senate. For that reason I shall vote against any proposal to dissolve the senate.

Mr. SYMON (South Australia)[12.40]:

I desire to say in reference to the point my hon. friend has raised as to substituting, as I think he intends, a double referendum, or something of that kind, for a dissolution, instead of having a dissolution first, which is the intention of my hon. friends from Victoria, as one safeguard, superadding to that, if they can, some other provision, which I do not intend to discuss, he proposes that there should be one, and one only, and of the two he prefers the referendum. I regret that I am unable to accept the amendment suggested by my hon. friend, Mr. Glynn, because it really emasculates the proposition. It takes out of it the very element which I, at any rate, desire to have decided, and which I think hon. members of this Convention desire to have decided, namely, whether those of us who are in favour of a dissolution as one step-a first step, but, perhaps, not a final step-in this process, prefer that the dissolution of the two houses should be successive or concurrent. If we were to adopt the suggestion of my hon. friend it would interpose between the passing of the measure and the dissolution of the senate, not an appeal to the people by the house of representatives, but merely a second session. Now, that is not the point to which I have sought to direct attention by this amendment. I am deeply indebted to my hon. and learned friend, Mr. O'Connor, for the suggestion he has thrown out, and, more than that, for the exceedingly moderate and fair way in which he has put the view that he has commended to my
acceptance in connection with this amendment. I feel with him that, whether in substance or not, it has, at any rate, an appearance of conferring upon the senate a power seemingly co-ordinate with the power which would be vested in the house of representatives, and to that extent it would be an advantage, and I should like to see it secured. But at present it does not appear to me to be capable of being secured conjointly with the principle which I seek to affirm, of having a dissolution of the house of representatives before any dissolution of the Senate. I do not see how it can be fitted in, and of the two I should prefer to guard the senate against being dissolved at the dictation of a majority of the house of representatives rather than put it in the power of the senate to drive the house of representatives to the constituencies. I think of the two this is the better in the interests of the senate and the interests they are specially elected to serve.

The Hon. S. FRASER:
The clause might be recommitted with the view of assimilating the two!

Mr. SYMON:
No doubt. I want specially to point out that my only desire is to affirm the principle, to ask the Convention to decide whether they wish a concurrent dissolution of the senate and house of representatives, or whether they wish to have a successive dissolution of the two chambers.

The Hon. I.A. ISAACS:
That is the issue!

Mr. SYMON:
That is the issue, and it is from that point of view that, with the permission of the chamber, I have withdrawn those other provisions which simply entangle that issue. I think that is reasonable and clear. I do not see my right hon. friend, Mr. Reid, here-

An Hon. MEMBER:
He has gone, of course!

Mr. SYMON:
He has gone, and, therefore, all I will say is, that I did not take it as any particular argument against the principle embodied in this amendment that it should be characterised as an absurdity. I am not thin-skinned at all; I know that my right hon. friend is a master of picturesque and figurative expressions, and therefore I always feel that when he uses an epithet of that kind it is not intended really to convey argument but to embellish his discourse. That, I take it, is the only use to which the hon. members of this
Convention would be disposed to apply these highly-entertaining, but, so far as furthering the object we have in view is concerned, not very effective expressions. Upon the principle of successive, as opposed to concurrent dissolution, all I say is this, in one word, the house of representatives is supposed specially to represent the people of the nation. I think we may take that as admitted on all hands, even by those of us who desire to secure a strong and effective senate. If the house of representatives passes a measure, and sends it to the senate, and the senate rejects it, it in effect says, "You do not represent the people," so far as that particular measure is concerned, and the house of representatives then, if a dissolution is brought, about, go to the people with the view of ascertaining whether they do or do not represent the people, and coming back with the mandate of which the senate says they stand in need. That is the principle underlying every system of responsible government with which I am acquainted. It is the principle upon which the House of Lords in England rejected the Home Rule Bill. They said that in passing the Home Rule Bill the House of Commons did not represent the people. It was a plea, an effective plea, for delay, and having put in that effective plea for delay, a dissolution took place, and upon that dissolution, instead of the Gladstonian policy of Home Rule being affirmed, it was rejected, and the measure has never again seen the light. We are introducing into this federal system responsible government, and the underlying principle is that the house of representatives, representing the people, is amenable to some degree of criticism on the part of the house which imposes the check, and that it is within the constitutional consequences that it shall go to its constituents. If it comes back supported by the people, the senate must either give way or go to its constituents. That is the proper constitutional course, and it is upon these grounds, stated in one sentence, that I venture to say that the principle of successive dissolution, dissolution of the senate after a dissolution of the house of representatives, and with that interval, is the proper order in which these proceedings should take place. Therefore, on that ground, with a view to have the principle either affirmed or negatived at this stage, I propose to press the amendment.

The Hon. A. DOUGLAS (Tasmania): was understood to say that, in his opinion, neither a referendum nor a dissolution of the senate was required in this constitution. The Attorney-General in Victoria had alluded to the state of England at the time of the Reform Bill. The Reform Bill had no more to do with the question before the Convention than had the man in the moon. The Reform Bill was
introduced because the people were not properly represented in the House of Commons, and by the carrying of the measure, what was almost a revolution was prevented. But here the circumstances were entirely different. Under the commonwealth the house of representatives would be elected by the people, and the senate also would be elected by the people. We talked about the popular chamber; but, under this constitution, which would be the popular chamber? It would be that which would support the general views of the community. It did not follow that the house of representatives would be the popular chamber. We knew that ministers had certain ways of influencing constituencies, and that it was very easy for the house of representatives, through the ministry, or for the ministry through the house of representatives, to get up a cry against the other house. In this colony the Council was a nominee house; in Tasmania we were more liberal, but we were called conservatives. It was just the opposite. Any man might be elected to a seat in the Upper House, for no qualification was required, except that a man should be of full age and be a natural-born or naturalised subject of her Majesty. In New South Wales, however, they nominated their councillors, and yet they talked about their liberties. In our little colony we had true liberty in every shape and form; the only true ballot which existed throughout Australia was in Tasmania. In any colony on the main land you could trace out how a man voted, but in Tasmania you could never trace out how a man voted. Now, what did we want with all this machinery? Why not go to the people at once? If there was to be a referendum let there be one. He was perfectly indifferent what course they took. Why should you have all these absurd provisions for spending the money of the country? Why not vote on the point at once, and if the two houses did not agree, have a referendum and be done with it.

The Hon. A. DEAKIN:
Move an amendment in that direction!

The Hon. A. DOUGLAS:

The Right Hon. C.C. KINGSTON (South Australia)[12.54]:
It has been attempted to justify our refusal to send the senate to its constituents by some analogy between the senate and the House of Lords.

Mr. SYMON:
There is no analogy whatever!

The Right Hon. C.C. KINGSTON:
I am glad that my hon. and learned friend has to abandon the argument. The reason why the Lords are not sent to the constituencies the same as the House of Commons is because the House of Lords has no constituencies to be sent to.
The Right Hon. Sir E. BRADDON:
We all know that!

The Right Hon. C.C. KINGSTON:
I am very pleased that we agree in that matter. It is a very different thing when there are two houses claiming practically the same constituents, and a difficulty as to which is faithfully interpreting the desire of the constituencies. I submit that, under such circumstances, the proper course is to send both at the same time, and let the constituencies decide between them. The suggestion that it should be placed in the power of one house to refrain from subjecting itself to a popular verdict while sending the other to the constituencies is indefensible.

The Hon. Sir J.W. DOWNER (South Australia)[12.56]:
I was not in the Chamber this morning during the greater part of the speech of the Premier of New South Wales. I understand that there were some mutual explanations between himself and the Premier of Western Australia, which I, unfortunately, did not hear, and that in the course of them the Premier of New South Wales referred to my observations of yesterday as being decidedly insulting.

An Hon. MEMBER:
He did it very good humouredly, though!

The Hon. Sir J.W. DOWNER:
I am quite sure that no one in the Chamber could be more reluctant to insult anyone with whom he is on terms of personal friendship than myself. I am happy to say on this occasion that the Premier of New South Wales himself accepted the position that he was not addressing the Convention but the public outside, and in what I said I was only repeating what he had said. Unfortunately, I do not see the hon. member, Sir William Zeal, in his place. I managed to offend him by an interjection this morning.

An Hon. MEMBER:
He is not offended!

The Hon. Sir J.W. DOWNER:
We are working sole-heartedly on the same side that I really could not understand how on earth I could have offended him. On the question before the Committee, I will vote with my hon. and learned friend, Mr. Symon. My view is so strongly against the possibility of what they call a deadlock, against there being any necessity to provide this machinery, that I will vote for minimising any cure which may be set up for a disease which is not likely to exist to any appreciable extent. But, in the end, if we
are, and the house is resolved that we shall have some mode of sending the senators back to their constituents, I care not at all whether there is a joint dissolution or a separate dissolution.

An Hon. MEMBER:
The Hon. Sir J.W. DOWNER:
I care not whether the senate and the house of representatives are sent back together or separately. It will make no substantial difference in the result. We have no analogy. All the analogies which are set up are false analogies.

Mr. SYMON:
They are only illustrations they are not analogies!

The Hon. Sir J.W. DOWNER:
They are illustrations, not analogies. I am sure that my hon. and learned friend, if, unfortunately, his amendment should happen to be lost, would have no fear himself in cheerfully adopting the other proposal, which the Premiers of New South Wales and Victoria seem to favour, of having a joint dissolution.

Mr. SYMON:
I think this is better; that, is all!

The Hon. Sir J.W. DOWNER:
For my own part, I am indifferent if nothing is done. First of all I think that this provision as to a deadlock is absolutely unnecessary; but as the Committee has decided that it is necessary although I shall vote for minimising the operation of every proposal which is made, I care not whether there is a dissolution with the precautions surrounding it, which my hon. and learned friends seek to surround it with, or whether there be a joint dissolution in the way in which the representatives of the larger colonies seem to prefer.

Question-That the following words be inserted in the proposed new clause after the word "If" in line 1:-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-general should dissolve the house of representatives, and if, within six months after the said dissolution, the house of representatives by an absolute majority again pass the said proposed law in the same or substantially the same form as before, and with substantially the same objects, 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-general may dissolve the senate-put. The
Committee divided:
   Ayes, 27; noes, 22; majority, 5.
AYES.
Braddon, Sir E.N.C. Henning, A.H.
Briggs, H. Howe, J.H.
Brown, N.J. James, W.H.
Clarke, M.J. Leake, G.
Cockburn, Dr. A. Lee-Steere, Sir J.G.
Crowder, F.T. Lewis, N. E.
Dobson, H. McMillan, W.
Douglas, A. Moore, W.
Downer, Sir J.W. Solomon, V.L.
Forrest, Sir J. Venn, H.W.
Fraser, S. Walker, J.T.
Fysh, Sir P.O. Zeal, Sir W.A.
Grant, C.H. Teller,
Hassell, A.Y. Symon, J.H.
NOES.
Abbott, Sir Joseph Isaacs, I.A.
Barton, E. Kingston, C.C.
Berry, Sir G. Lyne, W.J.
Brunker, J.N. O'Connor, R.E.
Carruthers, J.H. Quick, Dr. J.
Deakin, A. Reid, G.H.
Glynn, P.M. Trenwith, W.A.
Gordon, J.H. Turner, Sir G.
Hackett, J.W. Wise, B.R.
Henry, J.
Higgins, H.B. Teller,
Holder, F.W. Peacock, A.J.
Question so resolved itself in the affirmative.
[The Chairman left the chair at 1.3 p.m. The Committee resumed at 2.3 p.m.]
Mr. LYNE (New South Wales)[2.3]:
   After the vote which was taken before we adjourned-
The Right Hon. Sir G. TURNER:
   I desire to move an addition to the words which have been agreed to!
Mr. LYNE:
   So do I. I am about to read the words the addition of which I propose to
move. Whatever may be the views of hon. members as to the result of the
vote which has been taken, there is no other course for them but to add to
the words which have been passed any other provision which they may
deem desirable. The addition which I intend to propose is one which I
think should be proposed at this juncture. I was quite prepared to vote in
favour of the double dissolution of the senate and house of representatives
concurrently.

The Hon. Sir J.W. Downer:
And stop there?

Mr. Lyne:
No, I would not stop there. I intend to move the addition of the following
words to the words which have been agreed to:—

And if, after a dissolution of both houses of the federal parliament, as
above provided, the subject matter of the contention that led to such dual
dissolution is again passed by the house of representatives, and again
rejected by the senate, such measure shall be referred to the electors of the
commonwealth by means of a national referendum, and, if resolved in the
affirmative, shall become law.

The Right Hon. Sir G. Turner:
I think my proposal would really come before that of the hon. gentleman!

Mr. Lyne:
I hardly think that any other proposal can come before mine. I intended
this morning, had there not been so much discussion upon the proposal of
Mr. Symon, to suggest to the leader of the Convention that it would be
more convenient to deal with this question of a mass or general referendum
before dealing with any of the intermediate proposals which may take its
place if it be rejected. My reason for wishing to do so was this: Take my
own case, and the case, perhaps, of other hon. members of the Convention.

I should be prepared, probably to vote for some intermediate course if I
found it impossible to obtain a mass or general referendum. But until such
time as a vote was taken upon that question, I should be compelled to vote
against any other proposal which might be submitted to take its place. So
that, in that case, my vote might be misconstrued, and I should be placed in
an unenviable and awkward position. That being so, it seems to me that the
proper time to discuss the question of a mass or general referendum is now.
If it be defeated, then I say, unhesitatingly, that, as far as I am personally
concerned, I may see my way clear to vote for some intermediate course. I
could not do that if I were put in the position of having to vote upon
everything until I had an opportunity to vote upon the question of a general
referendum. On the question of a general referendum, that is, the
desirableness of leaving the question to be decided by the people as a
whole, I think there is very little necessity for me to say much at the present time. I feel that, in a country like this, we cannot go far wrong if we leave to the verdict of the whole people any serious or important question. It would be a safeguard in the future against a combination by any state or states, or by any section, small or large, of the people for the purpose of carrying against a majority any proposal of a serious character which may be submitted to the general parliament, passed by the house of representatives, and rejected by the senate. When this Convention met in Adelaide, and when we discussed the question of equal state representation there, I felt that we could have well done without the proposition that I am making at the present time, and also any other safety measure for deadlocks, by providing for a dissolution of both houses, had this Convention agreed to proportional representation in the senate. That, to my mind, underlies the whole question. It would have been infinitely better, to my mind, to agree to proportional representation in the senate with a dissolution in case of deadlock, than to be driven into the position in which I am driven now, somewhat against my will, of endeavouring to alleviate the position in which we find ourselves at the present time by proposing a mass referendum. I recognise that there are occasions when a question referred to the people, no matter how serious its import, may not be thoroughly understood by the people when voted upon. I recognise that that may be the case and for that reason I should be prepared to have proportional representation of the states in the senate instead of any referendum at all. I think it would have been better, as things have turned out, to have let the Convention know in Adelaide - those of us who desired some form of referendum or proportional representation - what the feeling of the people of this colony was upon this question. I took that course as far as I was concerned, and I feel in myself that I took the right course. I regret that the speech delivered yesterday by the right hon. the Premier of this colony or at any rate the substance of it, was not delivered to the Convention in Adelaide at an early stage of our proceedings, because I think the hon. gentleman would have been placed in a better position than he is placed in now by the reversal of the attitude he assumed on the first occasion. As I have said, we cannot lose sight of the fact that this question underlies the constitution of the senate. I do not think it was a right or wise thing for the right hon. Premier to lead the Convention to believe that the people of this colony were against proportional representation and in favour of equal representation, and in the last few days of this Convention, almost on the last day, to find the right hon. gentleman absolutely turning from the course he adopted when in Adelaide. I think there is no necessity
for me to detain the Convention at any length upon this proposal. I recognise that it is one to which probably the smaller states will not, unfortunately for us, agree. But I do recognise that, unless we have some such provision as I am submitting now being forced into the position I am I will not say that the bill will not be accepted by the people of New South Wales, but its acceptance will be retarded.

An Hon. MEMBER:
How does the hon. member know that?

Mr. LYNE:
There is no overlooking the fact it must be patent to every member of the Convention that this question underlies the whole ultimate power of the senate, and leaves to the people as a whole, not as each state, but as a whole, the right to determine absolutely upon any particular question, after the process provided for in the hon. member, Mr. Symon's, clause. There is on every strong reason why I favour this course now, and it is this: If you have a dissolution of the senate and of the house of representatives, each house will go back to each state on its original basis. The members of the house of representatives of course go back to their separate constituencies. The members of the senate go back and ask the approval, not of the whole people, but of a section of the people as constituted in a state, and I think that the effect of that would be to make the senate very much stronger than it would be without a dissolution, because if I were a member of the senate, and took a certain course on a particular bill which was assented to by the house of representatives, and if I went before my constituents in a state, to ask their approval of my vote, and their approval was given to the course that I had taken, I should simply vote again as I had voted before; other hon. members might do the same thing, and, instead of the deadlock being done away with, it would be emphasised, and that would make the senate stronger to enforce its views against the will of the representative chamber. It is only after that point has been reached that I ask the Convention to agree to some further method of referring any particular matter that may have been dealt with up to that stage, and to ask for the vote of the people as a whole not in states as to whether that should or should not become the law of the land. I do not intend to occupy any undue time in debating this question. After the long, debate that has taken place, and when certain hon. members are anxious to close the proceedings of the Convention, if possible, within the next day or two, I do not think that this is a time when we should create delay. I simply submit this matter for the consideration of the Committee, hoping that it will meet with the approval of the majority of hon. members, which will assist me to a very large extent to overcome
my objection to the bill as it is at the present time, with equal state representation, and will assist me to carry the bill to the constituencies in this colony, and ask them to give an affirmative vote to accept it as the constitution for the future commonwealth of Australasia.

The Right Hon. G.H. Reid (New South Wales)[2.18]:

I do not propose at present to discuss the proposal which has been submitted by the hon. member, Mr. Lyne; but I should like to correct a misapprehension into which he has fallen in reference to my action in this matter. The hon. member is entirely mistaken in saying that, by anything which I said yesterday, I have departed from the attitude which I took up at Adelaide or at any other place. My attitude all through has been perfectly consistent. I have seen that it was impossible to secure any federation without conceding this principle, or whatever it may be called, of equal representation in the senate. That has been recognised by every person who has taken any interest in the subject during the last ten years, and I, recognising the logic of necessity, I saw at once if there was to be any federation that I must give way on that, and having given way I have not made any bargain about it. I have given away absolutely, not only now, but always; and, in speaking to the people of this colony and in my published address, I explicitly stated that I felt we must yield on that point; but I invariably connected with that most grave concession, as I take it to be, the fact that in other parts of the constitution there must be something which would moderate the force of that concession. I have invariably taken up that position.

An Hon. MEMBER:  
Or destroy it!

The Right Hon. G.H. Reid:

I do not wish to do that exactly; but I do not wish the legitimate force of numbers to be destroyed. That is the difference between the hon. member and myself. The hon. member and many others a majority, I can see, in this Chamber are determined that, at all hazards, the power of the smaller states, the power of the smaller number of people over the larger number of people shall be made absolutely sure. That is the rock from which a lot of danger will come. I have never asked for quite so much as that in the interests of the larger populations; but unless my hon. friends are prepared to moderate their demands for certainty for themselves, and do not give us even the pleasures of uncertainty as to our position, I am afraid that I shall have to address the Convention even more emphatically than I did yesterday.
The Right Hon. Sir G. TURNER (Victoria)[2.21]:

With a large number of the observations made by the hon. member, Mr. Lyne, I thoroughly agree; and if his amendment goes to a division I feel, though with very great reluctance, bound to say that, somewhat against my own feelings and convictions, I shall be compelled to vote for it, after the vote which has just been given. I feel that, by the action of the representatives of the smaller states, I have been placed in a false position; I feel it very difficult to get out of. If I am compelled to vote for this amendment, I shall be compelled to take a step that I strongly feel is not altogether in the interests of the federal movement; yet, to my mind, it is the only step that can offer us any means of escape from the difficult position in which we have been placed. I want, if I possibly can, to avoid that, and I was anxious to move an amendment in the first instance. The only way in which I can now bring the matter before the Convention is by moving an amendment on that of my hon. friend. In the first instance, we, who represented what we considered to be the feelings of the people of Victoria, at the Adelaide Convention desired to have a referendum direct a referendum of some sort without any double dissolution without any dissolution at all. We thought we were carrying out the wishes of our people by asking that, if any dispute arose between the two houses, and they unfortunately could not settle that dispute, the matter should go directly to the people for their decision.

An Hon. MEMBER:

And not the states!

The Right Hon. Sir G. TURNER:

We were prepared to accept a referendum to the people and the states; although, if I interpret rightly what the people of Victoria would desire, they would ask for the national referendum; but, feeling that in that they were going further than the small states were likely to go, we were willing, as we always have been-and I especially have been to concede as much as we possibly could to the smaller states for the purpose of gaining the larger object; and I, from observations made to me by some of my colleagues, have come very strongly to the conclusion that, holding a leading position in the Colony of Victoria,

I have from the first taken a wrong course that I have conceded, honestly conceded, too much to this Convention.

The Right Hon. G.H. REID:

You do not get much thanks for your concession, can see!

The Right Hon. Sir G. TURNER:
It would have been far better if I had kept back my own personal desires, and asked for more if I had haggled and endeavoured to make bargains. But that is not my nature, either here or elsewhere. I honestly put forward what I think ought to be carried. That being our view that we did not want to have anything to do with a dissolution, either joint or separate, but wanted simply a referendum of some sort we, in order to meet the wishes of other representatives here, and, as I said the other night, if possible to get a unanimous or nearly unanimous vote on this great difficulty we, against our own convictions, were prepared to postpone the referendum until after the question had been decided by a double dissolution. But we are not prepared to postpone the referendum until after the question has been decided by a penal dissolution of one house, and afterwards by a dissolution of the other chamber.

Mr. SOLOMON:

The dissolution under this amendment is not necessarily penal!

The Hon. E. BARTON:

Not necessarily; but it generally will be!

The Right Hon. Sir G. TURNER:

Then we do not want it at all.

Mr. SYMON:

It is substantially a general election!

The Right Hon. Sir G. TURNER:

Why encumber the bill with it if that is all it means? I take it that if the government of the day were within a few months of the expiration of parliament, they would not rush for a penal dissolution. The object of the provision is that if disputes arise in the early life of a parliament, there will be some means of going direct to the people and having the question settled at once, without waiting two and a half years for parliament to expire. It can surely never be intended that this dissolution is only to come into operation on the expiration of parliament by effluxion of time. That would be too absurd, and I am sure that my hon. and learned friend never intended such a thing. I was prepared, against what I believed to be the strongly expressed desire of the people of Victoria, and against the very strong protest of my hon. colleagues, expressed by their voices if not by their votes, to concede a great deal to the smaller states; because I know that, while I shall find it difficult to induce the people of Victoria to accept the various concessions which have been made, the hon. gentlemen who represent the smaller colonies will find it equally difficult to induce their people to accept the bill, and I wanted to make the trouble as little as possible for both of us. I am surprised at the result of the vote which has taken place. I cannot say that it was a wrong and improper one, because it
was the vote of the majority; but, having listened to the speeches which were made here today, and on former occasions, I was perfectly certain that a very large majority were prepared to agree to what I believe to be a reasonable and proper course, the double dissolution. While I am surprised and sorry at the result of today's vote, I am more sorry that the result of the division was brought about by a combination of the representatives of the smaller states.

Mr. SYMON:

The opposite vote was a combination of the larger states!

The Hon. A. DOUGLAS:

What does the right hon. member call a combination?

The Right Hon. Sir G. TURNER:

I do not mean anything improper.

The Hon. J.H. HOWE:

Then, why say it?

The Right Hon. Sir G. TURNER:

If the word has a meaning which is improper, I will not use it. I will say, instead,

that this result has been brought about by an unfortunate joining of the votes of the representatives of the smaller states.

The Hon. F.W. HOLDER:

Four South Australian representatives voted with the right hon. member!

The Right Hon. Sir G. TURNER:

What will be the result of this division in the minds of the people of the larger colonies? They will say that what will happen today will happen when we have a senate in which the states are equally represented, and that they are not prepared to trust themselves to a body which will have the great powers which we have given to it, and will not be subject to dissolution until after the popular assembly has gone through all the pains and penalties of that process. That will be the view of a large number of our people. I feel that the plan proposed is so unfair that I am prepared to adopt any other plan. I will, if I cannot carry the amendment which I intend to propose, vote for the proposal of my hon. friend, though I do not want to do so if I can avoid it. I want to get back to the position in which I stood before I made a great concession by agreeing to a double dissolution before a referendum. I desire that there should be the two modes. The mode which has been carried will, I presume, be insisted upon by the victorious party. It provides for two separate dissolutions. Of course, if they agreed to a double dissolution, the whole matter would be settled. I must assume, unless I hear to the contrary, that hon. members are prepared to stand by
the victory which they have just gained. Then I want, in justice to myself and to the colony of Victoria, to get back to the position in which we were at Adelaide, and I therefore desire to strike out the first word of my hon. friend's proposal in order to insert the words

Provided that in lieu of dissolving the house of representatives, the proposed law should be referred to the direct determination of the people, as herein after provided.

While I was prepared to accept a double dissolution with the referendum added, if it should ever become necessary, though I believe that it never would be necessary, I cannot agree to, the proposal, which has been carried, which is that first of all we should punish the house of representatives, and that the, senate, which it is to be supposed would do the blocking, should, stand quietly by and force the members of the house of representatives into heavy expense and loss. Since I cannot get what I consider a fair and just compromise a double dissolution-I must fall back upon, our original proposal, and with a view to getting it, with a view to ascertaining whether my hon. friends from the smaller states are prepared to help us out of this difficulty, I suggest, in lieu of this proposal, which we look upon as something we, ought not to accept, the simple expedient of going direct to the people.

The Hon. H. DOBSON:

Does the right hon. member suggest that by way of alternative?

Mr. SYMON:

Where would the right hon. member's amendment come in?

The Right Hon. Sir G. TURNER:

The hon. and, learned, member, Mr. Symon, has carried an amendment which provides that if the senate rejects a measure the house of representatives may be dissolved, and if, after the house of representatives has come back victorious the senate will not pass the measure, the senate may be dissolved. Now, why, should we have this turmoil and trouble going on month after month-why should we have all the trouble and bother of electing the house of representatives if the senate in not to be bound to accept the decision of the house of representatives after its return? I could understand the hon. and learned member if he said that the house of representatives should go to the people, and, if they came back with a majority, the senate should be compelled to give way, as is the constitutional principle in England and in the colonies.

An Hon. MEMBER:

You might as well wipe out the senate in that case!
The Right Hon. Sir G. TURNER:

No. In the proposal which we have carried, you ultimately wipe out the senate if they are wrong. You would only wipe them out under my suggestion if the people said that the house of representatives was right and the senate wrong. I do not want to have the turmoil and trouble which the proposal of the hon. and learned member would cause. Month after month must go by, and the whole commonwealth be thrown into a state of disorder when these disputes occur. Twelve months will not cover the period of disorder.

The Hon. J.H. HOWE:

It would only be in a very extreme case that these disputes would occur!

The Right Hon. Sir G. TURNER:

So much the more reason why my hon. and learned friend should consider the very reasonable appeal which I made the other night. When these disputes do arise, we should have twelve months turmoil, trouble, and delay, besides the enormous expense of the elections. I feel the seriousness of the position in which we stand; therefore, in fairness to ourselves, I want to get back to the original position. Having held out the olive branch which I believed would be accepted, and having, failed by a considerable majority, I cannot conscientiously agree to the decision which has been come to. I now want the smaller states to put us back in the position in which we were before. My amendment is shortly this: that where a bill has been rejected in the manner described by the amendment, in lieu of dissolving the house of representatives and sending them to the people, and then following that up with the other dissolution, there shall be a choice, an option of appealing to a referendum.

An Hon. MEMBER:

What referendum?

The Right Hon. Sir G. TURNER:

I am not going to say what sort of referendum.

An Hon. MEMBER:

The dual referendum!

The Right Hon. Sir G. TURNER:

I am perfectly prepared, personally, to accept the double referendum.

The Hon. E. BARTON:

Hon. members will not know what they are voting for unless you put in the dual, or the national referendum!

The Right Hon. Sir G. TURNER:

I have left that open.
Mr. LYNE:

The Right Hon. Sir G. TURNER:

The hon. member's proposal would shut out mine altogether. It assumes that the two dissolutions are to take place. I consider that is hopeless.

Mr. LYNE:

Does the hon. member's amendment propose to alter the decision which we have arrived at?

The Right Hon. Sir G. TURNER:

No, I propose to give an additional means of getting out of the difficulty— an alternative leaving it to the choice of the executive of the day to adopt one course or the other. The executive of the day will be in a position to say, "We feel so sure, about this that we are prepared to allow the house of representatives to go to the country," or they may say, "We will not put the country to the enormous expense of a dissolution, and we are not going to subject the members of the house of representatives to a penal dissolution when we believe them to be right. We will adopt the principle of the referendum, go direct to the people, and get their opinion."

The Hon. J.H. HOWE:

We should not object to that in the least!

The Right Hon. Sir G. TURNER:

I have left it in this form so that the matter can be quietly and calmly discussed, I hope without any feeling.

Mr. MCMILLAN:

What will the hon. member accept himself?

An Hon. MEMBER:

The hon. gentleman told the Convention the other night, but it was not accepted!

The Right Hon. Sir G. TURNER:

I am not going back on what I said the other night. If I cannot get a double dissolution I am quite prepared to wipe it off the slate altogether. If I cannot get a double dissolution I desire to wipe out the dissolution altogether, and I am prepared to take the referendum straight; but whether my colleagues are prepared to do that, or whether a majority of the Convention are, is another question. I want to have the question as fairly discussed as possible, therefore I have not attempted to cloud it with the other question of what sort of referendum we are to have. I am leaving that matter and my own mind open.
Mr. SYMON:
It will not clear it if the hon. member leaves that open!

The Right Hon. Sir G. TURNER:
Yes it will, in this way: If I now bring forward a hard and fast proposal, hon. members will have to vote for and against it, whereas, if I leave it open, we shall be able to discuss the matter fully, and ascertain whether we are prepared to accept either one or other class of referendum.

The Hon. E. BARTON:
The difficulty is that hon. members will not be able to understand the consequence of their vote!

The Right Hon. Sir G. TURNER:
it will be still open to them to come to a decision on that point. They will be perfectly prepared to say, "We are ready to give an alternative; then, when it comes to the point of saying what the form of referendum is to be, those who want the mass referendum will be in a position to vote for that; those who want the more limited referendum will be in a position to vote for it, and the majority will decide. I am going to put the amendment in this form: In lieu of a dissolution, such as is proposed, the question will be referred to the direct determination of the people "as hereinafter provided."

Mr. MCMILLAN:
Would the direct determination of the people preclude the other?

The Right Hon. Sir G. TURNER:
No, the direct determination of the people "as hereinafter provided." That shows we mean to do something later on. Subject to the correction of the Chairman, I hold that it will leave it perfectly open to propose subsequently a national referendum or a dual referendum.

Mr. LYNE:
Does not your amendment in effect reverse the vote we have arrived at?

Hon. MEMBERS:
No!

The Right Hon. Sir G. TURNER:
We have already provided that there shall be one means of settling the deadlock. There is nothing in the world to prevent us providing two means. All we have said is that there is one mode of doing it; but we are not bound to stop there. I shall not detain the Committee any further, I feel we are in a somewhat false position. I am anxious to get out of that difficulty and yet stand loyally by what I have promised to the smaller states.

The CHAIRMAN:
The question is as follows: The Hon. member, Mr. Lyne, has moved to
insert certain words. An amendment has been moved to leave out the word "if" in those words: The question is that the word "if" be left out in the proposed addition to the proposed paragraph of the proposed new clause, with the view of inserting some other words.

Mr. SOLOMON (South Australia)[2.44]:

I have refrained during this lengthy debate from taking any part in it, because I recognise that, in this matter, which is of great importance to the federal interest, the opinions of those who have made a close study during their lifetime of constitutional law were of much more value to this Convention than my opinions could be. But after weighing carefully the opinions moments ago by the Premier of New South Wales that, when he voted for equal representation in the senate, or rather when he gave way on that question, he did so because he saw that proportional representation would mean a death-blow to the federal scheme, seems to me to justify all that the representatives of the smaller states have said in reference to the desire of some of these hon. members on the one hand to give a sham equality in the senate, a sham power of no value whatever, and on the other hand, by side-issues such as this issue to take away the privileges they otherwise would give. This appears to me to be the boiling down of the opinions of the gentlemen who have taken such a prominent part in this debate.

Mr. WISE:

Why did the hon. member play into the hands of the Premier of New South Wales by voting against us the last time?

Mr. SOLOMON:

I, unfortunately, did not vote on the last occasion.

Mr. WISE:

I thought you said you voted with the majority?

Mr. SOLOMON:

I did in the last division; but when the Convention met in Adelaide, I did not have the opportunity of either voting or taking part in a debate on this particular question.

Mr. WISE:

I was referring to the last division!

Mr. SOLOMON:

I do not think that in the last division I played into the hands of the Premier of New South Wales. On the contrary, the effect of that division has been to bring the Premier of Victoria to his feet, to tell us that, rather than sacrifice federation on this point, he is prepared to do away with this complicated question of a dissolution of each house, and to accept a
referendum not a mass or national referendum, but a referendum such as most hon. members I think the majority will agree to a double referendum, a referendum to the people and to the states; a referendum in which a grave and important issue, which will be of interest to the whole of federated Australia, will not be decided by the numerical strength of one or two great colonies, parties to the federation, but will be decided both by the numerical majority, and by the majority of the states. If the right hon. member, Sir George Turner, and some of his colleagues, and a majority of this Convention, will agree to accept such a referendum, they will at once do away with all the difficulties of the smaller states in this matter. The Premier of Victoria expressed regret that he had been so candid with the Convention in regard to the concessions, as he was pleased to term them, that were made to the demands of the smaller states. For my part, I am pleased to acknowledge the candour of the right hon. gentleman. I wish that the same candour had been imitated by many other hon. members of this Convention. He has nothing whatever to regret in the action he has taken, or in the candid way in which he has given us his views. So much so, that I feel sure that, after his speech, a majority of the Convention will now be prepared to trust to the integrity of the right hon. member and those of his colleagues who are with him; and, even though we leave a loophole by admitting the portion of the amendment he has now proposed, without knowing what is to follow, we are prepared to accept his assurance that, as far as he is concerned, he is willing to concede the dual referendum. I hope hon. members, who are discussing this question now, will see the importance of recognising that this old question of state rights is at the bottom of the whole thing once again. We have been fighting this thing over day after day, fighting it over with all the cleverness, and with all the diplomatic dodges that could possibly be brought to bear, and we are now face to face once again with this question of whether the numerical majority of the more largely populated states is to rule in this federation, or whether the smaller states are to have some degree of protection. This seems to me to be coming back to the whole crux of the question again. It is absolutely useless to grant the smaller states equal representation in the senate to grant it with a great deal of "hi-falutin" about the concession which is made, with a great deal of condescension that I think is utterly unnecessary because, after all, equal representation in the senate does not amount to a very great deal, when we, have an overwhelming majority from two of the larger states in the popular chamber, the house of representatives a house which commands the whole of the finances of the federation, and which virtually commands the whole
of the government. It is all very well to compare the position we are taking up here with the position in America. We have had the American Constitution, and the Swiss Constitution, and slabs of the Canadian Constitution brulded at us from all sides ad nauseam. We have had nothing else but this American Constitution from all sides of the House, and to bolster up every kind of opinion, and I have come to the conclusion that the American Constitution is such a many-sided one that it can be used to back up every argument on every possible side of the federation question. I am rather inclined to believe, with one hon. member whom I heard speak before, that it would have been a very good thing if the statistics of the various colonies had been burnt before we commenced this Convention, and if, also, we could have arranged for an exploration party to go through all the various libraries of the colonies, and burn all the works of reference on the American, Canadian, and Swiss constitutions. We should at least have been saved some hours of very eloquent dissertation, accompanied by enormous extracts from the works of writers who did not write with a knowledge of our present circumstances, or our present desires, but who wrote for an altogether different period, and different circumstances. I am inclined to think that the amendment of my hon. colleague, Mr. Symon, has placed certain members representing the larger colonies in a difficult position. Coming to this Federal Convention with an earnest desire, not to sentimentally profess to give and take, not to profess that I intend to meet every one in a spirit of conciliation, but with an earnest desire to show that I do feel that federal spirit, and that I do desire to meet the necessities of the representatives of other colonies than my own, I feel very much inclined to agree with the Premier of Victoria, that in passing the amendment of my hon. and learned friend, Mr. Symon, we have perhaps placed a grave difficulty in the way of some of the members of the Convention. Feeling this, and without being able to bind the Premier of Victoria to any definite declaration as to the policy of his colleagues, I am satisfied to take his word, in view of the candid manner in which he has treated the Convention right through, the straightforward speech he made the day before yesterday on this question, a speech which—well, I do not wish to make comparisons but a speech which will compare favourably for federal spirit, for straight forward businesslike declaration of opinion, with any speech that has been made since the Convention met I say, in view of all that, I am inclined to agree with the Premier of Victoria, and to give an opportunity to the Convention to reconsider the decision that has been arrived at with reference to the amendment of the hon. and learned member, Mr. Symon, with a view, not
for one instant of putting into this constitution a national or mass referendum, because that I shall oppose tooth and nail right through, as inimical in the highest degree to the best interests of the smaller states, but with a view of giving an opportunity of proposing something which may be less unacceptable, which may be less injurious in the opinion of the delegates who represent the larger colonies.

The Hon. E. BARTON (New South Wales)[2.55]:

I should like to put it to the Convention whether either the proposal of the hon. member, Mr. Lyne, or the proposal of my right hon. friend, Sir George Turner, should be accepted at the present time. In speaking to the question of conflict between the two houses not long ago, I stated that I declined to hold myself bound to any course at that stage. In what I shall do now I shall in the same way refuse to hold myself bound to a final decision, because, whatever anybody else may say, I conceive it to be our duty not to lend ourselves to any course at this stage which might mean a disastrous finality. I have been, I believe, suspected, since I spoke the other night, of a leaning towards the referendum. I have always been opposed to the referendum as an engine of government, and I am in principle opposed to the referendum now, but I decline to say that I shall put myself in such a position, or that any one of us should put himself in such a position as to say that he will sacrifice this constitution rather than submit to a referendum of some sort. This is the point where there should be an approximation of views, where the value of the union of Australia can be placed in the balance, and the question of the danger of a certain instrument of government can be put on the other side. Those of us who believe that, without any formal provision for deadlocks, the common-sense of the people and their representatives will find them a way out of deadlocks, can also believe that if we make a concession by putting on paper a provision for deadlocks, still the governing sense of the community will be the real power, whatever you may place in your constitution. I am a little opposed to the amendment of my right hon. friend, Sir George Turner, because he puts it as an alternative to a dissolution. Before I go further, I should like to intimate the intention I hold with regard to the vote which has been given with respect to the consecutive dissolutions of the two houses. Having spoken the other night in favour of a double dissolution, I wish it to be understood that I meant a simultaneous dissolution, and that I find myself quite unable to agree to a proposal for consecutive dissolutions, inasmuch as such a proposal involves what seems to me to be the penalising of one house for a disagreement to which both are parties. I object to consecutive dissolutions I am not canvassing the recent vote; but only explaining my intention for another reason. I believe
that they will not tend any more to an absolute solution of the question than will a concurrent dissolution; that they will repeat the friction and the turmoil at two separate times, and the result of that will be to make the process much more expensive, and the solution not any nearer.

The Hon. S. FRASER:

A double dissolution might result in the same effect!

The Hon. E. BARTON:

A double dissolution might result in the differences of the parties being still repeated, so might consecutive dissolutions, and I see no difference in the probabilities in one case and the other. I will make it my duty, when the proper time comes, to ask the Convention to reconsider the vote which has been given, and to ask the Committee whether they will not consent, as they are in favour of consecutive dissolutions of both houses, to make the dissolution simultaneous.

The Right Hon. Sir G. TURNER:

Would it not be possible to have that retested today?

The Hon. E. BARTON:

If by any means it is possible, I shall be very glad to consider that proposition favourably; but I would remind my right hon. friend that a little lapse of time for thought, a little time for reconsideration, is more likely to bring about a different result than to test the question again in hot blood. I have mentioned the feeling I hold about the double dissolution because I wish to say that I have not so solid an objection to the referendum—the dual referendum if it is preceded by that acknowledgment of the principle of responsibility which is involved in a double and simultaneous dissolution, as I should have if it were offered in the first resort or as a mere alternative.

The Right Hon. Sir G. TURNER:

One of the reasons which induced me to agree to it is the very point the hon. and learned member has put!

The Hon. E. BARTON:

As far as I am at present advised, I am strongly against placing in the hands of the government the resort to the referendum, or the resort to the dissolution the power to accept the responsibility of their position when it is altogether safe to them to accept it, and the power to escape from the responsibility of their position when they wish to run away. That is a proposition which I cannot entertain, and I am afraid that that is the proposal involved in the amendment of my right hon. friend. I am, on the other hand, at the present stage, against the proposal of my hon. friend, Mr. Lyne, because, so far as I can see, there has not been sufficient argument adduced to convince me that the general referendum is a fair solution of
difficulties in which state interests are involved. I am at one with my hon. friend in his proposal that the resort to some form of referendum should not take place until after a double dissolution has been tried. To that extent the hon. member, Mr. Lyne, and I are at one; but I am seriously troubled about the justice of a general referendum what is called a national referendum in matters where state interests are involved. As I put it before, if you have two parties to a dispute, one of them being the people at large and the other being the states, who, of course, have the people of those states behind them-if you put it into the hands of one of the parties to settle the question, you are appealing to a side which is entirely interested, and it is there indeed that the phrase used by my right hon. friend, Mr. Reid, this morning is truly applicable. That is really a case of "heads I win, and tails you I"

Mr. LYNE:
How will you get finality unless you get a national referendum?

The Hon. E. BARTON:
My answer to that is: how will you get justice if you have it?

Mr. HIGGINS:
No man can serve two masters!

The Hon. E. BARTON:
The finality in all constitutions, I have always pointed out, is furnished by the sense of the people, and it is furnished by the action of that sense in adopting ordinary constitutional methods of government. If we require to go further and I for one at once concede that public opinion does require us to go

further-if I am to make that further step, I must consider, and I am bound to consider, whether the step I am asked to take is just. I cannot come to the conclusion, at present, at any rate, that the national referendum will be a just solution of certain of these affairs. I admit its effectiveness. It is the most effectual thing in the world. It is as effective as the guillotine but that is no argument that the guillotine was always just. The Premier of New South Wales pointed out yesterday that he would be very glad to submit to have the matters which gave rise to questions of state interest so defined in the constitution that, with respect to them, the dual referendum would obtain, whilst with respect to all others which might be regarded as purely national interests, the general or national referendum should obtain.

The Right Hon. G.H. REID:
"State rights" was the expression I used!

The Hon. E. BARTON:
I will concede that state rights was the expression that my right hon. friend used. I used the expression "state interests" because I can see that
what is at the root of this discussion is not merely state rights, but also state interests. No one knows better than the right hon. gentleman the eloquence of whose speech, of course, I admired that it is exceedingly hard to define what is a national interest purely, and what is a state interest purely. We may define what are state rights that is to say, what are the rights of legislation of states. We may leave undefined altogether what are national interests; but we shall not escape from this difficulty that, in carrying out the legislation of a federal commonwealth, there must and will be repeated instances in which the decision of questions remitted to the commonwealth must gravely and perhaps vitally affect state interests. That is the one point from which we cannot escape, and we must, in coming to our conclusion, at any rate, hold this position in view if we have ultimately, under some circumstances which I cannot yet foresee, a national referendum, let us recollect that we may decide that a great public interest requires finality, and yet confess to ourselves that, for the sake of finality, we may be committing an injustice, although we may suppose the one end to be so vital that its vast importance excuses the injustice of the means.

The Hon. Sir J.W. DOWNER:
That is a dangerous position!

The Hon. E. BARTON:
That is, as the hon. gentleman has suggested, a dangerous position; I admit it; but there are very few vital positions connected with the decisions upon questions of this kind. Upon the manufacture, because it is a manufacture, of a constitution for a federal commonwealth, there are very few vital points which do not involve some danger. Do not imagine for a moment that I am speaking now in favour of the general referendum. What I say is that if it becomes necessary in the end to have resort to that referendum, properly guarded, it will only be, I suppose, because we come to the conclusion that the necessities of federation, the necessities of our position, are more binding upon us than accurate justice in every respect. In the meantime, until I have that proof, I shall be an objector to the general referendum. When the Premier of New South Wales spoke yesterday, he referred to nearly all the powers of legislation embodied in clause 52 of the bill, with the view of pointing out that it would be a desirable thing if those matters in which state rights were involved could be indicated so that upon them we might consent to a dual referendum, whilst upon those matters which were purely national interests we might enforce the claim of a general referendum. The difficulty of this question, as I said, must be manifest to the right hon. gentleman, for the mere reason that those definitions are nearly impossible,
for the very reason that the variety of circumstances and affairs which arise in a federal commonwealth render it impossible for you to predict with reference to a particular power of legislation whether or not the interests of one or all the states will not be involved. If I were challenged to name some of the powers with reference to which the power of a general or a dual referendum might be conceded without any consequences, I could name something like thirty powers in regard to which you might, if you were not a sensible man, say, "Yes, I will have a general referendum;" or, "yes, I will have a dual referendum"; but as to which, if you are a sensible man, you will say, "If I consent to any sort of referendum in matters of this kind I, shall be a fool." That is the position of a number of the powers mentioned in the 52nd clause. Let me refer hon. gentlemen to questions of this sort. Who wants a national or a dual referendum as to the question of posts and telegraphs? Who wants either sort of referendum as to the purchase by the government of shells and gun powder-munitions of war? Who wants a national or dual referendum about the question whether our Astronomer Royal should have a station on Mount Kosciusko for astronomical or meteorological observations? Who wants a double or single referendum as to questions of navigation, shipping, ocean beacons, quarantine, census and statistics, weights and measures, patents, and the incorporation of banks? Who wants a national or dual referendum as to these: Bankruptcy and insolvency, copyrights and patents of inventions, naturalisation and aliens that is the naturalisation of aliens, parental rights, and the custody and guardianship of infants? Is it necessary to go on to "the service and execution throughout the commonwealth of the civil and criminal process, the influx of criminals, and external affairs and treaties" Of course these are purely national matters, and I think this is where My Right Hon. friend stopped short. Who tells us that we are to take-is it a national or is it a dual referendum about this: 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. Do we want there a dual or national referendum? Do we want a dual or national referendum as to the control of railways with respect to transport for the military purposes of the commonwealth? I am sure the right hon. gentleman will concede to me that, in nearly all, if not all, the sub-clauses to which I have referred, it would almost be a farce to take a referendum of any kind, simply because we cannot imagine a state of political friction which would divide the commonwealth through its two legislative chambers into irreconcilable parties as to any questions of this sort. What is left?

The Right Hon. G.H. Reid:
That is it, come to the point!

The Hon. E. BARTON:

I am coming to the point; I think I generally do. Then we will concede, as it does not much matter, that the right hon. gentleman is prepared to give us that is to say, the people of the commonwealth—a dual referendum with respect to any one of these matters I have spoken of, as to which I do not think any one wants a referendum of any sort.

The Right Hon. G.H. REID:

I have not said a word about the dual referendum in praise or blame!

The Hon. E. BARTON:

I am not saying that my right hon. friend praised or blamed the dual referendum, but he asked for a definition. Going through all these sub-clauses, he asked for a definition so that we might get to the matters in which state rights are concerned, and give to those a dual referendum, whilst he would reserve the matters in which national rights are alone concerned, and give to them a general referendum. I put out of hand a number of these sub-clauses, and I come to others:

The regulation of trade and commerce with other countries, and among the several states.

Does anyone tell me that the states are not interested in that? "Customs and excise and bounties." Who is it who contends that the states are not interested in that? "Raising money by any other mode or system of taxation," "Borrowing money on the public credit of the commonwealth," "Military and naval defence, "Immigration and emigration," the whole question of alien and coloured labour, the question of the taking over by the commonwealth with the consent of a state, of the railways of that state. That is a question upon which it will be admitted great disturbance or jealousy might arise on the part of the other states who might consider that the taking over by the commonwealth of the railway system of one state, while the railway systems of the other states were left alone, might create a situation in which they had every right to have a say. Then, as I am reminded by my hon. and learned friend, Mr. Isaacs, there is the public debt let us look at these things in a reasonable manner. Let us consider now the second part of these sub-clauses.

An Hon. MEMBER:

Do you think you will get an intelligent answer from a national referendum on both of these classes of subjects?

The Hon. E. BARTON:

I will give an answer to that question directly.
The Right Hon. G.H. REID:
Will a state referendum give an intelligent answer?
The Hon. E. BARTON:
If we are going to quarrel to this extent that one-half of us think that a national referendum is of no use, while the other half think that a state referendum is no good, then we have very much of a quarrel in which the old adage of rubbing it all out and beginning again would have application.
The Right Hon. G.H. REID:
Hear, hear!
The Hon. E. BARTON:
But we are not going, if that is what my right hon. friend's interjection implies, to rub out the work we have done and to commence again.
The Right Hon. G.H. REID:
Not the good work!
The Hon. E. BARTON:
I say we are not going to rub out the work we have done and commence again, although with reference to the vote which has just been taken, I think we might have an opportunity for reconsideration to that extent I shall be glad to assist my right hon. and learned friend. The second sub clause is "customs and excise, and bounties," and the third, "raising money by any other mode or system of taxation." I suppose that that, of all things, is what my right hon. and learned friend would describe as a national question upon which a general referendum might properly take place. Now, let us project ourselves, if our bodies be not too corporeal for that purpose, a little into the future, and imagine the position of the first parliament of the commonwealth. Will it not be necessary for that parliament to raise money I will not say by any other mode or system of taxation besides customs to carry on the government? Under this draft constitution, power is conferred upon it to raise that revenue; but it will have the task and duty of collecting the whole of the revenue of customs and excise for the whole of the states; and on the very face of the matter it will be conceded that that revenue will leave it with a large surplus, which must be distributed among the several states. A government may come into power which may say, "We conceive it to be our duty to raise sufficient revenue for the purposes of the government of the commonwealth, and also for the purpose of handing back to the various states exactly that which they possessed before the federal government was instituted." Another government may come in before or after the government to which I have just referred, and they may say this, "All we are concerned with is the maintenance of the commonwealth; let us raise sufficient money from
customs and excise to enable us to carry on the business of the
commonwealth; after that is done, we are not concerned how small the
surplus may be which we hand over to the states, because, recollect, we are a nati

An Hon. MEMBER:
They would not last long!
The Hon. E. BARTON:
I do not know about that. But if you give a national referendum, what
does my hon. friend say to that?
An HON MEMBER: We are not likely to give it!
The Hon. E. BARTON:
Does my hon. friend not see which way the cat jumps now? Suppose a
government saying that their concern was to raise a sufficient revenue for
the purposes of the commonwealth-admitting that a large surplus must
necessarily remain for distribution among the states that their concern was
not to make that surplus sufficient to meet the ordinary needs of the states,
the states themselves having their ordinary powers of taxation. That might
be the opinion of the government of the day. I do not quarrel with the
position, because I am not arguing on party lines. But let us assume that
position. Then we shall see that the smallness, relatively, of the surplus to
be distributed among the states would lead to the enforcement upon the
several states of a certain financial policy. They would either have to
submit to their inability to meet their financial obligations and that they
must avoid, because it would mean the bankruptcy of the state or they
must, on the other hand, agree to such a scheme of direct taxation as, while
saying the solvency of the state, might implicate the solvency of most of its
members. What is the answer to that position? That if ever there was a
question in the world in which the interest, life, government, and financial
policy of a state was concerned, it is this very question. Yet we are told that
that is a question upon which there is to be a national referendum. The very
vitality of the state is concerned, and yet it is not to have a voice in it by
way of taking part in a dual referendum.

An Hon. MEMBER:
We have provided for that in the statute!
The Hon. E. BARTON:
How can it be provided for in the statute? I do not think my hon. friend
has quite followed me. The statute provides that revenue which may be left
over shall be returned from the commonwealth; but it does not provide
what shall be left over. If too little be left over to carry on the affairs of a
state it may involve a question of its solvency the solvency of every one of
the citizens in the state may be involved.

Mr. SOLOMON:
As the bill stands we provide, not only for the return of the surplus, but
also for a limit to the expenditure!

The Hon. E. BARTON:
Suppose we leave that clause out, we still have the fact that the surplus
has to go back to the several states, and it is subject to the determination of
the parliament how much money maybe raised, and how much money
there will be to go back. It will rest with the house of representatives, and
with the senate, therefore, to say what the revenue raised is to be, and what
the amount returned is to be.

An Hon. MEMBER:
Only for five years!

The Hon. E. BARTON:
There is a five year period laid down in the bill, but there is also a
provision for a per capital distribution after five years, and the remarks I
have made apply to both positions.

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An Hon. MEMBER:
There is a provision up to a certain time!

The Hon. E. BARTON:
That is where the difficulty lies. While there is a provision up to a certain
time, the difficulty to be provided for in the affairs of the commonwealth is
one which will be eternal. It will last as long an the commonwealth lasts.
How can it be, urged that if the amount to be returned is a matter for the
determination of the commonwealth parliament, the question involved in
the return being perhaps a question of the vitality of the states how can it
be urged that the states as represented in the senate are not deeply
interested? How can it be urged that the question is one upon which a
national referendum shall take place when, in its very root and depth, it is
obviously the question of all questions in which the states are most vitally
interested, because if finance be government, this is a question not only of
the government of the commonwealth but of the government of the states?
Now, I do not speak here to throw difficulties in the way.

The Hon. J.H. CARRUTHERS:
Who finds the money?

The Hon. E. BARTON:
The citizens find the money; but does my hon. friend look at the states in such a one-eyed way that he can see only the citizens as citizens of the commonwealth, and forget that they are citizens and taxpayers in the various states? We must not look at things in both ways or we shall squint. We want to see both things at one and the same time. There is no escaping from this aspect of the question: that a taxpayer pays to the commonwealth simply as a citizen of the commonwealth, for this reason that he is the same person who pays taxes to the state as a citizen of the state, and the question with him is: what is his total quantum of taxation how much has he to pay with one hand, and how much with the other? It may be a question of taxing one breeches pocket, if he is a taxpayer in an ordinary community, and of taxing two breeches pockets if he is a taxpayer in a federal community. I think I have said enough to show that if the general referendum is to be reserved for those questions which are purely national in their nature for those questions which involve state interests then the finance of the federation is one, question that intimately involves state interests; and therefore, as between the two forms of referendum, it should be the subject of a dual referendum. I do not wish to take up much longer time on this subject. I realise as fully as any one in this Chamber does, the difficulties to which we are exposed. I am pointing out the difficulties, and it may be supposed that I have spoken with some warmth on this subject, but that is my usual mode of speech. I do not wish hon. members to think for a moment that I am carried away with any enthusiasm one way or the other on the question; but I wish to lay rightly before this Convention the difficulties of the whole situation as they affect, my mind. Upon the considerations that I have been advancing, I say this, that, for the sake of the success of this constitution, I am prepared to accept some form of referendum which will be safeguarded by the prior application of a double and simultaneous dissolution that I cannot, as at present advised, give my acceptance to the form of referendum called the dual referendum. However, I recognise, although I do not bind myself down, that, as between the two forms of referendum, while the dual referendum may not be the more effective of the two, it is, so far as I can see, the more just. I am speaking now of the application of these two forms of referendum purely on such matters as I last read from the constitution that is to say, such matters as defence, the public debt, the regulation of trade and commerce, immigration and emmi-

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gration, and so on. All these are matters in which I concede the states to be largely and in some cases vitally interested; and, seeing that, I take up the challenge that has been thrown down-I point out that those are the real
matters of vital state interest; and, if it is conceded that those are the matters specially adapted to the dual referendum, it seems to me that there ought to be no hesitation in saying if the dual referendum is granted at all, that it should cover those matters. I have already said that I do not feel myself at liberty to support the amendment moved by my right hon. friend, Sir George Turner. So far as it leaves open the dual referendum, I would be inclined to support it; but so far as it offers an alternative to dissolution, instead of insisting on the prior application of the double dissolution, for reasons often given by me, I cannot, on that ground, support it.

The Right Hon. Sir G. TURNER:
The hon. and learned gentleman might test it by moving to amend my amendment, so as to provide for a dissolution!

The Hon. E. BARTON:
I will have a look at the amendment presently. On the other hand, with regard to the amendment of my hon. friend, Mr. Lyne, I believe in it so far as it gives the referendum as a condition subsequent to the application of the double dissolution. But because it gives a general referendum upon matters which so far appear to me to be inexplicably involved in state interests, I cannot accept it as a general referendum. If, then, the proposition becomes so modified that we should have a double dissolution provided for, and if the application of that double dissolution fails as a means of reconciling the parties at conflict, and if it is further proposed that there shall then be a dual referendum—a referendum taken, of course, at once, as one vote, but in which the vote of the whole majority shall be counted, and the vote of the majority in each state shall be counted, and applied according to principles which we know then I shall be found, as a matter of necessity, under the circumstances of this, constitution, supporting such a proposition.

The Right Hon. Sir G. TURNER:
I am thoroughly in accord with the hon. and learned member!

Mr. WISE (New South Wales)[3.29]:
Both in Adelaide and here I have consistently endeavoured to take one course the shortest road towards union. In doing so I have had to differ from many of those, with whom I usually act in local politics. I have had to act in opposition to some of my colleagues in this Convention; but, although a representative of one of the larger states, I have endeavoured all through to view the matter from the standpoint of the representatives of the smaller states. I may say, therefore, that all who listen to me will give me credit for speaking with great feeling when I express myself, for the first time, either in our deliberations here or in Adelaide, as being discouraged by what has taken place; and I hope that the leader of the Convention will
find an opportunity an early opportunity of again taking a vote on the matter that was recently submitted to the Convention. The vote that has already been given places me, as I believe it places others, in a position of great difficulty in regard to the amendments which have been moved by the hon member, Mr. Lyne, and the Right Hon. Sir George Turner. For my part, I do not hesitate to declare myself an advocate of and a believer in unification. I have always believed in unification. In 1894, when Sir Henry Parkes first brought the project of federation into the arena of practical politics, he proposed in this Chamber a scheme of unification—he proposed, I think, from that chair, a scheme based on the Canadian model, which would have meant unification. That scheme was unanimously rejected, and Sir Henry Parkes acquiesced in its rejection; and, from that day to this, every portion of Australia has accepted the decision then arrived at. I, too, have loyalty accepted that decision. I would be glad if Victoria had never separated from New South Wales. I would like to see Tasmania annexed to this colony, and I would like South Australia to form part of our western boundary; and I would not be averse to extending the jurisdiction of New South Wales to the farthest west of this continent; but I recognise, and have always recognised, that we cannot frame any scheme of federation except by recognising the equal existence the broad, independent, national existence of all these colonies. Recognising that, I have loyally endeavoured, all through our deliberations here, to give effect to that belief; and I have refused, not only as a matter of tactics, but, as it seemed to me, as a matter of common honesty, to make any effort to do indirectly that which I declined to do directly to take away with one hand that power of equal representation which we had given with the other. I admit that in taking that course, many of us were running a great risk, not from any fear that the smaller states would abuse their powers; but because, in giving an equal authority to a house composed of representatives of groups of population with that composed of representatives of the whole people, we ran that risk which you, sir, indicated in your opening speech at Adelaide the risk of being unable to carry on the government of Australia along the well-known lines of responsible government. The problem which we therefore tried to solve was how to reconcile the continuance and active beneficial exercise of responsible government under the constitution of a federal state. We believed that we had arrived at a solution the day before yesterday, when it was recognised—I believe recognised almost throughout this Chamber—that if the responsible ministry of the day were given a complete control of the parliamentary machine, then responsible government, as we know it,
would operate. It was also seen that they could not get that complete control unless they had the power of dissolving each chamber, and after the broad, clear, and conciliatory speeches of the hon. and learned member, Mr. Barton, and the Right Hon. Sir George Turner, the evening before last, if the voting had been taken then I believe that that view would have commended itself to a large majority of this assembly. Circumstances have altered now. For my part, I deeply regret, as I regretted yesterday, that everybody in this Chamber did not see that the course proposed by the Right Hon. Sir George Turner was the sound one; and I regret that the right hon. member, Mr. Reid, felt it his duty to make a speech which, however eloquent and powerful it might have been, did not appear to me calculated to advance the interests of federation in this chamber. No doubt the right hon. member acted, as we have all been acting here, with the desire to advance, and with the conscientious conviction that what was being done would best advance, the interests of the cause. The representatives of the smaller states may have thought that the members of the New South Wales representation as a whole were prepared to derogate from that which has already been done - to go back from the conciliatory attitude assumed by the right hon. member, Sir George Turner, and the right hon. member, Mr. Reid. So far as I am concerned, however, I have no intention of acting in that way, and I do not think that the right hon. member, Mr. Reid, had any other intention. Any feeling which may have been aroused - and I know that feeling was aroused, although the right hon. member may not be aware of it -

The Right Hon. G.H. Reid:
Surely hon. members did not vote because of their feelings!

Mr. Wise:
Any feeling which was aroused was caused by a misapprehension of what was intended. If the vote which has been taken is not reversed - though I hope it will be - the position in which I shall find myself is this: As an advocate of unification I would like unification if I could get it. If the question of unification is put directly to the vote, I shall vote with the ayes to see how many are in favour of it. If I were a representative of a small state, I should be against unification; but I have been released by the vote which was taken to-day from any necessity of recognising this union as a federal compact - that is, as a compact between states - because that vote places the dissolution of the house of representatives, not under the control of the responsible ministry of the day, but under the control of the states. It places it in the power of the states to dissolve the house containing the
representatives of the people, instead of putting it in the power of the representatives of the people to dissolve the body composed of the representatives of the states. While I am willing to agree to a federal compact which will recognise and balance the interests upon either side, am I bound to submit to an arrangement which will put it in the power of the representatives of the states—that is, in the power of a minority—to force the representatives of the great body of the people to go to the country?

An Hon. MEMBER:
It cannot be!

Mr. WISE:
It cannot be. But putting altogether on one-side the possible divergence of interest between states and people, is such a scheme consistent with the practice of responsible government as we know it to-day? Is it possible for any ministry, which owes its whole existence to the presence of its supporters in the lower house, to carry on, when the whole machinery of government may be disorganised by a majority in another house, representing a minority of the people? The reason why that does not operate now is that every state is a unified state. It is not where there is that divergence of interest, each of them unwilling to yield, each of them justified in holding out

Mr. MCMILLAN:
Surely it is no worse than if there were no safety-valve at all, and the hon. and learned member was willing to do without a safety-valve!

Mr. WISE:
I think that it is worse. Although I made this proposal myself in Adelaide, reflection, and, I may add, the speech of the right hon. member, Mr. Kingston, have convinced me that I am wrong. If there were any credit or kudos to be gained, I should be proud to have embodied the proposal in the constitution as a proposal of my own; but I now believe it to be an unsound proposal.

The Right Hon. Sir JOHN FORREST:
Worse than nothing!

Mr. WISE:
Worse than nothing.

The Right Hon. Sir JOHN FORREST:
I do not say that it would be worse than nothing. I only say that the hon. and learned member means that it would be worse than nothing!

The CHAIRMAN:
I would point out to the members of the Committee that we have agreed
to an amendment, and ought not, therefore, to re-discuss the question which it involves. We cannot arrive at inconsistent conclusions in the same committee stage.

Mr. WISE:

I would ask whether I should be in order in moving this amendment if the Right Hon. Sir George Turner will withdraw his amendment? My amendment would read as follows:-

Provided that in lieu of dissolving the house of representatives alone in the first instance, both houses of parliament may be dissolved simultaneously-

The Right Hon. Sir E. BRADDON:

That question has been decided

Mr. WISE:

And if after such dissolution the proposed law fails to pass with or without amendment, the proposed law may be referred to the direct determination of the people by a referendum as hereinafter specified.

The CHAIRMAN:

I do not think I can put that amendment.

Mr. WISE:

I would point out that we have not come to any direct determination against having a double simultaneous dissolution. All we have decided is that in a single case which may arise dissolutions shall follow in a certain order. I now propose that in every case, and not necessarily as the result of a disagreement between the two houses, the Ministry shall have power to dissolve both houses simultaneously. I venture to think that the amendment is not inconsistent with our previous decision, whether you regard the power as optional or as a general power.

The Hon. Sir JOSEPH ABBOTT:

On the point of order I would suggest that the whole clause is under discussion. An amendment has been carried; but surely it will not be out of order to suggest a provision which would, in fact, be an alternative to the provision contained in the amendment. The amendment which was moved by the hon. and learned member, Mr. Symon, provides for a dissolution of the two houses, while the proposal which the hon. and learned member, Mr. Wise, now puts forward provides an alternative Scheme; and how can we advance arguments in favour of an alternative scheme without referring to the scheme already adopted? I would suggest that, in view of the fact that we cannot discuss an alternative scheme without referring to the
scheme already adopted, it would be highly inconvenient for you, sir, to rule that hon. members were precluded from referring to the amendment, already carried.

**The Hon. S. FRASER:**
I think we have already decided that a dissolution of the house of representatives must take place before there can be a dissolution of the senate. I hold that we cannot go back upon that vote.

**The Right Hon. Sir G. TURNER:**
We have not decided that a dissolution of the house of representatives must take place. We have decided that if a dissolution takes place something may follow. That is my reading of the amendment.

**The Right Hon. Sir E. BRADDON:**
Something else must follow!

**An Hon. MEMBER:**
Must follow!

**The Right Hon. Sir G. TURNER:**
Not necessarily. The amendment provides that, if the house of representatives has been dissolved, and certain things happen, then the governor-general may dissolve the senate; but what is proposed now is that, instead of having simply a dissolution of the senate under certain conditions, there shall be at once a dissolution of both houses. It is quite consistent to say that instead of the government of the day having to dissolve the senate after certain things have been done, the government of the day shall have another power altogether—that is, to dissolve both houses at the same time.

**The Hon. E. BARTON:**
I would point out that the Committee has decided that, if the senate reject or fail to pass a proposed law, which has been passed by the house of representatives by an absolute majority, or if they fail to pass it in another session, the governor-general can dissolve the house of representatives, which is a power he possesses already; but the amendment goes on to say that, if within six months after the dissolution, the house of representatives again pass the proposed law, and the senate again reject or fail to pass it, &c., the governor-general may dissolve the senate. Now, that is altogether a new power which the governor-general had not before. This amendment is to give the governor-general additional alternative powers. He can exercise the powers cumulatively or alternatively. The question is whether in the same clause, by an additional proposition, the Committee can go on to confer additional powers to be
exercised at his option cumulatively or alternatively. I submit the Committee has clearly that power.

The CHAIRMAN:
When I first heard the amendment read out, I came to the conclusion that it could not be put; but on looking at the amendment since it has been handed in, I have come to the conclusion that it can be put. This amendment is an alternative; in lieu of dissolving the house of representatives the proposed law may be referred to the direct determination of the people by a dual referendum. It will be seen that this amendment now suggested is very similar to the amendment suggested by the Right Hon. Sir G. Turner, except that it is more definite; it is simply giving a choice to the governor-general—which I presume will be the government—of alternative action, and I think it can be put.

Mr. WISE:
Without further words, I now move my amendment.

The CHAIRMAN:
The Right Hon. Sir George Turner must first withdraw his amendment.

Mr. WISE:
I do not think it is necessary, as the amendment is to strike out the word "if." Mine will come as an amendment to the Right Hon. Sir George Turner's amendment.

The Right Hon. Sir G. TURNER:
I propose to insert certain words if a blank is created. It is quite competent for my hon. friend to say, "I do not want to insert these particular words; I want to insert a modification of these words." Some hon. members may be prepared to insert the words I have proposed, and some may be prepared to insert those words, including the additional words that the hon. member, Mr. Wise, desires to insert. If I withdraw my amendment altogether, and the Committee reject the insertion of my words and his words, I shall be in a difficulty. The hon. gentleman will gain his object, with which I thoroughly agree, by first of all creating a blank; then I will propose my amendment, and he can propose to amend my amendment before it is put.

Mr. WISE:
I quite agree with that. I suggest that we can create the blank without being committed to anything. Then the discussion can take place on the new proposal put from the chair. If my amendment is carried I shall vote for the dual referendum afterwards.

Mr. SYMON:
Where does the Right Hon. Sir George Turner's amendment come in?

The CHAIRMAN:
After the word "senate"-that is, provided the hon. member, Mr. Lyne's amendment is negatived.

Mr. SYMON:
Sir George Turner's amendment is to substitute an alternative in the shape of the dual referendum. Now, I understand the hon. member, Mr. Wise, has moved to substitute an alternative in the shape of a joint dissolution to be followed as may be-

The CHAIRMAN:
Not a joint dissolution—a joint referendum.

Mr. WISE:
My amendment will come as a

Mr. SYMON:
I do not wish to interpose the slightest obstacle to the reconsideration of this matter on a point of order. We are not here to seize a victory, or anything of that kind. We are here to negotiate. If arguments can be used later on to show injustice, we are bound to reconsider them. As far as I am concerned, I am perfectly satisfied; but I want to point out that this new amendment is inconsistent in the shape in which it is submitted with the amendment we have already passed. If we are to have a reconsideration, would it not be better to adopt another course, and I am sure the hon. member, Mr. Barton, would be able to suggest some course by the suspension of standing orders, or in some other way, to bring the precise point under consideration.

The CHAIRMAN:
I think I can put the precise point quite well. The hon. member, Mr. Lyne, has moved an amendment. The Right Hon. Sir George Turner has moved to strike out the word "if" in that amendment in order to insert other words in lieu of it. Then Mr. Wise has moved an amendment to the words proposed to be inserted by the Right Hon. Sir George Turner.

The Hon. I.A. ISAACS:
I would suggest that the hon. member, Mr. Wise, should not move his amendment yet. If we decide on excising the word "if" from Mr. Lyne's amendment, then it will be time for the Right Hon. Sir George Turner to move his amendment, and after that for Mr. Wise to move his.

The Hon. F.W. HOLDER (South Australia)[3.55]:

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As the point of order is disposed of, there are two or three statements I have to make with reference to the debate that has taken place. In the first place, the hon. member, Mr. Wise, who spoke a few moments ago, announced his position to be that of a member in favour of consolidation.

Mr. Wise:
If I could get it!

The Hon. F.W. Holder:
The consolidation of the states into one unified nation. I do not approach the question at all from that point of view. I am not in favour of unification; I am in favour of federation. And besides that, I take it that the mandate which we have to obey in coming here is to frame a constitution, not for unification at all, but for federation. I hope, therefore, in all our discussions, in all the resolutions to which we come, we shall keep steadily in mind, not unification, but federation. If we do anything else I am quite sure we shall do that which the electors of the majority of the colonies will have nothing to do with when we have finished our labours. Having said that much, I want next to say that, while I approach the question from an altogether different standpoint, I agree very much with the conclusions to which the hon. and learned member, Mr. Wise, came. But before I deal with those conclusions I want to deprecate just one sentence or two at the most in the very excellent speech the right hon. member, the Premier of Victoria, made early in the afternoon. I regret that that right hon. gentleman made it appear that the decision which we arrived at a short time since was arrived at by a block vote of the smaller colonies against the larger colonies. Although I voted on the same side as the hon. member, I want to put it so clearly that no one may be misled by what takes place here, that that vote would never have been carried in the way it was but for the fact that four delegates from the larger colonies voted on the other side.

The Right Hon. Sir G. Turner:
That fact having been brought to my notice, I willingly withdraw the observations to which the hon. member has referred!

The Hon. F.W. Holder:
I knew that no one would be more ready than the right hon. member to do that when the matter was explained. But I will conclude my sentence—but for the fact that the motion was carried by reason of four delegates from the larger colonies being on the opposite side, and to make up for them—to say nothing of any other colonies, there were four delegates from South Australia voting on the same side as the hon. member. A word or two on the merits of the question itself. I hope we shall not at the present stage complicate matters so exceedingly as they would be complicated by
accepting either the amendment of the
hon. member, Mr. Wise, or that of the Right Hon. Sir George Turner. It
seems to me that we have made up our minds that we are willing to allow
an opportunity for another vote on the question; and that being the case,
why make the position more complicated than it is? If we are going to take
another vote, I would suggest to the leader of the Convention that there is
no reason why we should not report progress for half an hour, or some
other time that he may deem sufficient, and then, when the President is in
the chair, get the standing orders suspended, so that we may, right away,
before we get into any further difficulties, reconsider the vote of this
morning; and I earnestly hope that, on reconsideration, there will be at least
enough come over to reverse the decision.

An Hon. MEMBER:
I hope not!
The Hon. F.W. HOLDER:
I was not going to discuss it, but I am bound to discuss it now. I say I
hope there will be enough come over to reverse the decision arrived at. I
hope that will be so in half an hour. If every hon. member has made up his
mind, nothing I can say will alter a vote. But the matter is so immensely
important that, even if I cannot alter a single vote, I must still put the points
as they appear to me. If the two houses are in conflict, if there is any matter
of concern in which they cannot agree, or will not agree, it is altogether
unfair to assume that either house is wrong. What right have we to assume
that the house of representatives is wrong? What right have we to assume,
that the senate is wrong? If they disagree, why not send them both to the
only persons who can say whether they are truly doing their duty and
representing their constituents? It is said that the house of representatives is
more likely to be wrong than the other. Now, I doubt that altogether.

Mr. SYMON:
Oh, no, not at all!
The Hon. F.W. HOLDER:
The hon. member is giving away the whole position. If that is so-if either
house might be equally in the wrong-why choose one and penalise it before
the other?
The Right Hon. G.H. REID:
And when that would decide nothing!
The Hon. F.W. HOLDER:
Very often a difficulty might arise out of a measure originated in the
senate. The senate, according to these proposals, would not have to go to
its constituents at all. It might throw down the bone of contention, and cause the whole trouble, knowing very well that, before it could be touched, the other branch of the legislature must be sent to its constituents, and have to undergo all the cost and toil of a general election. It is intolerable that one house, which would be free, at least for a time, from the consequence of its act, should be in a position to take such action as that to which I have referred. If the two houses disagree, the least we can do is to send them to their constituents. If we saw a couple of men in dispute in the street, and the dispute came to blows, we should not expect a policeman to take one up, and, after he had served whatever term the bench might sentence him to, then that search would be made for the other. We should expect the policeman to take them up together, and treat them both alike. I should like to know who has the right to say which of the houses is in the wrong when they disagree? Besides, there is even a more serious matter. What do these prolonged controversies mean? I mean prolonged controversies such as would be likely to arise out of a deadlock. These things can only come once in a lifetime perhaps not then. They can only come on questions which are of vital importance. I cannot conceive of a serious deadlock arising out of anything else than a very important matter.

Now, is it tolerable that if a very important question is raised, and a dispute arises over it, the whole commonwealth from one end of Australia to the other, not forgetting Tasmania, should be torn and troubled by dispute, which cannot be settled in one election, which, perhaps, cannot be settled in two elections? Consider the steps contemplated before a deadlock can be settled, first, two sessions of the parliament, then the dissolution of the house of representatives, then the dissolution of the senate, after that a dual referendum. Why, it means, not months—if it were months it might be tolerable—it means that for years the commonwealth would be torn from end to end, people set against each other, and all sorts of trouble and expense incurred, for the sake of settling a dispute which surely ought to be settled in some other manner.

An Hon. MEMBER:

Why not leave it as it is?

The Hon. F.W. HOLDER:

Why not leave the engine without a safety-valve? I am not in favour of that. An hon. member says there is no precedent. I cannot help that. But I deny that. I gave a precedent for it the day before yesterday, when I quoted from a South Australian statute, to show that we have provided in that colony for dealing with deadlocks. There is a precedent for dealing with
deadlocks elsewhere.

An Hon. MEMBER:
Not a referendum!

The Hon. F.W. HOLDER:
No, but a safety-valve; and what hon. members, to my astonishment voted against yesterday was the provision for a safety-valve. In the British Constitution there is a safety-valve, they can put in more peers. In the New South Wales Constitution there is it safety-valve—they can put more members in the nominee house. While these safety-valves exist, are we going to frame a federal constitution without any safety-valve at all?

The Hon. H. DOBSON:
Common-sense is the safety-valve!

The Hon. F.W. HOLDER:
We have to provide not only for conditions when common-sense will prevail, we have to provide for conditions when common-sense may be temporarily suspended. We have known such a case.

The Hon. J.H. HOWE:
This is an argument for delay!

The Hon. F.W. HOLDER:
Quite so; and no one would wish the matter to be settled in a day or two. But there is a world of difference between a reasonable time-six months, if you like, and three years; and we have seen, too, that the various suggestions before us may mean the continuing of this most serious agitation, wasting the time and energy of the people, wasting their money on a continuance of this agitation for, perhaps, in the whole, nearly three years.

An Hon. MEMBER:
To keep the Government in power!

The Hon. F.W. HOLDER:
There is no Government in power which dare do such things as this.

The Hon. H. DOBSON:
Does the hon. member forget that disputes which have agitated the political world have taken one, two, three, and four years to settle?

The Hon. F.W. HOLDER:
So much the worse for the countries in which the disputes occurred.

The Hon. H. DOBSON:
Nothing of the kind!

The Hon. F.W. HOLDER:
If disputes have happened in the smaller colonies which have been
serious enough to take two or three years to settle, how much more serious will be disputes that will arise in the commonwealth, where there will be, not hundreds of thousands of people, but millions of people? I think it ought to be quite unnecessary to argue in favour of having some form of safety-valve, and it ought not to be necessary to argue in favour of having the thing which would lead to the most speedy and certain determination on the whole question.

An Hon. MEMBER:
The more haste the less speed!
The Hon. F.W. HOLDER:
Within reasonable limits. There is only one point more with which I want to deal. I took a position the all the colonies, to say nothing of the group of smaller colonies? Is it not the maintenance of that commonwealth, of that government in which we live? And are not the smallest colonies as much interested; is not the very smallest colony as much interested as the very largest in the making of some provision which would prevent such an event as we saw in the United States some years ago, when that terrible civil war took place? I can conceive that the heated feelings of the public, especially if we go through all these stages of dissolution after dissolution, referendum after referendum, may be so fanned to a blaze that the conflagration may be as serious in comparison to our population as was that in the United States. I plead with the Convention to take some step to provide a settlement which will render such a state of things impossible.
The Hon. Sir J.W. DOWNER (South Australia)[4.10]:
I have none of the fears of my colleague, who has just resumed his seat. The safety-valves he spoke about are created in the governments which we know as constitutional governments by providing judicious checks on hasty legislation. My hon. friend has just been arguing that these most necessary and legitimate checks are in themselves dangerous to society, likely to produce rebellion, and to land us in civil war. Such an argument, however excellent it might be and apposite to the present occasion, if carried to its legitimate conclusion, would make one house one suffrage necessary in every colony, and would make all the checks which our experience of the world have shown to be needed to be placed on hasty legislation illusory and vain. At the same time I appreciate the seriousness of the situation, I appreciate the seriousness of the position of my right hon. friend, the Premier of Victoria, and I admire his frankness. I appreciate also the difficulties under which my right hon. friend, the Premier of New South Wales, is labouring. I am willing to believe that both of these
honorable gentlemen are true and hearty federationists, but are overborne by local influences, so that they fear, unless they get some concession, or unless they get something which seems to be some concession, because it appears to me that that would do as well, they will not be able to do anything.

The Hon. S. FRASER:
Will not that apply all round!

The Hon. Sir J.W. DOWNER:
The smaller states have not asked for any concession.

The Right Hon. G.H. REID:
You have got all you want!

The Hon. Sir J.W. DOWNER:
They have never asked for a concession from start to finish. They have asked that this commonwealth should be established on the lines on which alone federations can succeed, and on the lines which experience shows that alone they can be safely constituted. And when these gentlemen seek to drive their coach-and-four through all the federation lines, and we resist, they accuse us of wanting to take everything, and attribute to us a want of generosity, that really is in themselves. Now, sir, where are this demand and concession to end? That is really what I want to know. If this were our final meeting; if we could now during the next fortnight or three weeks or month sit continuously and get our constitution settled, I might approach some of those considerations from a little different point of view from what I do at the present time. Supposing we concede the joint dissolution and the dual referendum, what guarantee have we that when we meet again—because we certainly are not going to finish our work now—

Mr. WISE:
Why not?

The Hon. Sir J.W. DOWNER:
If we finish our work now, I shall be happy to reconsider it. I wish nothing better than to finish our work now.

Mr. WISE:
You could if you tried!

The Hon. Sir J.W. DOWNER:
I complain very much that we are not going to finish our work now.

The Right Hon. Sir G. TURNER:
Will you try if I stop a couple of days longer to help you to finish?

The Hon. Sir J.W. DOWNER:
I will tell the Premier of Victoria, with the frankness he has shown to us, that, for my part, I will vote for his simultaneous dissolution, although I am
bitterly opposed to a referendum. I would rather than that the cause should
be lost, support a referendum to the states and to the people—a dual
referendum. A referendum, sir, I think is a return to barbarism. We had a
speech in Adelaide from our leader in which we felt that we were back in
the haunts of our early ancestors with very little on, and mostly under trees.
This reversion, which he then deprecated so very much, to more primitive
habits, might seem to one who thinks much of the nineteenth century a bit
of a return to a bygone state which it is not well to concede; and some
thoughtful persons might fancy that, however good judges the people we
hear so much about might be in reference to persons, they might not
always be very good judges on particular measures which involve immense
difficulties, which we ourselves have to consider in Committee, and waste
days over so as to deal with them in detail, and there could be no more
miserably inefficient means of deciding the truth than to appeal to them on
subjects which involve, not one question but thousands of questions, which
questions they are not competent to answer and deal with. I deprecate this
referendum principle absolutely. I think it will be no protection. I think it
will do no good to anybody; but so strongly do I feel on the subject, and so
little do I hope that it could interfere prejudicially with the due working of
the system, that I would accept something I thoroughly dislike in order to
see accomplished the great cause which I for many years have longed. I
would submit to both of these things rather than that the cause should be
lost. But, supposing I take that position, as I do now, and say frankly that is
the very most that I am prepared to do,


where is the guarantee that there will be an end of it? Have we not had a
declaration from the Premier of this great colony—as far as he, at all events,
is concerned and I suppose he speaks for himself and his Government—that
when this is conceded he will want more. There may be some argument in
saying to one house as to the other house, "You were returned by the same
suffrage. You represent the people of your colony. You represent the
people of the colonies; but you are elected on precisely the same method—
why, if one can be sent to its constituents, cannot the other? We want to get
at the will of the commonwealth and the will of the states, and we send you
back. We say, "You do not represent the will of the commonwealth, or you
do not represent the will of the states." In that position there is immense
force; but if you say that, after establishing the senate with a view of
keeping up the position—the entity of the states—you are to send disputed
questions on a referendum to the whole of the commonwealth, why, then
the senate becomes a delusion and a sham. If it is to be so, better make it so
at once, or better not make it at all. It is said that the difficulties which will
surround the exercise of this power of sending to the people will prevent its ever being acted upon. Its very existence will operate as a rod held over the heads of the representatives of the states, who ought to be independent and equal to the other body, and will be used as a means of producing those very so-called deadlocks about which all this legislation is to be passed in order to remedy them. The way to create a danger is to anticipate one. Our act in South Australia has been referred to. That is what the hon. member, Mr. Symon, suggests should be adopted here. It is asked, how could responsible government be carried on under such a constitution as this? My hon. friend answers, "It is because responsible government can be carried on under that constitution that I have moved the amendment which has been carried."

An Hon. MEMBER:
It has been carried on for sixteen years!
The Hon. Sir J.W. DOWNER:
It has been carried on, and the mere existence of the power has prevented the necessity of its ever being exercised.
Mr. WISE:
You cannot argue from a unified to a federal constitution!
The Hon. Sir J.W. DOWNER:
I admit it is very difficult. I, who have been always complaining of the false analogy created between the two, would be the last to say there is any at all. I do not think the senate need fear being sent back to its constituents because, in all great questions of conflict between the colonies, it will have its constituents at its back, and will be infinitely more powerful, because it is sent by the direct vote of its constituents than it would be if it were a nominated body, which would never know what authority would support it. I have no fear of combinations between different parties-labour parties or any other parties in the colonies-ever interfering with a house intended to be more conservative. I am, on the contrary, convinced that the greatest radical in each colony will become the biggest conservative when the rights of his own colony are at stake as against those of another.
Mr. HIGGINS:
Hear, hear; we see it now!
The Hon. Sir J.W. DOWNER:
I understand that what the hon. member means is that that is his own attitude throughout this Convention, because he, as a declared radical, shows the determined feeling that a radical of one colony has to preserve his colony's state rights. That is an illustration of the correctness of my view.
Mr. HIGGINS:
I am afraid the hon. member has misunderstood some one!

The Hon. Sir J.W. DOWNER:
I do not think I misunderstood the hon. member. He is perfectly clear. I have no fear at all of intercolonial cliques that will injure the federal cause. I am perfectly sure that in each colony there will be no such thing as radical and conservative as between themselves and the other colonies; and I am satisfied that both the senate and the house of representatives, instead of having their position weakened by being liable to be sent back to their constituents, will have their position considerably strengthened. I care very little, therefore, from this point of view, whether this is or is not carried; but if it be carried, and if the Premier of Victoria will stay here long enough to let us finish the bill, and will incidentally devote an hour or two to the financial clauses—which the Drafting Committee have had to consider, having more time than the Finance Committee—so that we should have some guarantee that the work would be finished by Tuesday or Wednesday, I will promise him to support both his proposals, although I think the referendum is a most pernicious system, and ought never to be adopted. But if, on the other hand, we are to have the business kept back, and practically nothing done, if the Finance Committee will persist in doing nothing and will not endeavour to solve what is one of the most serious problems, then it is useless for the Premier of Victoria to tell us he is willing to stop until Tuesday or Wednesday to finish the bill; and unless I know we are going to finish it, I remain true to my principle, which is, first of all, to stand by the resolution which has been carried; secondly, if that is upset, to go for the simultaneous dissolution. To that I really have no objection. I would not mind going for that at once, but to a referendum I only go as a last resort, when I am perfectly satisfied that the cause of federation depends upon it.

Mr. TRENWITH (Victoria)[4.24]:
I should like to state that the concluding remarks of the hon. gentleman who has just resumed his seat seem to me very materially to clear the way so far as he is concerned.

The Hon. Sir J.W. DOWNER:
That is all!

Mr. TRENWITH:
He is prepared to vote for a joint dissolution. That appears to me one, at any rate, of the questions now in dispute—the question of a concurrent dissolution of both houses, or a dissolution of both houses with a
considerable interval. He is prepared in the interests of federation, rather than lose it, to accept a double referendum; but he is afraid, in that connection, that something further may be asked. Now, I respectfully submit that our attitude here ought to be to do all that can be done to meet each other, going as far as we possibly can, and, when anything further is proposed, then is the time to come to a halt. But if it seems to any of us that a certain step in a direction which we think to be slightly injudicious in the main is calculated to advance federation, let us take that step, and not be afraid of taking it for fear something else may follow. When that something else is presented to us, then is the time to call a halt. I submit, also, that the hon. member, Sir John Downer, in his opening remarks, altogether misstated the attitude taken in the very admirable, conciliatory, and courageous speech of the hon. member, Mr. Holder. The hon. member, Sir John Downer, said the attitude which Mr. Holder took was that checks were dangerous, and that they might lead to civil war. I venture to say that Mr. Holder pointed out that checks were necessary, that they existed in the various constitutions to which he referred, but that checks were accompanied by safety-valves, that this constitution at present contained checks without any safety-valve, and, that, in order to avoid a possible revolution in the future, we should introduce some provision of the kind. We ought to be guided by the constitutions of which we have knowledge. We ought to be guided by those institutions with which we are acquainted. But as we are making an entirely new constitution, we ought not to be afraid to try innovations upon such points as in existing constitutions have proved to be faulty.

An Hon. MEMBER:

We have made innovations already!

Mr. TRENWITH:

That is true. No reform can come anywhere in the world without innovation. While every innovation may not be reform, certainly no reform can arise without innovation. Therefore, I say to the hon. member, Sir William Zeal, when he says there is no precedent, that that argument is not sound, since he has many times to establish precedents when he considers them necessary for the dispatch of business in the house over which he so well presides. Every precedent must have had a beginning. It must have been initiated at a time when there was no precedent. Therefore, the hon. member's argument is not sound. But we are at a juncture in our debates, as is acknowledged and recognised by all the delegates, when federation is in
great danger, when the principle for which we have all been contending for years is in danger of being set back. I would, therefore, urge this consideration upon those who think, with Sir John Downer, that possibly an advance might be made here were it not for the danger of something else being subsequently asked—that if an advance can be made in the minds of delegates without itself entailing danger, that advance ought to be made, in the interests of compromise, remembering that we can always call a halt when anything unreasonable is demanded.

Mr. SYMON (South Australia)[4.30]:

I intend to say very little at the present stage, because on the merits of the question which has been again brought under discussion, I said practically all I had to say before the division was taken immediately before luncheon. I desire, however, to express my gratification that the right hon. member, Sir George Turner, should have withdrawn the somewhat unguarded allegation he made as to the previous vote having been carried by a combination of small states. Now, I say that, because it is exceedingly undesirable that, on such an important question as this is on its merits, we should have the question of small and large states introduced. It is calculated to create the greatest possible prejudice, and a great deal of unnecessary heat. I make bold to say that every member coming from the smaller states is animated by as sincere a desire for the furtherance of the great cause of federation, and by as high a patriotism in that cause, as any member coming from the larger states can possibly be; and if we deliberate upon a question of this kind, and a conclusion be arrived at contrary to the views of those who come from the larger states, we shall always be liable to have it recalled and reconsidered on the same ground that we are asked to reconsider this question to-day. What we are bound to do, coming from large or small states, is to see justice done, to arrive at what is a fair conclusion on the particular matter under debate; and, for my part, I declare most emphatically as regards the amendment carried before luncheon—I do not pretend to say that other hon. members who take the opposite view are not absolutely as clear and well grounded in it as I am in mine—but I make-bold to say emphatically that I consider the amendment carried before luncheon contains the fairest and most just solution of the question. I adhere to that view, and I intend to give effect to it when the question is again put to the vote. The debate which

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has taken place now has strengthened me in that view. Now I do not know whether or not it is in accord with the views of other hon. members, but I do not think it is desirable so soon after we have arrived at a deliberate conclusion, while we are all influenced by our own preconceived notions
and the arguments which have convinced us that we should be brought so hastily to further debate and further decision. I wish to interpose no difficulty whatever in the way of reconsideration. So far as my personal effort is concerned, I should wish to do everything in my power to bring about a reconsideration of the question, because we are not here to sit down on any particular victory we achieve. We are here for such a purpose that if any number, whether a majority or not, should consider that more ample consideration will bring about a more just result, it is our duty to see that more ample consideration is given; and, so long as I have the honor to be a member of this great assembly, I shall be actuated by that principle on every occasion whether the minority who seek reconsideration be a large or a small one. We are here deliberating as some hon. members have said, negotiating—and it would be ridiculous to put ourselves at any juncture in the position of an ordinary legislative assembly, in which party feeling might desire to secure, at all hazards, a particular victory, and, having got it, would use any effort to prevent it from being recalled. That is not the attitude I propose to take up. Therefore, I am entirely at one with hon. members in wishing, at every stage of our progress, that the fullest and most exhaustive consideration should be given to every question. At the same time, I think it is undesirable that we should do what is proposed in so much haste. I believe that a little further time should give opportunity for reconsideration and a more detailed exchange of views than is possible in a debate of this character upon three separate amendments with which it is very difficult to grapple. I say, then, that, so far as I have heard the further debate, it has strengthened, in my mind, the position I have taken up. My hon. friend, Mr. Holder, in the very clear statement he has just made, has supported the attitude that I took up the other day, and has shown that to say that amendments, referendums, and checks of all kinds might save the country from revolution and from civil war is really an untenable position. I said then, and I say now—and I am glad to be supported by what my hon. friend has said—that the more you multiply checks in a constitution such as this, the more you subject the country to turmoil and agitation, and the more troublesome it becomes to secure a calm decision of the country, and the more it would intensify the chance of civil war if that was at all imminent. I was glad to hear my hon. friend put that as strongly as he did, seeing he appeared to take the opposite view the other day. In answer to the argument of some hon. members that no check is required, he pointed to our own Constitution and said, "There you have a check, just as you have in New South Wales the less popular check in the shape of adding to the members of the Legislative Council." If that check is held up, and held up triumphantly, as an illustration of the benefit of
having a check, then I say that, if in this constitution we are to introduce a check, we cannot do better than follow the only precedent we have in relation to a chamber elected, not on the widest, but on an extensive franchise. The upper chamber in South Australia is elected on a very wide franchise. We have in the check there, to which the hon. member, Mr. Holder, alluded, a precedent for this, and we have a precedent for its efficacy as far its it goes, and that is exactly the check or safety-valve, as we have sometimes called it, which is embodied in the proposition that was carried, on my motion, before the Committee adjourned for luncheon.

The Right Hon. Sir G. Turner:

There you have a unified state-different from what you would have in a federation!

Mr. Symon:

I recognise every distinction that exists between the federation we are creating and a unified state; but, for the life of me, I can see no distinction that would lessen the value of that safety-valve existing in a unified constitution as compared with its efficacy in a federal constitution. On the contrary, it seems to me-and I put this to my hon. friend in all sincerity—that where you had the senate representing the states—that is, the democracy of each state represented in the senate—you would find this particular safety-valve of which we enjoy the benefit more effective than you would if you had it in a unified state. Take our colony. Do you suppose that those men sent by our colony, as one constituency, into the senate would hastily act so as to bring about a dissolution which would send them to their constituents under these circumstances? Do you suppose, if they saw, as they would have a right to be assured, that the popular will was expressed by the majority of the house of representatives on a question that did not affect the vitality, the very being, of the state, that they would not give way? Of course they would, and it is for that very reason, it seems to me, consistent with every principle of constitutional law and fair play that you should first dissolve the house of representatives, which legislates in a particular manner—it may be in a moribund session of parliament—before you dissolve the senate, which is merely a check; and I believe that if you adhere to the proposition embodied in my amendment, carried before the adjournment for luncheon, you will never—at any rate, you will on very rare occasions—be called upon to bring into operation the provision for the dissolution of the senate.

The Hon. F.W. Holder:

The senate may be the obstructing body?
Mr. SYMON:
In what way? Of course, if my hon. friend assumes that the house of representatives is always going to be right-

The Hon. F.W. HOLDER:
No, I do not. Either might be right, or either might be wrong!

Mr. SYMON:
Quite so. You cannot predicate of the house of representatives that it will be obstructive.

The Hon. F.W. HOLDER:
Nor of the senate!

Mr. SYMON:
You cannot predicate that of the senate any more than of the house of representatives. But if the senate is to be a check at all, surely it is to be a check only in this way: that it is to invite the house of representatives to show that it is giving effect to the will of the people as a nation, before the senate is sent to its constituency.

The Hon. J.H. GORDON:
The legislation which was the cause of the trouble may have originated in the senate!

The Hon. Dr. COCKBURN:
In that case the executive would not order a dissolution!

Mr. SYMON:
I think that could not be so under my amendment. My amendment, my hon. friend will find, is limited, because I do not claim the same power for the senate. The proposition of the hon. member, Mr. O'Connor, was that the senate and the house of representatives should be on the same footing. I do not claim that for the senate. I am willing to take it if it can be done. But, as I wish to be perfectly fair and moderate, and to bring about only a just system of federation, I do not claim that at all. I think it would place the senate in a position it ought not to occupy in the federation; but still if that were given it would strengthen the senate, and, as my views are in favour of strengthening the senate, I certainly would not be found voting against it. All I say is that, under the amendment which has been carried, we do not give the senate that power.

Mr. WISE:
Against whom do you strengthen the senate-against the ministry?

Mr. SYMON:
You do not strengthen the senate against anybody, except in its protection of the interests it is elected to protect; but-I draw a distinction here, you enable it to exercise effectively that power of check, that position
of a drag on the constitutional wheel, which we want to give it. If we do not want to give it that, there is an end of the discussion. You might as well give it a kind of executive or

An Hon. MEMBER:
Or there might be only one chamber!

Mr. SYMON:
Yes, or there might be only one chamber. Without some mode of protecting the states, what is to prevent a condition of civil war? I do not say that there are not other methods which might in some degree secure the same thing; but in commending this, I say that it deals -only with the senate as a check on hasty legislation, and, why in the name of all that is constitutional, you should send this house-which is to be merely a check, so as to ask the house of representatives if it thinks it has the country at its back to get that support-to its own constituents in the first instance, is beyond my comprehension. What I want to see on all these questions is the house of representatives in harmony with its constituents. The check exercised, the only result of the check is to invite the house of representatives-which way be in a moribund political condition-to receive the warrant of its constituents; and if it does receive that warrant, and if it comes back fortified in the course it has been pursuing, then the senate must either give way or it must go to its constituents and receive their mandate. I do not think any second dissolution will be necessary. I beg hon. members not to be swayed by these considerations of rival state interests. I ask every hon. member to act as the members representing South Australia are acting. Let each of us, in seeking to secure what is right, act upon our individual judgments.

Mr. WISE:
I do not regard this as a question of state interest. It is a question affecting the existence of responsible government.

Mr. SYMON:
I take exactly the same view of it. I say that, by having a simultaneous dissolution of the senate and of the house of representatives, you infringe every principle of responsible government with which we are acquainted. In adopting such a provision, you are undoubtedly taking an entirely new departure. It may be right, and it may work well; but we have no experience to support us, and my belief is that it will not be effective; but will bring about a state of things in connection with the senate which, not we of the small states, but you of the large states, will in the future very greatly deplore.

The Hon. E. BARTON (New South Wales)[4.47]:
I have a suggestion to make to the Committee, and I am quite sure that every member of the Committee will agree with it. I think there is a general disposition on the part of hon. members, notwithstanding the strictness of the views which are held, to come to an agreement upon this question during the present session of the Convention. That being so, I think it is desirable, inasmuch as there are a number of complicated amendments before the Committee, that there should be time to discuss and reflect upon them before we finally decide which we shall adopt. That brings me to the suggestion which I have to make, which is this: If I have the support of the Committee, I shall presently move that you, Mr. Chairman, do leave the chair, report progress, and ask leave to sit again at half-past 7. That will bring the President into the chair, and I will then ask hon. members to support me in moving the suspension of the standing orders to enable us to postpone new clause 57 with the proposed amendments thereon, notwithstanding that the clause has already been partly dealt with, and that we may get leave to reconsider and rescind the decision arrived at with regard to the clause when it comes on again. If I get the standing orders suspended, I propose to go on this evening with such other parts of the bill as will suit the convenience of hon. members, and on that matter I shall be open to receive suggestions. In the meantime, I think it will be in the interests of all of us, and of the cause generally, that we should leave the further discussion of the question of deadlocks until, say, Monday morning. I think that notwithstanding the urgent political engagements of some members of the Convention, even they will concur with me that, looking at the stage at which we have reached, and the vital necessity of arriving at some reasonable conclusion on a subject such as this, it is better not to proceed with it to-night, when we are, in our friendly way, at odds, but to leave it to some future time when we can consider it from a point of view which will enable us to come to an agreement.

The Right Hon. Sir G. TURNER (Victoria)[4.51]:

It is well known to a majority of hon. members that I have made arrangements to leave Sydney on Sunday next, in order that I may be in Melbourne on Monday, and meet the Assembly upon Tuesday, to finish off the remaining business of the House before we proceed to our general election. This work is undoubtedly important in the interests of the colony of Victoria; but, at the same time, I realise that the work we are attempting to do here is important in the interests of a larger constituency than Victoria. Although it will be at some considerable inconvenience to myself, to my colleagues, and to the members of the Victorian legislature, I shall be very glad, if there is any hope whatever of settling this matter
satisfactorily by the course suggested by the leader of the Convention, to make arrangements by which I shall be able to meet the Victorian Assembly later in the week. Of course, if there is no hope of a satisfactory settlement, it will be useless for me to remain here.

The Hon. E. BARTON:

I think there is every hope!

The Right Hon. Sir G. TURNER:

On the assurance of the leader of the Convention that there is a hope, and because of what I have heard from hon. members who are desirous of reconsidering the matter to see if they cannot modify their views, I shall be glad to fall in with the suggestion which has been made, and remain here one or two days next week to settle this and the other difficult matters with which we have to deal. If we settle these matters, I have no doubt that the other members of the Convention will, in the absence of the representatives from Victoria, be able to deal with the machinery provisions of the bill in a manner which will be satisfactory to all. I hope that those who voted against the view which I hold will, in the meantime, give the matter earnest and careful consideration, and see whether they cannot once again help us out of our difficulties, and enable us to join together in framing a scheme of federation which will be acceptable to the various colonies.

The Right Hon. Sir JOHN FORREST (Western Australia):

I do not rise with the intention of opposing the course suggested by the hon. member, Mr. Barton, because I feel it my duty to meet his wishes in every respect. At the same time, it seems to me that the course which he suggests is an unusual and unprecedented one, at all events, so far as the procedure of our parliaments are concerned. On many occasions, when during our deliberations, decisions have been come to by the vote of a narrow majority, which it has afterwards been thought well to reverse, it has been the custom, and I think it is the custom in all legislative bodies, to accept the position and to take the proper constitutional course to reverse the decision. There are plenty of opportunities given by our standing orders for reversing any decision which may have been arrived at in the discussion of this bill. For instance, the bill could be recommitted for the reconsideration of the clause, and I think it would be better for that course to be pursued than to upset the constitutional procedure by asking for a suspension of the standing orders, with a view to getting hon. members to reverse the decision at which they have arrived. I think it is very unreasonable to ask members of the Committee to reverse our decision, after we have given a deliberate vote on a subject which has engaged our attention for a long time. If we were new
to politics, and had never sat in a legislative assembly in our lives, and knew nothing about the duties which we are called upon to perform, we might deal with these matters in a perfunctory way, without making up our minds beforehand. But to ask me to change my mind on a matter of the greatest importance, such as this, within a short time, is, I think, unreasonable.

The Hon. E. BARTON:

The right hon. member need not change his mind now he might do it on Monday!

The Right Hon. Sir JOHN FORREST:

If we were going to finish the bill before separating there might be some necessity for taking this course, but we are not going to do so.

An Hon. MEMBER:

Yes, we are!

The Right Hon. Sir JOHN FORREST:

Hon. members must know by this time that we shall have to return to our colonies without finishing the bill.

Mr. WISE:

I hope not!

The Hon. E. BARTON:

Not if I can prevent it!

The Right Hon. Sir JOHN FORREST:

I am certain that when the right hon. member, Sir George Turner, and his colleagues leave us, it will not be in the interests of federation to continue our consideration of the bill. That being so, what necessity is there for dealing with this matter at the present time? We shall have to meet again in a few months, and by that time we shall have had an opportunity to fully consider it. We shall then be able to come back to our deliberations after having had an opportunity of fully considering the whole matter. That is the procedure we should adopt. Why should we make an exception in this House because a decision is contrary to the views of the members of the larger states, when none would be more unwilling than those gentlemen to take any course of that kind in connection with a decision given contrary to the views of the members from the smaller states? For that reason I am altogether opposed to the procedure proposed to be adopted. I have no doubt my opposition will be futile. We have been dragged down step by step all through the discussion. The environment, the surroundings, have been too strong for some of us. The representatives of the larger states have dragged us along nearly to the bottom of the hill.

The Hon. S. FRASER:
No!

The Right Hon. Sir JOHN FORREST:

I say the great majority, but not every one. We have been dragged along in this matter. Our views, if they have not been scouted, have been ignored or taken little notice of. We are now asked to rescind a resolution deliberately adopted only an hour or two ago, in order that the views of members from the larger colonies shall have effect given to them. We are asked to reverse our judgment—a course which has not been taken before—which is altogether unusual and contrary to our standing orders—merely to satisfy those who cannot take a defeat, I have had to accept defeat many times, but it seems others are not prepared to do so. We ought to accept defeat, and not try almost immediately afterwards to reverse a decision by asking Hon. members to change their views on a matter which we consider to be of vital importance. It is asking too much, and it is altogether unreasonable.

The Hon. E. BARTON (New South Wales)[5]:

I should like to say, before submitting a motion, that I scarcely think the Right Hon. Sir John Forrest is justified in putting the matter so strongly, seeing that he obtained the suspension of the standing orders for a very similar purpose.

The Right Hon. Sir JOHN FORREST:

Not to reverse a decision!

The Hon. E. BARTON:

Not to reverse a decision, but to completely upset the order of procedure on a bill. This is for the purpose of changing the order of procedure on a bill. I would remind my right hon. friend that this is not a question of inability to accept defeat. It is a question of inability to accept a position of danger to a cause which may be relieved from that danger by a wise course taken now. What I wish to do is this: If we do not take the course which I have been just suggesting, we shall first have to deal finally in Committee for the purposes of the Committee with this clause. Then we shall have to go to the end of the bill and deal with every other clause in the bill before we get another opportunity of dealing with this matter. That will be a cumbrous process, and in order to avoid it I intend to suggest a certain course.

The Right Hon. Sir JOHN FORREST:

Recommit the bill!

The Hon. E. BARTON:

Instead of recommitting the bill at once I shall ask the concurrence of the Convention to suspend our standing orders. That will give an opportunity
of having a calm, reasonable, and friendly discussion. I shall certainly make a motion in Committee for the suspension of the standing orders, and it will then be for my right hon. friend, if he has a majority in the House, to defeat that motion. If he has not a majority he can then do what he thinks is such a good thing—accept defeat.

The Right Hon. Sir JOHN FORREST:
Certainly I will!

The Hon. E. BARTON:
I have no doubt of that. I beg to move:
That the Chairman do now leave the chair, report progress, and ask leave to sit again at 7.30.
Question resolved in the affirmative.
Progress reported.
Motion (by Hon. E. BARTON) agreed to:
That so much of the standing orders be suspended as will enable the Hon. E. Barton to make a motion without notice.
Motion (by Hon. E. BARTON) proposed:
That it be an instruction to the Committee of the Whole Convention that they have leave to postpone the proposed new clause 57a, and all proposed amendments thereon, notwithstanding that it has been amended, and to reconsider and rescind all or any resolutions arrived at, and votes taken on the said clause, and on amendments thereto.

The Hon. Dr. COCKBURN:
Is that an instruction to rescind?

The PRESIDENT:
No; that the Committee have leave to reconsider. It is purely permissive.

The Hon. Dr. COCKBURN:
Very well, if that is distinctly understood. As I heard it I took it to be an instruction to rescind.

The Hon. Sir R.C. BAKER:
No instruction to rescind can be given to the Committee.
Question resolved in the affirmative.
[The President left the chair at 5.3 p.m. The Convention resumed at 7.30, p.m.]

COMMUNICATION FROM QUEENSLAND.

The PRESIDENT:
I have the honor to announce to the Convention that I have just received from the Acting Premier of Queensland the following telegram:

In pursuance of the following resolution passed by the Legislative
Assembly of this colony on the 16th instant: "that in the opinion of this House the Acting Chief Secretary should request the Australasian Federal Convention now sitting in Sydney, not to conclude its work until Queensland has an opportunity of being represented at that Convention by representatives directly appointed by the electors of the colony" - I have the honor to submit the above request for the consideration of the Convention. Letter posted to-day. HORACE TOZER.

The Hon. E. BARTON (New South Wales)[7.31]:

I take it that this Convention will be deeply gratified by the communication which has been received by you, sir, and that there is not one among us who will not look forward with renewed hope to the prospect of a consummation of a federation which there is now every probability will embrace the whole of the Australian continent as well as Tasmania. I move:

That the communication received by the President from the Acting-Premier of Queensland be recorded on the minutes of this Convention, and that the President be authorised to acknowledge the same, and to intimate in reply that this Convention has received it with gratification, and will give the request which it conveys the best consideration.

The Right Hon. Sir G. TURNER (Victoria)[7.32]:

I desire to second the resolution, which I have no doubt will meet with the unanimous approval of this Convention. I quite agree with our hon. leader in the remarks he has made. Whatever our feelings may be as to what has occurred in the past, or whatever doubts we may have had with regard to the desire of our sister colony to join with us, I think they will now be at an end. It is our duty, as I am sure it will be our pleasure, to do anything we possibly can, to bring the whole of the Australian continent into our federation.

The Right Hon. Sir JOHN FORREST (Western Australia)[7.33]:

As there seems no doubt - I have-none whatever myself - that we are not going to conclude our business at the present sitting, and will have to adjourn, would it not be more gracious for us to say that we shall be able to comply with the request? I do not, think there will be any doubt about it. I do not intend to move an amendment; but I would suggest to the hon. and learned member, Mr. Barton, whether, as we are not going to complete our work now, we should not say at once that we are glad to be able to inform the Acting-Premier of Queensland that we hope to be able to comply with his request.

The Right Hon. G.H. REID (New South Wales)[7.34]:

I would suggest that the course taken by the leader of the Convention seems the proper one. It will be better, I think, at a subsequent stage, to
deal with the point raised by my right hon. friend, Sir John Forrest. At present we simply have to receive a certain message from the gentleman representing the Government of Queensland. In supporting the motion made by my hon. and learned friend, Mr. Barton, I have to express the very great feelings of gratification with which I, as one of the representatives of New South Wales, have received the communication you have just announced. All along I have felt that this federation would be lame and incomplete without the colony of Queensland, and it is on the part of the people of New South Wales a matter of the deepest gratification that we have now a prospect of completing the circle of Australian union.

The Hon. E. Barton (New South Wales):[7.35]:

In explanation, and in answer to what my right hon. friend, the Prime Minister of Western Australia, has said, I would point out that it would be scarcely right for me, on a motion of this kind, to prejudge any course which the

Convention may take. The probable entrance of Queensland into our deliberations, with the view to her joining in the federation, is a matter which will arouse all of the support towards its being effected, that every one of us can give. But the practical way to meet the request, I take it, is that when we do adjourn, if we have to adjourn without completing our labours, we should perform that act in such a way, as while we carry our work on as far as we can under present circumstances, we shall leave no part of it not open to reconsideration. The telegram, as I am just reminded, says there is a letter to follow, and that letter may be much more expressive, may convey much more information than is conveyed in the telegram. What I hope to do is to go on with the work of the Convention; but on the understanding that if the majority of hon. members desire that there should be at some stage an adjournment in order to allow of the participation of Queensland in our work, we should at any rate do as much as we can until circumstances prevent some of our friends from remaining with us any longer, and at that point, having achieved as much as we can, we should then report progress and adjourn till. such a date. as will enable this question to be decided in Queensland, and allow us then to resume our deliberations in Sydney or in such other city as way be agreed upon. I think that is what will meet the views of hon. gentlemen. I do not think hon. members want, now they are here, to part without doing as much as they can in the limited time available. I think it will be consonant with the wishes of all of us that we should do what we can within that time. I would plead with hon. members that, with reference to the matter which was under discussion this afternoon, we should not part without having gone at
any rate some way to show what our feeling and opinion are with regard to the provisions to be made for conflicts between the houses of the legislature. I think we shall be able tonight, without too long a discussion, to dispose of the question of the functions of the executive. I think we will be able on Monday to go on with this question of deadlocks, having had the intervening time for thought, and we will then come to a decision, which, probably, will receive the approval of each colony and of the people thereof. That, at any rate, is my hope. I hope also that we may go so far that all the other matters that are committed to us as to show, either that we have come to some decision, which is an advance on our previous work, or that we are proceeding in such a way as will give the people of these colonies confidence in the result of our deliberations. That is what we have to aim at. That confidence is that which we have to gain ultimately. I think we should proceed in the effort to gain it in as much time as is available to us, and then, after such an interval as may be agreed upon, to resume our work in the hope that we shall be joined by Queensland in the final completion of it. That is the view which suggests itself to me. I think it will be no breach of Confidence to say that, in the communications which passed between Sir Horace Tozer and myself about the time of the opening of the Convention, I intimated that if a decision was come to by Queensland to join in our work, or if we had something which gave a definite promise of her being represented, she would have my personal assistance in securing a reconsideration of any part of the work we did at this Convention when she came to be represented among us. With that assurance, knowing that in the meantime we ought to do that which is incumbent upon us as our statutory duty, I think we should go on until the time comes for the Premier of Victoria to leave us, or perhaps even later than that, if we have completed the most difficult part of our work, keeping this fact before us: that when we adjourn there is no finality until it is definitely ascertained whether Queensland will or will not join us.

Question resolved in the affirmative.

COMMONWEALTH OF AUSTRALIA BILL.

In Committee:

The Hon. I.A. ISAACS (Victoria)[7.41]:

The leader of the Convention has just expressed his opinion that we should not proceed to-night with the further consideration of the matter which has engaged our attention now for some considerable time. I thoroughly appreciate the motive that actuates that expression of his desire; but I would suggest, in order to elicit the opinion of some hon. members of
the Convention whether it would not be better for us to finish the work upon which we have been engaged. We have now before us, in all their freshness and vigour, the various arguments that have been urged in connection with the proposal. We are familiar with every aspect of the case, and there does not occur to my mind any good reasons why we should not be prepared this evening to give an answer to the various questions which arise in connection with the provision to deal with deadlocks. Of course if there are hon. members who desire a postponement of the matter, that will be another question; but I think the subject permits of more than one aspect in considering the advisability of postponement. I see some danger in delay. I think our minds are brought together as closely its they can be. I think we are all persuaded of the necessity of coming to an early and clear decision on the subject, and I do not think any further consideration would enlighten our minds or incline our hearts more to the determination of the question. I, therefore, would suggest to the leader of the Convention, if he does not consider it of vital importance, to allow the matter to be continued and determined to night.

The Hon. E. BARTON (New South Wales)[7.44]:

Of course in such a body as this I must be entirely in the hands of hon. members. but it struck me when I moved that the Chairman leave the chair a little earlier this afternoon than usual, that I was taking a course which tended towards a calm and deliberate consideration of the points which had arisen between us. It was only in accordance with that, and following out what I then gathered to be the general desire of hon. members, that it was my intention to go on with other clauses of the bill to-night. Of course it may be true, as my hon. and learned friend has said, that we are as near to agreeing as we shall be; but I prefer not to think that. I prefer to think that there are amongst us a few who will come closer to mutual accommodation in their views. We know that there are amongst us gentlemen of stalwart disposition who will always hold extreme views, and whose sturdy independence forbids them from making any concession at all. But we know that the majority of us are not made of such brave stuff, or, at any rate, such Spartan stuff, and therefore that, with time for thought and reflection, most of us are likely to come to some adjustment of this matter which will not involve a great sacrifice of principle on the part of any one of us. Holding that view, I suggest to my hon. friend that he should withdraw his opposition to the course I have suggested, and allow us to get on with the clauses dealing with the executive, on the understanding that on Monday morning we revert to the consideration of these provisions against deadlocks, and settle the question, so far as this Convention in its present session can settle it, on that day if possible.
The Hon. A. DOUGLAS:

The Hon. J.H. CARRUTHERS (New South Wales)[7.47]:

I join with my hon. and learned friend, Mr. Isaacs, in the desire that the discussion on this matter shall proceed until the Convention arrives at some decision, because I foresee that any postponement is not likely to expedite business. We shall probably come here on Monday having arrived no nearer at a solution of the difficulty; hon. members will address themselves to the subject refreshed by their rest, and the chances are that we shall have a much longer discussion than if we proceed with the matter as it has been before us. With the leader of the Convention, I have no extreme anxiety to press hon. members to a decision on this matter; but I do think that the time might be more profitably occupied this evening in discussing those points wherein we do differ. There are points of difference which have not been fully dwelt upon by this Convention in the discussions we have had. We have hardly touched on the question as to how we stand, relatively, in our support of the principles of a dual referendum, or a mass referendum - that question has not been an issue put clearly before us - and I venture to say that, when the Convention does deal with that question, it will be found that we are more divided than we appear to be now, and it is just as well for us to understand clearly the position we do occupy - the differences which divide us. If we spend this evening in a discussion of that character, we shall, perhaps, after an adjournment, be better able on Monday, knowing our differences, to arrive at some definite decision. I would not object to go thus far - to let the determination of this much-vexed question stand over, not only till Monday, but also till we meet again at some later period next session.

The Hon. E. BARTON:

No!

The Hon. J.H. CARRUTHERS:

All I desire to advocate is, that the time we have at our disposal cannot be better spent than in discussing that which we all agree to be the crux of the whole question. We are now at the parting of the ways, and nothing can be gained by giving up any valuable time to other matters-any burning question at issue between us. I, therefore, respectfully urge, not that we proceed to a decision this evening, because I think it is hopeless to expect that, but that we occupy the time as profitably as we can with move discussion and further discovering the points of difference between us, and, by that means, help forward the matter to a solution more speedily than we
shall if we now turn our attention to some matters not at present in our mind, and then come fresh to the consideration of this question on Monday.

Mr. MCMILLAN (New South Wales)[7.50]:

I confess that the proposal to postpone this matter until Monday comes from the vanquished party with an honest desire that we should give every possible attention to this subject. Our decision upon this question may affect the whole of the issue before this Convention, and it does seem to me that in all matters connected with our proceedings we ought to lean to that view of the subject which gives time for consideration, which gives every possible deliberation, and shows our anxiety to conclude our proceedings with every possible consideration for all the interests concerned. This is a question which may decide the popular view in two of the largest colonies. I do not think I am likely to alter my own opinion, but it seems to me when we get a proposal like this from the leader of the Convention, who no doubt has consulted with others who have very strong views on the question, and who to a certain extent guide public opinion, it will be courteous on our part to agree with that proposal.

The Hon. F.W. HOLDER (South Australia)[7.52]:

I wish to say no words which would be discourteous to the leader of this Convention; but I desire to make one suggestion. It seems to me that, if we proceed at once to a further consideration of this question, with all the facts adduced during the debate fresh in our minds, we shall be in a position to make the utmost use of the three days' debate which has taken place, and which lies just behind us. On the other hand, if we go now to the discussion of the important matter of the executive, we shall, to a large extent, let the other matter fade from our minds; and, when we come on Monday to approach the consideration of the question, we shall have practically the whole of the debate over again. It is quite probable that if the matter be postponed until Monday, we shall have one if not two days' debate upon a question which we might be able to settle to-night before we rise. If we had two or three weeks ahead of us to devote to this matter, I should fall in most cordially with the view expressed in favour of delay; but it is of the utmost importance that we should make the utmost use, having regard to the few hours we have before us, of the debate which has taken place; and for these reasons I urge strongly, unless hon. members have gone away upon the understanding that the matter would not come on to-night, in which case I have not one word to say, that we proceed with the consideration of the matter at once, to save that which is precious-time.
Mr. TRENWITH (Victoria)[7.54]:

I submit to hon. gentlemen that we have no excuse for discussing the matter at all except that we have arrived at a somewhat hasty conclusion. I think we decided this question to-day rather hastily; and, in view of the importance of the question, it is reasonable that those who voted to-day should have time for further consideration. That seems to be a sufficient reason for deferring the matter until Monday. In the meanwhile, hon. members will have time to consider the matter in all its aspects. It does not seem reasonable to say that we should proceed now with this discussion with a view to arrive at a decision to-night, which I hope will be somewhat different to the decision we arrived at to-day. I feel that we must not discuss the point, but I offer this suggestion with regard to a question which seems to cover an important issue in connection with our deliberations.

Mr. SYMON (South Australia)[7.55]:

I want to give one other reason for postponing the consideration of these matters until Monday, and it is, that while it will give hon. members who formed the majority this morning an opportunity to further consider the matter, it will also afford my hon. friends opposite an opportunity to reconsider their position, and I hope they will come round to our way of thinking, and swell the majority by their votes.

The Hon. E. BARTON (New South Wales)[7.56]:

I move:

That the proposed new clause 57 (A) be postponed until after the consideration of clause 70.

We can then go on with the provisions dealing with the executive, and if we complete our consideration of those provisions within a reasonable time, I can again move the postponement of this new clause, so that we may deal with some other subject, such as the judiciary. Before the provisions dealing with the executive are reached, there are two or three formal clauses which we might pass now, because it will be inconvenient to go back to them.

Question resolved in the affirmative.

Proposed new clause, and all the amendments suggested for the prevention of deadlocks, postponed.

Clause 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.
Amendment suggested by the Legislative Assembly of Victoria:
Line 5. After "constitution" insert "and to her Majesty's instructions."

The Hon. I.A. ISAACS (Victoria) [7.58]:

Speaking from recollection, I believe that the suggested amendment was agreed to upon the motion of an hon. member of the Victorian Assembly in order to make sure that the governor-general's position would not be indefinite. Still-speaking from recollection, it was, I believe, intended that these words should be embodied in the clause to bring it in to accord with some of the constitution acts, so that the governor-general, who will be the agent of the Crown, might be limited, not only by the terms of the constitution, but by the instructions he would receive from the Imperial authorities, so far as they had the right to, instruct him.

The Hon. Sir J.W. DOWNER:

But is not that part of the constitution as it is?

The Hon. I.A. ISAACS:

I think not. I think that it would be very hard to contend that it was part of the constitution.

Mr. SYMON:

Is it not included in the word "discretion"? His discretion would be regulated by his instructions.

Mr. HIGGINS:

The amendment seems to fix the instructions as part of the constitution!

The Hon. E. BARTON:

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The Hon. I.A. ISAACS:

Yes; but the question was raised as to whether the clause was not more comprehensive than it was intended to be. At the present time I have not got the notes with me that I intended to have; but I have some recollection that attention was drawn to this matter by Sir Samuel Griffith. However, it is quite clear that in some instances the instructions are expressly referred to, and for that reason it was thought advisable, in order to save any difficulty here, to put in these words. The Drafting Committee, perhaps, if they think necessary, can insert the words.

The Hon. J.H. GORDON (South Australia) [8.1]:

It seems rather a remarkable circumstance to put an unknown quantity like this in a constitution. It is not a question of drafting, it is one of principle. If the Drafting Committee do incorporate it, I shall take the opinion of the Convention as to whether we will incorporate an absolutely unknown quantity in this constitution.
The Hon. E. BARTON:
As far as I can see, I do not think there is any particular necessity for the insertion of these words. The governor will be acting under instructions from the Queen. It is utterly impossible to imagine that he will not have received those instructions. Whatever he does must also be subject to her Majesty's instructions, irrespective of a provision of this kind. Perhaps the better way would be to formally negative the amendment, and I will make a note to see if there is any necessity to deal with it.
Amendment negatived; clause agreed to.
Clause 58-Disallowance by order-in council of law assented to by governor-general-agreed to.
Clause 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.
Amendment suggested by the Assembly of South Australia:
Line 2, omit "not."

The CHAIRMAN:
There are a large number of amendments to this clause, which have been suggested by the House of Assembly, and in one instance by the House of Assembly and the Council of South Australia. If hon. members will look at them, they will see that the clause, as amended, would read as follows:-
A proposed law reserved for the Queen's pleasure shall have force after one year unless within one year of the day on which it is presented to the governor-general for the Queen's assent the governor-general makes known by speech or message to each house of parliament, or else by proclamation, that the Queen has thought fit to disallow the bill.
These amendments follow one another.
The Hon. Dr. COCKBURN (South Australia)[8.4]:
We all know that in the Canadian federation the reservation of bills for the royal assent has practically fallen into disuse. The Governor's instructions no longer contain anything with reference to reserving bills. A bill receives either the royal assent or veto on presentation. The whole question of reservation of assent has become obsolete. I suggested in Adelaide that we might very well, in our federation, follow the practice
which has sprung up in Canada, but at the same time I can see that the conditions are not altogether the same, Canada being much nearer the mother country than we are. The means of communication are, of course, much more readily available. While not proposing that this clause should be struck out altogether, the House of Assembly of South Australia proposes that the veto, if exercised, should be expressly exercised, and not simply brought into effect by silence. As the clause stands at present, a bill passed by both houses of the federal parliament and reserved for assent is disallowed by mere effluxion of time. The power of veto ought to be expressly exercised, if at all, and if nothing is said on the matter by her Majesty's ministers— that is to say, the Queen in Council—the bill should have force.

The Hon. I.A. ISAACS:

Should become an act of parliament without the royal assent?

The Hon. Dr. COCKBURN:

If silence can give consent, it can give consent in this matter as in any other. It will give rise to extreme suspense if the clause remains as it stands, with the power of veto by mere pigeon-holing. We pass an act, it is reserved for assent, we hear nothing about it for two years, and then all we know is that, no voice being given, the solemn act of both houses of the legislature has become null and void. It is most harassing that a veto should come into force by mere silence, and it will be a great improvement if this amendment is carried. The proposal is simply that silence should give the royal assent. If there is any reason why the bill should be vetoed, let her Majesty's ministers inform the federal parliament through the governor-general of the fact, but if nothing is said, then let the bill have effect.

Mr. HIGGINS:

The principle the hon. member is advocating is contained in section 58!

The Hon. Dr. COCKBURN:

There is nothing, very new or unconstitutional in the proposal. I think it will be found convenient to adopt it. There will not be the same amount of misunderstanding, and it will be very much better to have definite reasons given for disallowance. Unless we hear within a definite time that the bill is disallowed, then that bill, which has probably been the result of a great deal of discussion, has taken a great deal of time, and which very often is thoroughly necessary to the good government of the community, should become law. The first proposal which the amendment makes is that the veto shall be active instead of passive, and the second is that the period should be reduced from two years to one year. Suspense is worse than anything. It is far better to know exactly how we stand; and when we
consider the rapidity of the means of communication as compared with
many years ago, while two years might not have been too long then, one
year can be said to be quite, sufficient now.
The Hon. S. FRASER:

The Hon. Dr. COCKBURN:

Not very often; but there are acts as to which it is very important that the
Queen's pleasure should be known as soon as possible. A great deal of
expense and irritation is
cau sed by long delay in knowing what the fate of a measure is to be, and
there is no reason why, if the veto is to be exercised at all, it should not be
exercised within the space of one year. I hope the Committee will carry
these amendments. I cannot see that anything can be said against them.
There is a very great deal both with regard to convenience and celerity, and
with regard to avoidance of irritation, to be said in favour of the view we
take.
Mr. GLYNN (South Australia)[8.10]:

I think the hon. member, Dr. Cockburn, is wrong as regards the provision
in the Canadian act.
The Hon. Dr. COCKBURN:

It is an instruction to the governor!
Mr. GLYNN:

I will read section 55 of of the Canadian act:

A bill reserved for the signification of 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-
gen eral signifies by speech or message to each of the houses of parliament
or by proclamation that it has received the assent of the Queen in Council.

I agree with the position taken up by the hon. member. In the convention
at Adelaide I suggested that this clause might be struck out and that clause
53 be made to act in both cases, which simply gave the governor power to
assent to a bill and allowed the Queen within a certain time to disallow it if
necessary. I fail to see the necessity of practically suspending the law for
two years, and if the Queen should not then give her assent to it declaring
the law to be null and void. I fail to see the necessity for keeping up that
practice, because in the earlier portions of the bill we have practically
substituted the delegation of the powers of the governor-general for the
letters-patent. The real reason for keeping up this clause was that originally
the letters-patent might from time to time be varied; but the instructions
which will be given will be given on the appointment of the governor-
general, whose appointment will be a statutable appointment, and whose
duties must be prescribed at once. Under the present arrangement an
appointment might be made without any prescription of the duties of the
governor, other than those prescribed by the general letters-patent issued in
all cases.
Mr. SYMON:
It will be an anomaly to introduce into the constitution of a
commonwealth under the Crown a provision that certain acts may become
law without getting the Queen's assent.
The Hon. I.A. ISAACS (Victoria)[8.13]:
It is a suggestion by the South Australian Parliament that if the Queen
does not within a certain time assent to a bill, her Majesty shall be deemed
to have assented to it. The suggestion reduces the time from two years to
one. It would be a novel feature to say that a proposed law, passed by the
federal parliament consisting of the Queen and two houses, should become
law without the consent of the Sovereign.
The Hon. Dr. COCKBURN:
If it is a good feature, never mind!
Mr. GLYNN:
Why should not the Governor assent in all cases with power of
disallowance?
The Right Hon. Sir E. BRADDON:
Because he is guided by his instructions!
The Hon. I.A. ISAACS:
I would point out that this provision only applies to proposed laws
reserved for the Queen's assent. It is quite true that in Canada the royal
instructions to the Governor-General are different from the royal
instructions to Australian governors.
The Hon. E. BARTON:
They would be the same if we federated!
The Hon. I.A. ISAACS:
No doubt they would be the same. My recollection is that the royal
instructions to the Governor-General of Canada do not contain any
provision for reserving bills, but still the Governor-General has power to
reserve

a bill. If, for instance, he sees that it is one which concerns Imperial affairs,
and may, if passed, entangle the empire, or be in conflict with treaty
obligations he may very well think that it is a bill to be reserved for the
signification of the Queen's pleasure, and a period of two years is better for
the federation than a period of one year, because the circumstances of the
case might be such that a correspondence, and perhaps a very long correspondence, between the mother country and foreign nations, might ensue, which would extend beyond the period of one year from the time of the passing of the bill by the federal parliament. If we limited the period to one year, and that correspondence extended beyond one year, the whole of the legislation would fail. Two years are better for the commonwealth than one year, because the royal assent, if given in two years, would effectuate the desire of the commonwealth to pass the bill into law. Therefore, I think we should retain the clause in its present form.

Amendment negatived.

Suggested amendment by the Legislative Council of South Australia negatived:

Omit "two years" insert "one year."

Clause agreed to.

The Hon. E. Barton (New South Wales)[8.16]:

I understand that it is your desire, Mr. Chairman, and I am sure it will be the wish of the Committee, to take part in the discussion of the clauses relating to the executive. An hon. member who has devoted so much attention and research as you have to the consideration of that question, would not be well treated by us if he had not the opportunity afforded to him of joining in the discussion. I therefore move:

That the Chairman have leave to address the Convention from the floor of the House, and that the Hon. Sir Joseph Abbott, in the meantime, take the chair.

Question resolved in the affirmative.

The Hon. Sir Joseph Abbott took the chair.

Clause 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.

The Right Hon. G.H. Reid (New South Wales)[8.18]:

I desire to point out a verbal amendment which is not of much consequence; but I think it would be more in harmony with the nature of the clause which vests in the Queen the power and authority of the commonwealth. I move:

That the word "exercised," line 3, be omitted with a view to the insertion of the word "exercisable."

Amendment agreed to; clause, as amended, agreed to.

Clause 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.

Suggested amendment by the Legislative Council of South Australia:
After "council," line 1, insert "of six."

The Hon. Sir R.C. BAKER (South Australia)[8.19]:

I am very much obliged to the Committee for giving me the opportunity of expressing my opinion on one, at all events, of the great principles involved in this constitution, and I am obliged to you, Sir Joseph Abbott, for temporarily relieving me of my official duties. I take it that the amendment to insert the words "of six" will be a test question as to whether in this federal constitution we should retain what is commonly called "cabinet responsible government." The amendment which we are now considering is one which is suggested in effect not only by the Legislative Council of South Australia, but also by the House of Assembly of South Australia. If the amendment suggested by the Legislative Council of South Australia is carried in its entirety, the clause will read as follows:-

There shall be a council of six 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 members of the council shall be chosen at the commencement of each parliament to hold office for three years, unless the two houses of parliament sitting together as one house should otherwise determine. The senate and house of representatives shall each choose three members.

Now, I admit at the outset that if we are going to abandon the system of cabinet government the words which I have just read will not be sufficient, but they are quite sufficient to test the question. The house of assembly of South Australia has proposed in clause 63 to leave out the words "governor-general may from time to time appoint officers," that is, members of the executive council, and to insert in lieu thereof the words "parliament may elect." These two suggestions come to the same thing. Both houses of the legislature of South Australia have recommended that we should abandon the system to which we have been so long accustomed, under which the people of this country have grown up, a system which no doubt will be considered to have worked most excellently in its results by most of the distinguished and eminent men I see surrounding me, a system which has been said to be ingrained in the minds and ideas of the people of every English-speaking colony. I know very well that in attempting to persuade this Committee that I am right upon this question, I have an uphill task to perform. I dare say I shall be considered by most persons as
running my head against a stone wall. I have no doubt that in asking the distinguished Premiers and distinguished politicians who are now listening to me, to depart from a system under which they have obtained the position they now hold, a system which has had so excellent effects, so far as they are personally concerned, and which they therefore naturally imagine is in itself excellent, I shall be met with the argument, "You are departing from the fundamental principles of the British Constitution. You are departing from the form of government to which the people are accustomed, and to which they are attached, and endeavouring to form a paper constitution"; but, notwithstanding all that. I have the courage of my opinions. It may be that will not quote, because I will give hon. members credit for having read it. Therefore I do not stand alone on this question. I have the Parliament of South Australia behind me, I have one of the most distinguished statesmen who has ever studied the federation question alongside of me, and although the task that I have is a difficult one, I hope that before I sit down I will be able to persuade the members of this Committee that it is a matter, at all events, worthy of the most serious consideration. In the first, in the only speech that I have hitherto made in this Convention—which I made at Adelaide—I attempted to show that that form of executive which is known as the cabinet-responsible system is inconsistent and unworkable with the existence of two houses of parliament with co-equal power. In that opinion I think I was followed by every member of the Convention—at all events many members coincided in the opinion, and no single member said he differed from it but the conclusion at which I desired the Convention to arrive was not arrived at, as a matter of fact the Convention arrived at exactly the opposite conclusion. The conclusion which I thought would be inevitable was that inasmuch as we had been elected to form a federation we must make all parts of the machine of government subservient to the fundamental principles on which federation is founded. But the Convention came, I do not say by any resolution, but tacitly came to the conclusion that they would adhere to the cabinet system of responsible government, and that if there were anything in federation which was inconsistent with such system, that thing must go. We are not here to discuss abstract principles, we are not here to discuss the meaning of words; but I venture to think that no one will dispute the fact that in a federation, properly socalled, the federal senate must be a powerful house. The federal senate ought not to be an entirely subsidiary house similar in position to the legislative council of one of the constituent states. My hon. friend, Mr. Higgins, the other day said that I was arguing in a vicious circle—that I gave a dogmatic meaning
to the word "federation," and then argued that anything inconsistent with that dogmatic meaning must be contrary to federation. Now, I will say to that hon. gentleman, and also to all my hearers, that all forms of government are machines to bring into effect the wishes of the people, or, at all events, they ought to be machines to bring into operation and to give effect to the wishes and opinions of the people of the country at the particular time they are formed.

Mr. HIGGINS:
And not of the states of the country!

The Hon. Sir R.C. BAKER:

Of the particular people who gave the mandate to those whom they elected. Now, the question is, what people? I assert that the mandate which I have from the people of South Australia is to form an instrument of government under which they will give up-to a certain extent but not altogether some of the sovereign powers they now exercise-under which they will give to the central authority that is to be constituted the power of legislation concerning certain subjects, provided such central authority is constituted in such a manner that the states will have some controlling influence even concerning those subject-matters. If that is so, it does not matter how you define the word "federation." I assert that we ought, in giving effect to the mandate which has been committed to us, to consider the wishes and the opinions of the people who sent us here, and it is because I wish to do so that I wish to make the federal senate a strong, a powerful, and a living house. Can we do that if we have the cabinet form of executive? Is it not of the very essence of the cabinet form of executive that one house should be predominant? Let us look at Great Britain, or at any one of these colonies, and what do we see? We see the executive a committee of one house, appointed by that house, responsible to that house, holding their positions by the will of that house; and we see the other house-I do not say exactly a mere gilded ceremony, but rapidly approximating to it. Is it not of the very essence of responsible government that one house should be the predominant partner, and, not only the predominant partner, but the predominant partner to such an extent that the other house rapidly ceases to exercise any real power? The essence of federation is the existence of two houses, if not of actually co-equal power, at all events of approximately co-equal power. The essence of responsible government is the existence of one chamber of predominant power. Now, how are we to reconcile two irreconcilable propositions? Let me give hon. members a little illustration. In South Australia not long ago, the Legislative Council, a council elected on the broadest basis on which any
council is elected in these colonies, passed a resolution instructing the Government to do a very simple thing, a matter of which the details are of no importance. It involved the issue of a proclamation necessitating an expenditure of £15, not by the Government, but by a district council. There was no doubt about the legality of it. As a matter of fact, it was urged that the Government were bound by law to do this thing, even if they were not bound by the resolution of the Legislative Council. But what did they do? They sat secure with a large majority in the other house, who they thought, and probably correctly, would uphold their inaction. They said, "We will not do it"; and the Council were powerless to compel them to do it. Will not the federal senate be in the same position if the federal executive is exclusively responsible to one house of parliament? I cannot see how any different conclusion can be arrived at. In South Australia, when this thing happened, it was argued in the Council that their resolution should be obeyed; but how could they secure its observance? How could they vindicate their position? They had only one way of doing it, and that was by refusing to grant supply, or to pass measures in which they concurred, and they shrank from so drastic a course. The fact is that an upper house in these colonies has only one weapon. It is like a fort which has only one big gun, and that gun so powerful and so uncertain in its effect that they hardly dare to let it off, because it may burst and injure those who occupy the fort, and possibly blow it to pieces. This big gun is the power of refusing to grant supplies, and to thus cause the stoppage of all the functions of government. Of course they cannot use it except in the very last resort. They have no practical power over the executive. If such a little incident as I have just now narrated takes place under this federal constitution, what will be the result? The federal senate will say to the federal executive, "You must do so-and-so." The federal executive will take no notice. What can the senate do? Will not such a position as that gradually but inevitably bring the federal senate into such a position as is now occupied by our local legislative councils? What we want in a federation is this: an executive responsible to parliament, responsible to the people through the parliament, but not exclusively responsible to one house of parliament. We want the executive so constituted that it is enabled to lead debate and legislation in both houses of parliament, not dissociated altogether from the legislature, as is the case in America, but so connected with parliament that it can perform the function of leading and informing parliament, which is necessary to secure harmonious working, but at the same time so constituted as not to be exclusively responsible to one house. I dare say I may be told that I am trying to form a paper constitution. I assert that it is exactly the contrary, that those people who are trying to graft the British
Executive on the American Federal Constitution, are trying to form a paper constitution; they are trying to bring into existence a machine which has not yet been known to the world.

The Hon. S. FRASER:
Not in Canada!

The Hon. Sir R.C. BAKER:
Mr. Walter Bagehot has pointed out in most powerful language how difficult it is to alter any of the delicate portions of the machinery which constitutes a government, composed of checks and balances, and how if you alter one insignificant looking wheel, you may throw the whole system out of gear. How much more true is that if you try to alter this foreign machine—because I assert that the federal form of government is an absolutely foreign machine—
a machine of which none of us have any personal knowledge concerning its actual working in one of it most important parts! If you try to alter this foreign machine by taking out one of the most important portions of that machinery and inserting another, by inserting a fly-wheel instead of a cog-wheel, you will turn the whole thing out of gear. I do not say that we cannot form a workable government with the executive form of cabinet; but I do say that you cannot form a workable federal government, that the machine will not work in the manner intended— at all events, it will not work in the manner I intend, it will not work in the manner the people in the smaller states intend—it will result in an amalgamation instead of a federation. We are now really discussing one of the many phases of the subject which we have discussed from the first, namely, the relative power and position of the two houses. I want the members of this Committee to consider carefully that, no matter what theoretical powers you may give to the senate, those powers are inoperative unless they will work out in a practical manner, are useless unless you provide for their practical application. I do not care whether the federal senate has or has not sufficient theoretical powers. I do say this: that, no matter what theoretical powers you give it, if it has no voice in the constitution of the executive, if it has no power over the executive after that executive is constituted, then it will cease to be a powerful factor in the state, and become a mere glorified appendage of the house of representatives.

Mr. GLYNN:
Suppose one house wants a cabinet minister out and the other wants him in, will the cabinet be as strong as it is at present?

The Hon. Sir R.C. BAKER:
I do not want a cabinet at all. I will come to that by-and-by, and will
explain what I do want. Perhaps I may be told that we must not load up this constitution with provisions that will render it unacceptable to the people. Now, do the people greatly revere this cabinet system? I do not think they do. If you were to poll the people of Australia from one end to the other, I think they would say, "Abolish it." The popular opinion is this: that it simply results in a struggle between the ins and the outs. It has been described as ten men trying to carry on the government, with another ten men trying to prevent them. But whether that is true or whether it is not, I do not think there can be much doubt that, in the opinion of the man in the street, "the ins and the outs" is a game played by prominent politicians, in which in many cases principle is conspicuous by its absence, and the struggle is for place and pay. I am not, saying whether that is or is not true. I am only asserting that, in my opinion, that is the view held by the general body of the people, and that it will be no bar to the acceptance of this constitution by the people of the various states, if we abolish the cabinet system of responsibility, and adopt something else in its stead. The question is: what shall we adopt? In the Constitutional Committee, in Adelaide, I moved the following resolution:-

That there shall be six members to be chosen at the commencement of each parliament to hold office for three years unless the two houses of parliament shall otherwise determine. The states assembly and the house of representatives shall each choose three ministers. A minister shall have a seat in and the right to speak in either house, but he shall have no right of voting except in the house of which he is a member. Ministers shall be individually responsible to both houses, and either house may, by resolution, demand that two houses shall sit together as one house to consider the conduct or policy of a minister.

I take it that that system, if adopted, will shatter to atoms the quasi-corporate character of cabinet governments.

The Right Hon. Sir JOHN FORREST:

They will be all kings!

The Hon. Sir R.C. BAKER:

I admit what my right hon. friend says. I admit that every one will manage his own department!

The Right Hon. Sir JOHN FORREST:

All premiers!

The Hon. Sir R.C. BAKER:

All premiers, in their own departments, irrespective of every other minister, and the Governor will probably not have to act on the advice of
anybody at all. As a matter of fact, we know that the supposed acting of the Governor, on the advice of ministers, is a mere sham.

Several Hon. MEMBERS: Oh!
The Hon. Sir R.C. BAKER:
Does anybody here imagine that the governor exercises any real responsibility I

An Hon. MEMBER:
No!
The Hon. Sir R.C. BAKER:
Are not the so-called advisers to the governor dictators to the Governor?
The Hon. A. DOUGLAS:
No doubt about that!
The Hon. Sir R.C. BAKER:
There is no doubt about that, and that is another reason why we should not start this new constitution by inserting the British sham that the governor chooses his advisers and acts on their advice. What are the facts at present? The real facts are that the parliament dictates to the governor his so-called choice of a premier. I do not say that there is any absolute direct election such as I propose; but who can say that the lower house of parliament at present does not dictate to the governor who shall be Premier, and who will say that the Premier is not, in the choice of his colleagues, greatly influenced by the consideration as to whom he thinks the lower house will approve of? So that though there is no direct election, there is even at present, in one sense of the word, an indirect election of ministers by one house of our local parliaments. Although I am not one of those who would like to needlessly knock down old institutions, even after they have ceased to be useful, which are historic survivals of ancient realities, still, in framing this new constitution of a foreign character, it is absurd for us to import into it a British sham, which will not work with that foreign constitution. When I was led away I was commencing to describe what would be the effect of the system which I suggest. One effect would be that each minister would manage his own department, subject only to parliament; that there would be no collective responsibility by ministers. Why should not parliament, who are the elect of the people, who represent the people, retain in their own hands the power of dictating to each individual minister the policy he should pursue? In matters of administration, let him manage his department; in matters of policy, let him be dictated to by parliament.
The Right Hon. Sir E. BRADDON:
Six different policies!
The Hon. Sir R.C. BAKER:
Six different policies, if necessary—one for each department.

The Hon. Sir W.A. ZEAL:
HOW would you manage about the finances?

The Hon. Sir R.C. BAKER:
That is just what I was coming to. I will give the hon. member, an illustration of how I would manage about the finances. Not very long ago, in Germany, there was a difference of opinion between the Minister of Marine and the Minister of Finance. The Minister of Marine said, "I want so many more millions in order to build new ships." The Minister of Finance said, "I cannot afford it, and I cannot give you the money." Who decided between them? Why, the legislature did? Why should they not decide? Who decides now?—why that modern autocrat, the Premier. Why should the direct representatives of the people delegate to one man that power and those responsibilities with which they have been intrusted by the people? I may perhaps be taunted with this consideration: that the collective responsibility of ministers has grown up, and been an evolution out of the individual responsibility of ministers. But the members of this Convention must recollect that the original responsibility of ministers was not to parliament, but to the Crown, and that we have never yet tried the system with individual responsibility to parliament. That, however, is not an untried system. That is a system which exists in Switzerland, and, so far as I can gather from my reading, it is a system which works well in that country.

Mr. GLYNN:
And it is in the Constitution of France, and has been the cause of untold trouble there according to some writers!

The Hon. Sir R.C. BAKER:
I believe they have had in France forty different constitutions of late years, and nearly all of them have become unworkable, chiefly because of the characteristics of the French people, and because they wanted to give immediate effect to the uneducated and unchecked will of the people without due consideration.

The Hon. Sir W.A. ZEAL:
We are now proposing to try some foreign inventions!

The Hon. Sir R.C. BAKER:
This federation is a foreign invention.

The Right Hon. G.H. REID:
Thoroughly Australian!

The Hon. Sir R.C. BAKER:
Federation?
The Right Hon. G.H. Reid:
We are going to have an Australian religion, too!
The Hon. Sir R.C. Baker:
I have no doubt that the right hon. gentleman will be the high priest. There is one minor consideration which I may as well mention, now that I remember it. Under this new system we wish to establish, we shall double the number of elections which the people will have to attend. We have now in each colony elections to the local parliament, and bye-elections. We shall have to elect a federal senate, and a federal house of representatives, and we shall have bye-elections again there. It is difficult enough now to persuade people to go to the poll; but if we double the system of elections it will be still more difficult. Then, if we have this double dissolution, this double referendum, or this mass referendum-whichever we agree to—we shall have an infinitely greater number of elections; so that the average elector will have to rise early in the morning, and look at his diary, and see what election he is going to attend. If we abandon responsible government there will be no deadlocks; there will be no penal dissolution, and consequently few elections, less trouble and loss to the people, and less expense.
The Hon. A. Deakin:
And no popular control!
The Hon. Sir R.C. Baker:
There will be just as much popular control as there is at present, and there will be more satisfaction amongst the people. To hear hon. members talking in this Convention, one would think that the average elector is one who studies all the possible political questions of the day, and rushes to all the elections; whereas, we know exactly the contrary. However, this is, perhaps, a matter of minor importance. I do not want to labour this question. I have addressed the Committee, perhaps, longer than I intended. I have desired to be as clear and concise as possible. I hope that the question is of such importance that it will receive due consideration, because I feel that from the very start of the 1891 Convention in Sydney to the present day, to the present hour, we have been gradually frittering away the power, the position, and the dignity of the senate; and I want to do something to counteract that to some small extent. When I spoke in Adelaide I was told, "You ought not to go to foreign countries for your constitution; you should stick to everything that is British"; and now where are we going for our referendum? We are going to Switzerland, and if we can go to
Switzerland with advantage for a referendum, I do not see it is any more foreign if we can go to Switzerland, as we may with advantage, for an executive. At all events, if this is not an argument, it is a consideration which answers the objection raised in Adelaide—that we ought to stick hard and fast by all the lines of the British Constitution. Why, in this constitution which we are now considering, we have departed at the very start from every line of the British Constitution, except that principle which is common to all manner of constitutions all over the world—that there should be representatives chosen by the people. We are to have two houses of parliament each chosen by the same electors. What principle in the British Constitution is there there? We are to have, instead of a highly centralised government such as they have in Great Britain, a division of powers in fact we are to have, at all events, an attempt at a federation. What principle in the British Constitution is there there? We are going to have a double dissolution, and perhaps a double referendum. What principle in the British Constitution is there there? Why, sir, we have day by day and every day, departed from the lines to which we were told we should adhere, and when I ask members of the Committee to depart from them a little more—I do not say it is a necessary conclusion that they ought to do so, but I do say that they cannot turn round upon me and say, "You are asking us to adopt a foreign innovation, and we must adhere to the British type of constitution." Probably I shall be in a minority. But the history of this Convention, if it has shown anything, has shown that those who are in a minority one day are not necessarily in a minority on another. It has shown that argument and reason have their effect. If it does not show that, it shows that time has its effect. I hope that, inasmuch as the probability is that we shall not conclude our labours at the present sitting, that time will have its effect in showing to members of this Convention how absolutely inconsistent with the fundamental principles of federation is the principle of cabinet executive government.

Mr. HIGGINS (Victoria)[8.56]:

Since the hon. member has referred to certain observations in a speech of mine, I hope I shall not be considered presumptuous if I follow him briefly. I understand the hon. member to say that he has no hope of changing the views of hon. members as expressed in Adelaide; but I presume his speech has been made, not without any definite object, but rather with the idea and desire of stiffening the views of those who hold with the hon. gentleman these peculiar theories with regard to federation. Now, my attitude with regard to the hon. member's views is very simple. I think he is absolutely logical, and, as I said before, if there is one thing during these debates which has been frequently instilled into me, and about which I have been
often warned, it is that I should not be absolutely logical. If you give the hon. gentleman his premises, his conclusion is irresistible. The only point to which I wish to draw attention is that he assumes—and I hope I shall be absolved from any intention of presuming that I have studied the question as he has done, or that I have had the experience in parliamentary matters which he has had—that if you are to have a federation, you must abandon responsible government. I dispute with him that there is an absolutely rigid and definite meaning to the word "federation." He says we must take the word as meaning that the people of the states give up certain powers on condition that they, as states, shall have a voice in moulding the laws. But it all depends on the agreement. The question is, what agreement we shall make. Are we to enter into an agreement that the people of the different states are to give up their powers on condition that they, as states, shall have an equal voice in moulding the laws? The hon. gentleman says that in a federation you must have a states' house and a people's house; that these two houses must be equal; that if you have responsible government you cannot have that state of thing—that under responsible government you must have one house greater than the other. That is quite true. The two things are inconsistent. They will not mix logically; they are perfectly irreconcilable. It is quite certain that if you have a federation in the form of that certain definite, rigid agreement which he describes, you cannot have responsible government. But the hon. gentleman treats federation as if it were an Athena sprung ready armed from the head of Jupiter—that it was something absolutely defined from its first inception. But I take it that "federation" is a word used to indicate a number of devices which have, as their general object, the relegating of certain subjects to the central government, and the leaving of other subjects to the state governments. I take it that there is no reason for treating federation as if it were a matter to be explained among words in a school-book. I take it as a simple matter of commonsense and expediency. I may say that I have read the pamphlet on the federal executive which the hon. member, Sir Richard Baker, has published; and I cannot see how those hon. members who adopt this rigid view of federation can escape from the logic of the hon. member, Sir Richard Baker, which seems to me to be absolutely conclusive. It seems to me that if you once start with the idea that you must have the consent of the states, as well as the consent of the people, the hon. member, Sir Richard Baker, is absolutely right, you cannot have responsible government. But this beautiful system that we propose makes it evident that for Australian purposes we cannot have a federation in the sense in which that word is used by Sir Richard Baker, for the very
matter in which state interests are most involved is state expenditure, and we are limiting the powers of the senate in regard to money bills. I want to know where those hon. gentlemen who have been airing theories in regard to the absolute necessity in a federation of having consenting states as well as consenting people now are? I said in my opening speech that that rigid theory of federation was like a bubble that has been pricked, and I adhere to that view now. I submit, that in no form of government are two houses necessary - I hope I shall not be taken as advocating that there should be only one house in this government. As Benjamin Franklin said a long time ago, the system of having two houses does bear a resemblance to trying to drag a cart with one horse in front and one horse behind - one horse pulls one way and the other horse pulls the other way. But I do not say that in a federation there is no room for a second house. I rather think that John Stuart Mill has expressed the more correct view when he said: it is not for a check that you want the second chamber, but it is to prevent the one chamber feeling the deterioration which otherwise follows the sense of irresponsible power. The is a good deal to be said in support of that opinion. I do not intend, as this is not a live question, to go any further into the matter now. I would not have had the presumption to rise after so weighty a speech as that delivered by my hon. friend if he had not made some reference to what I had said. Whatever may be the course of the debate-whatever maybe, the result of our deliberations here-I feel that the chief of

our difficulties which have arisen in the course of framing this constitution has arisen from the publication throughout Australia of a rigid-theory of federation to which we now find we cannot practically adhere.

The Hon. Dr. COCKBURN (South Australia)[9.4]:

For many years past I have been a supporter of the principle of an elective ministry, and I am none the less disposed to support that system on this occasion, because under the proposed amendment a certain proportion of the executive would owe its origin to the senate or states' house. I think that this principle is one which in no way destroys the principle of responsible government. It makes each minister more directly responsible than ever to parliament. Having advocated this reform in the local legislature as being applicable to the colony I have the honor to represent, I think it is still more applicable to the new conditions under federation. Of course I do not believe there is much prospect of its being carried, but I am glad it has been brought forward. I think that if it is not carried at the present time it will spring up under federation, and will become the practice in the federation when once formed. I am of opinion that the
principle of electing officers is superior to that of nomination. As a matter of fact, ministers are at present practically nominated by a member of the house of assembly. I think that a much superior way is for the members of the executive to be directly elected by and responsible to the assembly to which they owe their origin, and from which they derive their powers. I hope that the hon. member will take a division upon this question. Should he do so, I shall have much pleasure in voting with him.

The Hon. J.H. CARRUTHERS (New South Wales)[9.6]:

There are one or two matters which I should have liked to have had further elucidated by the hon. member who has submitted this proposition to the Committee. He speaks of the proposed federal constitution as a foreign institution. I should like him to tell us where this foreign institution has been put into practical operation in the shape which he proposes. I should like to know to what country we could go for experience of elective ministers where the constitution is established under the Crown—where you have as the supreme head, not a president elected by the people or by the parliament, but a monarch. It appears to me that my hon. friend has lost sight of this essential of our proposed constitution, that we, first of all, insist that it should be under the Crown. Theoretically, this may be a sham; but, term it what you like, the mandate of the people is that the semblance of authority is to proceed from the Crown itself. My hon. friend says that these ministers or executive officers are to derive their policy from the parliament. We know very well that our experience of parliaments is that they change their policy very frequently.

An Hon. MEMBER:

So do ministers!

The Hon. J.H. CARRUTHERS:

We must therefore have it as a condition of the proposal put forward that the ministers of education, of lands, of railways, and whatever ministers you choose, to make must change their policy from week to week in order to keep in touch with the parliament which elects them.

The Hon. Sir R.C. BAKER:

Do they not do that now?

The Hon. J.H. CARRUTHERS:

Even if they do, it is upon rare occasions. It is not the rule, but the exception to the rule. my hon. friend's proposal, however, would make it the established rule that ministers should be the agents of parliament, to give executive effect to its wishes and directions. Suppose the houses of parliament differed as to their policy, the senate desiring one policy and the house of repre-
sentatives another, which should the ministry follow? More than that, does not the hon. member know that one-half of the work of an executive body, be it a cabinet government or any other form of government, consists in administrative official acts which do not come under the cognisance of parliament at all? How, too, are you to reconcile the existence of cordiality and agreement which is necessary in order that these functions may be properly carried out, if you have the ministers selected, not at their own choice, not with any desire to work in harmony with each other, not from any guaranteed policy which will ensure harmonious working, but from different parts of the house, holding different views, and, possibly, some of them, not on the friendliest terms? You may see, as a consequence, ministers and their administrative arrangements reducing public affairs to a state of chaos, and bringing, them into contempt with the people. As a necessary corollary to the hon. member's proposition, if he wishes to make the federation one consistent with the foreign lands from which it is supposed to be derived, let one supreme head be elected by the people or the parliament, and let that person have the responsibility of all executive authority as in the United States; then the federal machine will work as smoothly as the greatest theorist would desire; but that machine would not agree with the inclinations and desires of the people, who have commissioned us to form a federal constitution under the Crown. I take it that, if we now agree to have so drastic a change as this, it would result in the machine having to be further amended, so as to place in it this principle of an elective governor or president, and so do away with the one link which connects us with the mother land. It may be "a British sham"; but it is an essential principle that we retain our connection with the mother land and with its institutions which are really the motive of our desire for retaining that connecting link. We desire to retain that connection, as far as possible, under our federation. I hold, with the hon. member, Mr. Higgins, that we may use this term "federation" in such a way as to run the theory to death. We may, as the hon. member, Sir Richard Baker, points out, make a workable constitution, and, if we make it workable, I do not care how many theories I violate, or help to violate, as long as we make the constitution workable, and promote the happiness of those who are to live under it.

The Hon. Sir R.C. BAKER (South Australia): I should like to say one word in reply to the remarks of the hon. member, Mr. Carruthers. He says the system I advocate is not workable if this is to be a constitution under the Crown. Why not? We have at present a constitution under the Crown, in which, practically, who are to be the
advisers of the Crown are dictated by the lower house of parliament, and, practically, those advisers tell the governor what he has to do. Where is the difference between the system which exists at present and the system I am now advocating so far as that point is concerned? I can see none. The hon. member, Mr. Carruthers, says supposing the two houses differ, what policy is the minister appointed by one of these houses to adopt? If the hon. member had followed me, he would have seen that that is provided for by a modification of the Swiss system, namely, that the ministers should be individually responsible to both houses, and either house might by resolution demand that the two houses shall sit together in one house and consider the conduct and policy of the ministers, so that the two houses sitting together in case of a disagreement shall decide on what the policy of the ministry shall be. That is, as to those political and ministerial acts that are of sufficient importance to come before parliament. There are many ministerial acts that do not come before either parliament or premier under the present system. What difference would there be if each minister managed his own department (as he does at present) subject to the dictation of parliament, or to the dictation of his premier? I do not see any difference. I believe there is a very large majority against me, and, therefore, I shall not labour the matter any longer.

Amendment negatived.

Clause 61 (Constitution of executive council for commonwealth) agreed to.

Clause 62 (Application of provisions referring to governor-general) agreed to.

Clause 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.

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.

Amendment suggested by the Legislative Assembly of South Australia:
Omit "governor-general may from time to time appoint," line 3, with a view to insert parliament may elect."
Amendment suggested by the Legislative Council of South Australia:
Omit first and second paragraphs.

The Hon. F.W. HOLDER (South Australia)[9.15]:

I think it right that I should state the reasons why the South Australian Parliament proposed these amendments. Of course, we were aware of the arguments which Sir Richard Baker has used here to-night in reference to the executive. He had not convinced all of us that the cabinet system was absolutely incompatible with federation; but he introduced into most of our minds a doubt on the question, and we thought that, from our point of view, it would be better in this cast-iron constitution not to say either on the one hand that the responsible cabinet system should be adopted, or, on the other hand, that it should not be adopted, and the idea was to leave out these sub-clauses so that the matter might be left entirely an open question—so that either system which might be required as time went on, might be adopted, and the federation work out its own salvation—to use a phrase used here before. I am not going to urge the matter at all. I simply give this explanation of the reasons why the clause is proposed to be amended in the manner indicated.

Suggested amendments negatived.

Amendment suggested by the House of Assembly of Tasmania:

Omit the last paragraph. Insert "Every minister of state shall, during his tenure of office, have the right of entrance to and audience in both houses of the parliament, but shall not be entitled to vote in either house, unless he has been duly elected a member thereof."

The Hon. Sir P.O. FYSH (Tasmania)[9.17]:

In this suggested amendment hon. members will discover the handiwork of the Hon. I.A. Clark, who, it will be remembered, gave to the Convention of 1891, from the very bench at which I stand, an admirable disquisition on the subject dealt with this evening by Sir Richard Baker. It will be remembered that he gave a quotation from Freeman with respect to the advisability of exempting a ministry from responsibility to parliament, and of assimilating our practice more with that of the American states. Therefore Mr. Clark desired that the Convention should eliminate paragraph 3 of the clause. The provision found its way into the bill at Adelaide, and was not in the bill of 1891. If these words are struck out it will be possible for a minister to be in office for a considerable period, even though he may not have the responsibility of being elected. I am not commending this clause to the Convention, but I consider it my duty to call the attention of hon. members to the purpose which the mover in Tasmania had in view. In the words proposed to be inserted, the idea is
to follow the United States practice.
The Hon. I.A. ISAACS:
The United States practice?
The Hon. Sir P.O. FYSH:
I refer to the practice which allows a minister or the presidents to speak in either house.
Mr. SYMON:
The Sandwich Islands practice!
The Hon. Sir P.O. FYSH:
The attorney-general may not be able to get representation in the senate o

The CHAIRMAN:
I will put the question that the paragraph stand part of the clause. If it is struck out the Tasmanian suggestion will be inserted, but, if the paragraph stands I cannot put it.
The Hon. E. BARTON (New South Wales)[9.21]:
I think it my duty to put before the Committee some of the reasons which my friend, Mr. Inglis Clark, the Attorney-General of Tasmania, has communicated to me in favour of this amendment, leaving them to the judgment of the Committee. Mr. Inglis Clark's reasons proceed in this way:
The apparent object of the insertion of subclause 3 is to secure the adoption of the system of responsible government;-
There, of course, I think he is correct. It was as a safeguard to responsible government that this sub-clause was inserted.
But it is submitted that, in order to attain that object, it is not necessary to insist upon the presence of all the members of the cabinet in the parliament of the commonwealth, because we have seen several instances, both in England and in the Australian colonies, of one or more members of the cabinet being unable to obtain a seat in parliament during the whole of one or two sessions; and so far from securing for all time the adoption of the system of responsible government, it might be found in the future to facilitate and bring about a system of election of ministers by parliament and a co-terminus duration of their term of office with the duration of parliament. The proposed substitute for sub-section III is similar to, the provision which finds a place in the constitutions of France and Italy, and of other countries which have adopted the system of responsible government, and which have found the provision very advantageous in securing the more perfect and satisfactory working of that system of government.
I have been unable to convince myself, sir, that this is a desirable proposal to insert in the constitution but I have thought it was only a matter
of duty, as well as courtesy, to the very able gentleman who has forwarded these reasons to lay them before the Convention. On the whole, I think we may do well to retain the clause as it stands. I am not quite sure that there would be a direct opposition between the clause as it stands and the amendment if it were inserted; but, in any case, I take it that we ought to retain the clause as it stands, whatever is done about the amendment. As to the amendment, I will require to be a little convinced before I can consider it a desirable innovation.

Mr. GLYNN (South Australia)[9.23]:

I intend to vote against this paragraph, because I think it is a matter for legislation. Hon. members will have noticed from the pamphlet published by Sir Samuel Griffith, that this is one of several clauses which he asks should he struck out on the ground that we are really interfering with what ought to be the legislative power of the commonwealth. I would suggest that it this amendment be made, the words, "until parliament otherwise provides," ought to be inserted at the beginning of it, because, otherwise, you are making provision in the constitution for what is a matter of legislation. The proper way would be to give parliament power in clause 52 to make such a law. Although this power does exist in the French Constitution of 1875, that Constitution contains a provision for the responsibility of two houses on somewhat the same lines, sir, as you recommended for the adoption of this Committee, and it is probably in consequence of some of the ministers being by the Constitution in the Senate in France that the right of audience in both houses has been given, I do not think we are called upon to adopt the French precedent, considering that the circumstances are so very different.

The Right Hon. Sir JOHN FORREST (Western Australia)[9.25]:

I should like to ask the leader of the Convention whether the parliament has power to legislate in regard to the number of ministers who would sit in either house? It appears to me necessary that there should be some provision that one or more ministers should be members of the senate. Under the Constitution of Western Australia one member of the ministry must be a member of the Legislative Council, and it seems to me desirable that there should be some provision in reference to the matter.

The Hon. E. BARTON (New South Wales)[9.26]:

There is no distinct provision in the bill that there should be any distinct number of members of the government in either house. I take it that there will be an inherent power in parliament to legislate on this subject, and for this reason: the powers of responsible government are mainly given in this constitution, not by any direct form of words but because the power of the
purse is given to the parliament. The power of the purse is mainly given to one house, no doubt, and in that case the responsibility would be primarily to that house. In the working of that system, parliament may, from time to time, insist on them being a number of members in this or that house. It can do that by resolution, and there is nothing in the constitution to prevent it; and if it can do that by resolution, I do, not see that there is anything in the world which will prevent it making it also a subject of legislation. But that is a matter which I think cannot find its place in any constitution, but which must be left to the evolution of the constitution itself.

The Hon. F.W. HOLDER (South Australia)[9.27]:

I also should like to ask the leader of the Convention a question. Looking at the Tasmanian amendment I see that it might be very convenient to have this power, and if the power could not be given under our constitution without an alteration of that constitution, I think we might meet the difficulty by carrying the amendment as proposed by Tasmania, with the words added before the amendment, "Parliament may provide that." Then it would certainly confer upon the federal parliament power to do this, as I think we ought to confer the power unless it can have it otherwise without a special provision.

Mr. GLYNN (South Australia)[9.28]:

I suggest that the proper way will not be for the House to accept the amendment suggested by the hon. member, Mr. Holder. His suggestion is not to confer the power on the constitution, but to give parliament power to legislate for it. If you begin to say parliament may do this and not do that, you interfere with the delegation of the powers under clause 52—that is, with the constitution, as we are drafting it. The proper way is to stick to the delegation of the powers under clause 52, because they are the definition of what parliament can do.

Mr. HIGGINS:

Are not powers given all through the bill?

Mr. GLYNN:

I do not think so. So far as political machinery is concerned they are; but there are no powers which are not merely functional given to parliament except under clause 52. Even under this very part of the bill itself, as clause 69 will show, where there is a specification of certain other things, such as customs and excise, taken over as federal departments, the prescription or assignment of these departments is merely auxiliary to clause 52, and gives amplification to its provisions. I suggest the addition of the words "until parliament otherwise provides."
Mr. WALKER (New South Wales)[9.29]:

I feel considerable delicacy and hesitancy in speaking on this matter; but in the absence of a gentleman whom I hope to see present after the next adjournment of the Convention, Sir Samuel Griffith, I would draw attention to the fact that he in his pamphlet refers to this very matter. In his notes on the drafting of the Constitution Bill he says:

The only material change made by the Convention in the draft bill of 1891 with respect to the executive government is the introduction of a provision 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 the parliament.

He goes on to say:

Cannot then the federal parliament be trusted to insist upon ministers being members, if it thinks fit to do so? Why this want of confidence in the parliament? They will have to work the machine which is now being constructed. Why should the use of a recent invention never tried in a federal state be prescribed for all time, and why in the case of what is admittedly a mere experiment prohibit the use of a safety-valve?

In truth the reason for the insertion of this provision seems to be a fear that the sacred ark of responsible government may not find a secure anchorage in the unknown sea of a federal constitution, and a desire to establish an artificial shelter for it. But surely, if the institution in its present form is good it will last, and if it is not good it ought to be modified. Precedent, with one or two exceptions, is distinctly against the proposal. The history of most countries where responsible government has been tried is against it. In regard to law officers, especially who in the Australian commonwealth will have to discharge most important functions, there have been frequent instances in which the necessity has arisen of appointing a lawyer not a member of parliament.

In Queensland in days gone by there have been ministers without portfolio who have not been members of parliament.

The Hon. I.A. ISAACS:

How long did they hold office?

Mr. WALKER:

They held office without portfolio, and without remuneration, for the whole lifetime of the cabinet speaking from memory.

The Hon. E. BARTON:

What was parliament doing all the time?

Mr. WALKER:

I am not prepared to say that that condition of things lasted very long, but I can mention one or two instances. The Hon. George Raff was minister
without portfolio in the Herbert administration. Then Sir Samuel Griffith continues:

With the proposed small number of members of both houses, the difficulty is extremely likely to occur. If it is desired that the best men should be appointed ministers of state, why arbitrarily limit the field of choice? It may be noted that the provision is distinctly objectionable in form, as being a limitation of the royal prerogative. This term it may be well to observe rarely expresses the embodiment of the sovereign power of the whole people, and does not signify the personal privilege of an individual. But, perhaps, the strongest objection to such attempts to fetter the freedom of a nation is their utility. The exclusion of ministers of state from Congress in the United States has not prevented the practical exercise of important functions which under our system of government properly appertain to the executive government by committees of Congress, and a law which required that executive functions should be formally exercised by a member of parliament would not prevent the real exercise of them in the name of a member by a person not a member if the state desired that they should be so exercised. The result might be the establishment of a bureaucracy under the disguise of responsible government. It is manifestly desirable that the person who rarely exercises authority should, as far as practicable, be the same person who is formally responsible for its exercise.

It seems to me that we might make an addition to the present laws in the manner suggested by the hon. and learned member, Mr. Glynn, by inserting the words "until parliament otherwise determines." If the question comes to a division, I shall support the insertion of the words proposed by the hon. member, Sir Philip Fysh.

The Hon. Sir W.A. ZEAL (Victoria)[9.34]:

I think it would be a very inadvisable power to grant to federal government; there may be particular occasions when a minister in one house may be asked to explain a measure in another house, but that could be done under a resolution. I do not think there is any necessity for placing such a provision as this upon our statute-book. The case can, no doubt, be met by a standing order. If a minister having a particular knowledge of a subject in one house, say in the assembly, were required to explain that measure during its passing through the council, if that was thought to be essentially desirable, it could be done by resolution, and the Minister could be heard at the bar, and could explain the object of the bill in a definite and detailed manner.

The Hon. I.A. ISAACS:
It could be provided for by legislation by the federal parliament!

The Hon. Sir W.A. ZEAL:

Or by standing order passed by both houses.

Mr. SYMON (South Australia)[9.36]:

It seems to me that the best course would be to strike out the third paragraph altogether and leave the whole matter to the federal parliament. There really seems no necessity to make provision that no minister of the state should hold office for more than three calendar months unless he became a member of one house of parliament. We may assume that, as we are going to have responsible government, parliament would take care that its ministers are members of parliament, and it would be a pity to introduce a hard and fast rule into the constitution when there is no necessity for it. The parliament would see that the responsibility was kept alive; and if we leave that provision out, I also agree that, as to the amendment from Tasmania, that is not a matter that need be embedded in this constitution. It is provided for in various ways; and parliament might deal with it as each particular case arose or by standing order, which until revoked, would enable any minister holding a seat in one house to conduct a particular measure through the other house. We might well leave that, as Sir Samuel Griffith says, to be dealt with by the federal parliament - at any rate the federal parliament, if we have a system of responsible government, will take care that ministers who possess its confidence will have seats in the parliament.

The Hon. H. DOBSON (Tasmania)[9.37]:

While I admit that there is force in the argument in favour of introducing into the constitution the amendment suggested by the Attorney-General of Tasmania, I am inclined to think that, apart from that, the matter has not obtained the consideration it deserves. As you, sir, pointed out in an admirable speech a few minutes ago, we are framing a federal constitution, and I think we are keeping too close to that model of responsible government in the English Constitution which, I venture to think, time will prove is not so well adapted to our federal wants and a federal constitution as most hon. members seem to think. The amendment suggested by the Attorney-General of Tasmania is, to my mind, so useful that I desire to see it embedded in the constitution, and I do not desire to see federal government carried on for many years without this matter having been considered. I make this sug-

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gestion for this all-important reason: We have had various discussions, and we are going to have many more discussions, as to whether the voice of the states should be drowned by the national voice. We are going to have many
discussions, and the battle is going to rage still further, and the battle has to be won over again or lost. We are going to have that in relation to state rights; and what could be more conducive to the settlement of the question of state rights and the reconcilement of all differences by common-sense or conciliation than to allow the premier, a member of the lower house, to go to the senate, or a minister in the senate to go to the lower house, and, without having any power to vote therein, to lay before the house, to which he did not belong, the reasons which he had induced the senate, on the one hand, to insist upon its views, or the reasons which had induced the house of representatives, on the other hand, to insist upon its views? If we desire to have a kind, of dual government, in which the voice of the nation and the voice of the states are, to a certain extent, to be heard, and to be sovereign, and not either to be overridden by the other, it appears to me that the suggestion before the Committee is a most admirable one, and I say at once that if a minister went down from the senate and pointed out to the lower house the reasons which induced the senate to say that a particular measure affected a state right—that it affected the rights of the whole state—that it affected them disastrously—that would do a great deal indeed towards removing any difference that might arise. I, therefore, hope that the amendment will be carried. I am not inclined to favour the suggestion made by the hon. member, Mr. Glynn, for the insertion of the words "until parliament otherwise provides." I agree with Sir Samuel Griffith, and others who desire to make the constitution elastic, so that there shall be the fullest and most ample opportunity for the federation, to develop a kind of government of its own. I do not believe in adhering too closely to that form of responsible government which, while it has many virtues, has many known defects.

The Right Hon. G.H. Reid (New South Wales)[9.41]:

There is no doubt that at first sight this proposition appears worthy of consideration; but I would submit to hon. members that, after all, it would be a novelty for which there is not quite sufficient warrant.

The Hon. H. Dobson:

It is a harmless novelty, and it may be of use!

The Right Hon. G.H. Reid:

I will point out a use which may be made of it, and which, if I were a very ardent admirer of the powers of the senate, I should not like to see taken advantage of. Under this provision a government might leave itself unrepresented in the senate. It could say, "Oh, we will send the Premier up from time to time to explain our measures."

The Hon. H. Dobson:

Suppose we had a Mr. Reid in the senate!
The Right Hon. G.H. Reid:

I shall be in the other place, if I am anywhere. This provision might give an excuse to a government to allow itself to be weakly represented in the senate. Therefore, from my hon. friend's point of view, it would be a dangerous innovation. I also think that on the merits of the case, a government to be efficient should be properly represented in both houses of legislature. If it is so represented, there will be no need for this contrivance. The members of the senate will know in advance by reading Hansard, the records of the lower house, and other public papers, everything that has been said and done by ministers and the supporters of a measure in the house of representatives before it reaches them, and there will also be a representative of the Government there to supply any further information which may be necessary. I think that on the whole, there is not sufficient warrant for this change.

The Hon. A. Douglas (Tasmania):

[Inaudible.]

The Hon. I.A. Isaacs (Victoria):

There are two questions which have been agitated in connection with this paragraph. The first is whether the third paragraph of the clause shall or shall not be retained. I strongly hope it will be retained. We have, already, I think, determined that the system of responsible government shall be maintained; at all events, that it shall begin, with the life of this commonwealth. It would give rise to a very uneasy feeling, throughout these colonies if the people thought that principle was in danger in, the slightest degree. We have already decided that the governor shall exercise his official functions by the advice of the executive council, and it is understood that that clause shall have the confidence of parliament. There should be no doubt about retaining that part of the clause. As to the suggestion of the Tasmanian House of Assembly, I think very highly of it. With some of my colleagues, I was a member of a parliamentary procedure commission some years ago, and we reported very strongly in favour of a similar proposal. The hon. member, Mr. Deakin, and others were on that commission; but I do not consider a constitution is the place for such a provision. It would be an experiment. I believe it would be a successful one; but we do not know how far experience would justify it; we do not know how far provisions that might appear correct in the first instance would require to be modified. It is one which I think will come peculiarly within the province of the federal parliament when that body is constituted.

Question-That paragraph 3 stand part of the clause-put. The Committee
divided:

Ayes, 21; noes, 14; majority, 7.

AYES.
Abbott, Sir Joseph Kingston, C.C.
Cockburn, Dr. J.A. O'Connor, B.E.
Deakin, A. Peacock, A.J.
Dobson, H. Quick, Dr. J.
Fraser, S. Reid, G.H.
Fysh, Sir P.O. Solomon, V.L.
Henry, J. Turner, Sir G.
Higgins, H.B. Wise, B.R.
Holder, F.W. Zeal, Sir W.A.
Howe, J.H. Teller,
Isaacs I.A. Barton, E.

NOES.
Briggs, H. Leake, G.
Brown, N.J. Lee-Steere, Sir J.G.
Crowder, F.T. Symon, J.H.
Douglas, A. Venn, H.W.
Glynn, P.M. Walker, J.T.
Grant, C.H.
Hackett, J.W. Teller,
Hassell, A.Y. Forrest Sir J.

Question so resolved in the affirmative.

The Right Hon. Sir JOHN FORREST:
Is it competent to move that "six months" be substituted for "three months?"

The CHAIRMAN:
No; it is only competent now to add something to the clause.

The Right Hon. Sir JOHN FORREST:
The period of three months is too short. altogether.
Clause agreed to.

Clause 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.

Amendment suggested by the Legislative Council of Victoria:
After "seven," line 3, insert "of whom two at least shall be members of the senate."
The Hon. Sir W.A. ZEAL (Victoria)[9.53]:

was understood to say that the object of the amendment was that at least two members of the ministry should sit in the senate. It seemed to him a very reasonable proposal, and one which should commend itself to the unanimous approval of the Convention.

The Hon. E. BARTON:

Why not say that two should sit in the house of representatives?

The Hon. Sir W.A. ZEAL:

The government was formed in the house of representatives, and it was preposterous to suppose that that chamber would not look after its own interests.

The Hon. E. BARTON (New South Wales)[9.55]:

If the senate maintains the position, which I hope it will, as a reasonably strong house, depending as it will on the popular will, being elected by popular suffrage, then such a number of members will maintain their seats in the senate as its importance demands. If, on the other hand, it is found that the government can be more conveniently conducted sometimes with one, and sometimes with three members in the senate, the working of the constitution will provide for that. It is far better to let things govern themselves in matters of this sort than to hamper them with a restriction.

The Hon. I.A. ISAACS (Victoria)[9.56]:

I have not the slightest doubt that it will be found absolutely impossible in practice to carry on the government without having some minister in the senate.

The Hon. Sir W.A. ZEAL:

Why object?

The Hon. I.A. ISAACS:

Because I do not think that this is the place to insert such a provision. If you are going to put a provision of that nature in this constitution, we do not know where we are going to stop. A question, and a very pertinent question, was put to my hon. friend by the leader of the Convention: why do you not make some provision as to the number to be put in the house of representatives? That is altogether unnecessary.

The Hon. Sir W.A. ZEAL:

How many members do you say will be in the government-seven?

The Hon. I.A. ISAACS:

No; not to exceed seven. It may be five or it may be four. I think the hon. gentleman will see that, to put a provision of this nature in the constitution would be - and I think we have gone a good deal in that direction as it is -
to put in a matter of detail which ought to be left entirely to the legislature.

The Right Hon. G.H. REID (New South Wales)[9.57]:

There is no doubt that the insertion of these words would make it absolutely necessary to have seven ministers. It may be that when the commonwealth is formed, five ministers would be found sufficient. Any government which may be formed will have too substantial an interest to stand well in the senate, to treat them badly in the matter of representation. Under any conceivable constitution that this Convention is likely to frame, the senate will be very well able to take care of itself, and no government, on the point of one or two, will get into bad relations with the senate.

The Hon. Sir W.A. ZEAL:

Will the hon. member agree to the salaries of ministers being struck out if he says there ought to be five?

The Right Hon. G.H. REID:

I do not know that they ought to have any salary in the constitution bill; I have not sufficient confidence in it yet. This is not a matter which should be put in the bedrock of the constitution. I believe that the senate will be well able to take care of its own interests, and whether it is or not I do not think any government will endeavour to govern two houses without being properly represented there.

The Hon. Sir W.A. ZEAL:

Why object to it then?

The Right Hon. G.H. REID:

There is not much virtue in numbers. For instance, one minister, if he is a man of the right stamp, may be a far better representative in the senate than two men of inferior stamp. It is not a question of numbers at all. My hon. friend will admit that it is altogether a question of the ability and tact of the gentleman who happens to be there.

One good minister, one able man who is in sympathy with the senate, will give them infinitely more satisfaction than, perhaps, two who would fail in the requisite qualifications. Take my hon. friend himself. If he were sent up to represent a government in the senate, you could not find another like him to begin with. He is so good that no one would ever think of anyone else after him. So, under the constitution, inasmuch as the representation would depend more on the ability and fitness of the individual than on the number of the individuals, I think we had better leave this provision as it is.

The Right Hon. Sir JOHN FORREST (Western Australia)[9.59]:

I agree with my hon. friend, Sir William Zeal, in thinking that some
provision should be made for the representation of the ministry in the senate. In our constitution, while there is no limit to the number of ministers, still it is provided that one at least shall be a member of the Legislative Council. That provision, I think, has worked well. It prevents a government from giving all the offices of profit to the members of one house, as it is quite easy for them to do, and to appoint ministers without portfolios in the upper house without any emolument. That is a thing which might occur. And seeing that it is generally agreed that there must be one minister or more in the upper house, I see, no reason why we should not insert a definite provision. I would be satisfied if there were one member rather than two.

The Hon. Sir W.A. Zeal:
We must have one!

The Right Hon. Sir John Forrest:
Unless we make provision for it, it will be competent to appoint ministers without portfolio and salary to represent the government in the upper house. I do not know that they could not carry on business without ministers there at all.

The Hon. Sir W.A. Zeal:
Not for long!

The Right Hon. Sir John Forrest:
At any rate the provision was made in the West Australian constitution and it has been found to work extremely well. No one, I think, can reasonably object to the provision that at least one minister should have a place in the senate. I place importance upon this from the point of view I have just mentioned—that is the point of emoluments. It would be very convenient, perhaps, for a prime minister who would hold office during the pleasure of the lower house to give all the positions of emolument to persons in the lower house. That fact alone should induce us to insert a provision of the kind proposed.

The Hon. A. Douglas (Tasmania)[10.2]
was understood to say that the clause provided that until otherwise ordered there should be seven ministers, and it was evident that seven ministers could not carry on the federal parliament. There must be more. He thought that two members out of seven was only a fair proportion for the upper house. It should be compulsory that the ministry of the day should be represented in the senate as well as in the house of representatives.

The Hon. N.J. Brown (Tasmania)[10.4]:
I am very sorry to hear that the hon. member, Sir William Zeal, is so determined upon this point that he intends to call for a division. Personally,
I would much rather be found voting with the hon. gentleman than voting against him. I cannot help, however, concurring in the views expressed by the Attorney-General of Victoria that we are displaying a tendency to put too much detail in the constitution bill. We know that there are a number of matters which must be worked out and decided by the parliament when it is elected, and afterwards by the will of those whom parliament represents.

As a matter of practical politics, I quite agree with the idea that no ministry who hoped to secure the confidence of the house of representatives and of the senate would be so misguided and so insensible to the necessities of the occasion as not to provide for due representation in the second chamber. I think these views are fairly warranted by what we see occurring from day to day in our comparatively small local legislatures. That being so, it does seem to me that it would be very wise to encumber this Convention with the proposed provision. I am extremely sorry that I am obliged to differ from those who take the opposite view, but I would advise members of the Convention to avoid on this and other occasions which will arise in the future burdening this Convention with what may be regarded as unnecessary provisions.

The Hon. C.H. Grant (Tasmania)[10.6]:

It seems to me that the senate has very few friends in this Convention, and that probably arises from the small number of members of the upper houses of the various colonies who are here as compared with the number of members of the lower houses. The privileges of the senate appear to have received very small consideration; but in this Convention, as you, Mr. Chairman, so ably pointed out in your interesting and instructive speech, it is necessary to preserve the power and prestige of the senate in a marked degree. In every clause of the bill in which this powers or position of the senate are mentioned, I think it should receive special consideration, with a view to the preservation of its integrity and influence. I hope, therefore, that these words will be inserted with the object I have stated.

Question-That the words proposed to be inserted, "of whom two at least shall be members of the senate" be so inserted put. The Committee divided:

Ayes, 13; noes, 19; majority, 6.

AYES.
Briggs, H. Hassell, A.Y.
Crowder, F.T. Lee-Steere, Sir J.G
Dobson, R. Lewis, N.E.
Douglas, A. Venn, H.W.
Forrest, Sir J. Walker, J.T.
Fraser, S. Teller,  
Grant, C.R. Zeal, Sir W.A.  
NOES.  
Abbott, Sir Joseph Isaacs, I.A.  
Barton, E. Kingston, C.C.  
Brown, N.J. Leake, G.  
Cockburn, Dr. J.A. Quick, Dr. J.  
Deakin, A. Reid, G.R.  
Glynn, P.M. Solomon, V.L.  
Hackett, J.W. Turner, Sir G.  
Higgins, H.B. Wise, B.R.  
Holder, F.W. Teller,  
Howe, J.H. O'Connor, R.E.  

Question so resolved in the negative. The Hon. H. DOBSON (Tasmania) [10.10]: I desire to move an amendment in this clause with reference to ministers in the senate. I was struck with the argument that the number of ministers might not be seven, or in other words, that in the inception of the commonwealth fire ministers would be quite, or more than, sufficient to carry on the business. But supposing the number of ministers is seven, I am firmly of opinion that two of them might be in the senate, and it might be provided in the constitution that, supposing the number of ministers is five, one only out of those five should be in the senate. The amendment I desire to move is to the effect that the number of ministers shall not exceed seven, and while there are only five, one of them should be in the senate; but when there are more than five ministers, two of them shall be in the senate. I ask if that amendment will be in order?  

The CHAIRMAN:  
I do not think the Hon. member could move the latter part of it; but he could move the other part of it. The amendment negatived was two of whom at least shall be in the senate."  

The Hon. H. DOBSON:  
One of the great arguments which I think gained some votes was supposing there were only five ministers you certainly could not have two out of the five in the senate, and I do not ask for that. Upon the argument of the Prime Minister of this colony the matter has been decided-  

The Hon. I.A. ISAACS:  
Leave it to the federal parliament!  

The Hon. H. DOBSON:
No. Speaker after speaker has admitted that the senate should be a strong feature of the commonwealth, but I think we have neglected the senate in every possible way. The hon. member, Mr. Higgins, has told us we shall not have a federal constitution, so to speak, but simply a constitution in which all the financial powers are given to the lower house, and he is perfectly right, and when we desire to have one minister in the senate to uphold the, state rights, and to be in touch with the cabinet, and so be in touch with the people-and recollect the senate is a people's house-I cannot understand the object of taking away the power of the senate in every possible respect. No one is better pleased than I am that Queensland is going to join the Convention, because, now if a man suggests anything upon the more conservative side of this question than the advanced democracy of our large colonies, he is not listened to and is laughed at-is told that he must give in, and that he is lowering federation. I believe that we are making a great mistake. We are making our constitution lop-sided, we are forgetting that the senate springs from the people, and that when the people speak from two chambers, and over voice is different from the other, that is the time when great consideration is required. I desire that the dignity and power of the senate should be upheld. if hon. members will now allow a ministerial senator to go down to the lower house and explain the policy of the states there, if they will not provide that a minister shall sit in the senate, they will detract from the dignity and power of the senate. While hon. members opposite are asking us to give to them, they give us nothing in return. I ask that my amendment be put because it differs from the last amendment, and may possibly gain a few votes, and even win the day. I move:

That the following words be inserted after the word "seven," line 3:- "of whom one shall be in the senate when there are five ministers; and two shall be in the senate when there are more than five ministers."

The Hon. Sir JOSEPH ABBOTT:

I will take your ruling, Mr. Chairman, as to whether the latter part of the amendment is in order, the Committee having already decided that there shall not be two ministers in the senate. They negatived the proposal that there should be two ministers in the senate, and the hon. member cannot evade that decision by submitting a proposal contrary to it, although he has added another provision.

The Hon. H. DOBSON:

The hon. member cannot separate my amendment!

The Hon. Sir JOSEPH ABBOTT:

One part of the hon. member's amendment may be in order, while another part is out of order. I submit that that part which is out of order
cannot be put from the Chair.

The CHAIRMAN:
I think that the amendment is substantially different from the amendment which the Committee has negatived. The amendment which was negatived provided that in any event there should be at least two ministers in the senate. This amendment says that there shall be one minister in the senate when there are five ministers, and two when there are more than five ministers.

The Right Hon. G.H. REID:
The clause provided for seven ministers when the first amendment was put!

The CHAIRMAN:
It said "not exceeding seven"; so that there might be only two.

The Hon. Sir JOSEPH ABBOTT (New South Wales)[10.19]:
Well, I submit that the Committee should reject the amendment. It is an attempt to unnecessarily load the constitution. If the Ministry of the day desire to exercise power and influence in the senate, they ought to have liberty to send three ministers there if they think proper.

The Hon. H. DOBSON:
So they could!

The Hon. Sir JOSEPH ABBOTT:
If the hon. member limits them to one, they will not be able to send three. I do not think that this provision should be embodied in the constitution. The hon. member talks about belittling the senate; but I think he belittles it by his assertion that the members of the Convention desire to make the senate weak and incapable of acting-against whom? Against the people. But will not the senate be there to act for the people? When the hon. member says that we desire to make the senate weak, he is making an assertion which is not in accordance with-I should be out of order if I said fact-but, at all events, contrary to the ideas of the Committee. We desire to see the senate strong, and a resting place for members, like my right hon. friend, Sir John Forrest.

The Right Hon. G.H. REID:
Good old English oak!

Question-That the words (proposed by Hon. H. Dobson) be inserted-put.
Ayes, 12; noes, 20; majority, 8.
AYES.
Briggs, H. Lee-Steere, Sir J.G.
The Right Hon. Sir JOHN FORREST (Western Australia)[10.25]:
I desire to call the attention of the hon. and learned member, Mr. Barton, to the use in this and other clauses of the terms "governor-general in council," and "governor-general." It seems to me that it will cause less confusion if the term "governor-general" is adopted throughout.

The Hon. E. BARTON:
Does the right hon. gentleman want to know why the words "in council" are sometimes used and sometimes omitted?

The Right Hon. Sir JOHN FORREST:
Yes. The practice has now become almost general in acts of parliament to avoid the use of the words "in council," and to use only the expression "the governor." The term "governor" constitutionally is well known, and is understood to mean the governor acting with the advice of his responsible ministers. If you use the words "in council," a doubt arises as to whether the governor is expected to act on his own responsibility or with the advice of his ministers. In the Constitution Act of Western Australia there is some confusion owing to the use of the terms "governor in council" and "governor." The term "governor-general" will be thoroughly understood, and I think there is no necessity to add the words "in council." In clause 63 it is provided that the appointment of officers to administer the departments shall be made by the "governor-general in council," while in clause 64 the designations of ministers holding different offices is to be fixed by the
parliament or by the "governor-general." If it were a matter of prerogative I do not suppose it would be left to the parliament; as it is not a matter of prerogative, I expect the governor-general in council is meant. My own experience leads me to the conclusion that the words "in council" should not be used if they can be avoided.

The Hon. E. Barton[10.29]:

The distinction is this: Where the act is done by the governor-general or by the authority of the Crown it is done upon-prerogative. When the act is not a prerogative act, when it is an administrative or executive act, then the term "in council" is used. It is a fallacy to suppose that any distinct act is done by the governor of the colony, even upon prerogative, with the advice of ministers. One might say more than that.

The Right Hon. Sir John Forrest:

Where is the prerogative in the last line of clause 64?

The Hon. E. Barton:

I was endeavouring to explain a matter to the hon. member, which it is quite evident from his question is not generally understood. The reason of the difference in this bill is founded on that question. I am not unmindful that there is a difference in clause 63. In that very clause the term "governor" is used in one place, and the term "governor-general in council" in another, for this reason: that the appointment of ministers is a prerogative act, but the mere establishing of a department of state is not an act of prerogative, but an executive act which generally requires the authority of a statute, and rests on the authority of a statute in this case. That is the reason of the difference in this case, and the hon. member will find it running right through the bill. I hope there will be no debate on questions of that kind in this Committee. The whole matter was considered at very great length in Adelaide by the Constitutional Committee. It was threshed out in a long debate there. There was, again, in Adelaide, in Committee of the Whole, as my right hon. friend, Mr. Reid, will recollect, along and keen debate on the subject, and I think we all came to an understanding about it I think the hon. member will be assured by any legal member of the Convention that the right distinction has been used throughout the bill. In defining those executive acts which are done as mere acts of prerogative and those which are done in the ordinary execution or administration of government apart from the prerogative.

The Hon. I.A. Isaacs (Victoria)[10.32]:

If I caught the question of the right Hon. member, Sir John Forrest, aright, he drew a distinction between clause 63 and clause 64. He has not
quite gathered the sense of these two clauses. There is no discrepancy whatever between the two. In clause 63 the appointment of ministers is by the governor-general. The reference to the governor-general in council is not to the appointment of ministers, but to the establishment of departments of state. It means that the governor appoints his ministers by virtue of the prerogative, but that when he comes to establishing a department, he acts by the advice of his ministers. But, in clause 64, the expression "governor-general " is used because it would be impossible to put in the expression "governor-general in council" there, for this reason: it says the ministers

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.

Ministers are in the first instance to be appointed before there is a council. There is not to be a parliament until there is a ministry, and the parliament has to be summoned by the governor-general.

The Right Hon. Sir JOHN FORREST (Western Australia)[10.33]:

As to the unreasonable nature of my question, I may inform the hon. member, Mr. Barton, that in our constitution the designation of ministers is left to the Governor-in-Council, not to the Governor.

The Hon. E. BARTON:

I did not say the hon. member was unreasonable in asking the question; I said it was rather unreasonable for him to ask the question and not allow me to answer it.

The Right Hon. Sir JOHN FORREST:

I only wish to place my question before the hon. and learned member, and if I did not do it quite in the way be desired, I am very sorry.

The Hon. E. BARTON:

I am quite satisfied.

Clause agreed to.

Clause 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.

The CHAIRMAN:

It is proposed by the Assembly and Council of South Australia and by the Council of Tasmania that we should omit the word "twelve" before the word "thousand" with the view to insert other words.

The Hon. Dr. COCKBURN:
May I ask you, sir, to divide the question, because some hon. members may wish to see the words "twelve thousand" stand, who would be quite willing to insert the words "a sum not exceeding."

The CHAIRMAN:
The hon. member may move to strike out the words.

The Hon. E. BARTON:
As it is to be done until parliament otherwise provides, if the hon. member is very anxious about it I will accept the insertion of the words "a sum not exceeding."

Amendment (Dr. COCKBURN) agreed to:
That the words "the sum of," line 4, be omitted with the view to the insertion in their place of the words "a sum not exceeding."

Suggested amendment, by the Legislative Council of Tasmania-That the word "twelve" be omitted-negatived.

Amendment, by the Legislative Council of Tasmania-That the word "twelve" be omitted-negatived.

Clause, as amended, agreed to.

Clauses 66 (Appointment of civil servants), 67 (Authority of executive), and 68 (Command of military and naval forces) agreed to.

Clause 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:
- 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.

The CHAIRMAN:
In connection with this clause several legislatures have suggested the omission of the word "on" in line 1.

The Hon. E. BARTON (New South Wales)[10.36]:
I understand there are one or two matters in this clause which may cause debate, and which I do not wish to take at this late hour of the evening; and as I understand the hon. member, Mr. Higgins, has something to say about it which may give rise to some discussion, I think I shall be making a fair concession to that hon. gentleman by postponing it. I therefore move:
That the consideration of clause 69 be postponed.
Motion agreed to; clause postponed.

Clause 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.

The Right Hon. G.H. REID (New South Wales)[10.38]:

I would point out that in reference to this clause the powers and functions to be transferred are described in the first part as the powers and functions vested in the governor of the colony with or without the advice of the executive council; so that to continue that state of things it will be necessary after the words "vest in the governor-general, with," to use similar words "with or without the advice of the executive council," or else we shall change the prerogative.

The Hon. E. BARTON:

And insert "as the case requires"!

The Right Hon. G.H. REID:

Yes, "as the case requires." I move:

That after the words "vest in the governor-general, with," lines 11 and 12, the words "or without" be inserted.

Amendment agreed to.

Amendment (The Right Hon. G.H. REID) agreed to:

That after the words "federal executive council," lines 12 and 13, the words "as the case requires" be inserted.

Clause, as amended, agreed to.

The Hon. E. BARTON:

I move:

That the Chairman leave the chair, report progress, and ask leave to sit again.

Hon. MEMBERS:

No, no! Go on!

The Hon. E. BARTON:

I should like to know what is the reason for this newly discovered energy on the part of the hon. member, Mr. Wise? We shall have an arduous sitting on Monday.
The CHAIRMAN:
I may point out that if we go on we shall have to deal with the referendum.

The Hon. E. BARTON:
The next clauses are those dealing with deadlocks. I think I shall have the concurrence of the Committee in taking those on Monday morning. Motion agreed to; progress reported.
Convention adjourned 10.40 p.m.
Monday 20 September, 1897

Communication from Queensland-Commonwealth of Australia Bill-Return.

The PRESIDENT took the chair at 10.30 a.m.

COMMUNICATION FROM QUEENSLAND.

The PRESIDENT informed the Convention that he had received from the Acting-Premier of Queensland a letter in precisely the same terms as were employed in the telegram which had already been dealt with by the Convention on Friday. The telegram had been recorded upon the minutes of the Convention, and he presumed that it was the desire of hon. members that the letter should be dealt with in a way similar to that in which the telegram on the same subject had been dealt with.

Hon. MEMBERS:

Hear, hear!

COMMONWEALTH OF AUSTRALIA BILL.

In Committee (consideration resumed from 17th September, vide page 807):

Clause 56 (Recommendation of money votes).

Amendment suggested by the Legislative Assembly of New South Wales:

Insert new clause to follow clause 56:-

57. (a) 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 fails to pass without amendment, within thirty days after receiving the same, in the second session, or within each 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.

(b) The proposed law passed and transmitted in the second session may include any amendment agreed to by both houses in the first session.

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.

If within thirty days of the transmission of the proposed law as last
afresaid, 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 without 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.

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 the house to which it has been transmitted has passed the same.

Such vote shall be taken in each state separately, and if the proposed law is affirmed by 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.

Upon which the following amendment by Mr. Symon had been agreed to:-

That after the word "If," in the proposed new clause, the following new words be inserted:-"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-general should dissolve the house of representatives, and if, within six months after the said dissolution the house of representatives by an absolute majority again pass the said proposed law in the same, or substantially the same, form as before, and with substantially the same objects, 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-general may dissolve the senate."

Upon which Mr. Lyne had moved:

To add to the words inserted "If after a dissolution of both houses of the federal parliament as above provided the subject-matter of the contention that led to such dual dissolution is again passed by the house of representatives and again rejected by the senate such measure shall be referred to the electors of the commonwealth by means of a national referendum, and if resolved in the affirmative shall become law."

And upon which the Right Hon. Sir George Turner had moved:

To leave out the initial word "If," with a view to insert "Provided that in
lieu of dissolving the house of representatives the proposed law may be referred to the direct determination of the people as hereinafter provided."

The Right Hon. Sir G. TURNER:
I presume that if the word "If" be omitted, my amendment will be proposed, and it will be open to the hon. and learned member, Mr. Wise, to move his amendment upon mine?

The CHAIRMAN:
If the words which the right hon. gentleman proposes to insert are not inserted, the hon. and learned member, Mr. Wise, can move that other words be inserted.

Mr. SYMON:
I presume that the first amendment to be considered will be the amendment of the right hon. member, Sir George Turner!

The CHAIRMAN:
Yes.

Mr. MCMILLAN:
I thought we had arrived at an understanding that the whole question involved in the vote taken the other afternoon should be reconsidered, and that it would not be out of order on the part of hon. members to discuss amendments which had previously been dealt with.

The CHAIRMAN:
If a motion be submitted to rescind the previous decision of the Committee, the whole question can then be rediscussed.

Mr. MCMILLAN:
But that has not been done!

The Hon. E. BARTON:
I would suggest to members of the Convention whether it would not be well, and whether it would not be the way most likely to lead to an intelligent solution of the question if the power given by the Convention on Friday were taken advantage of, and if the whole ground were cleared by rescinding the decision already arrived at? Only one proposal has been carried, and the rescission of that would not necessarily be an intimation that it would be rejected finally when the whole ground had been cleared for rediscussion. In pursuance of the lead given by the Convention, I think it would be advisable to first clear the whole ground by rescinding the determination upon Mr. Symon's amendment, and starting afresh, not necessarily with a view to rejecting my hon. friend's
proposal in the end; but in order that everything may be open to discussion.

The Right Hon. Sir JOHN FORREST:

The proper way to get rid of the amendment which has been agreed to is to move that it be rescinded.

The Hon. E. BARTON:

Other amendments which have appeared on the notice paper can be withdrawn. Nothing will require a motion except the rescission of the amendment carried at the instance of my hon. friend, Mr. Symon.

The CHAIRMAN:

If the amendment carried on Friday be rescinded, then the other motions will fall to the ground, because they are simply in the nature of adding words to the words of that amendment. If that amendment be rescinded, therefore, there will be nothing to which to add any words in the way proposed.

Mr. SYMON:

In the event to which you refer, Mr. Chairman, I take it that the whole subject will be brought on, and it will be possible for the Committee to discuss, among other things, the amendments which have been already proposed. The question is, whether it would tend to facilitate and shorten the proceedings to have us put in the position in which we started on Friday morning, with all the other amendments to come on later, and to be rediscussed. I think it would be better to reopen the whole ground, if any motion could be made with that effect.

The CHAIRMAN:

The position in the event of a motion to rescind the resolution already arrived at being carried would be that the whole question could be reconsidered.

Mr. SYMON:

My amendment and the other amendments?

The CHAIRMAN:

Yes.

The Hon. Dr. COCKBURN:

I would suggest that we should proceed to consider the proposals in regard to the referendum, because it is quite possible that the decision of the Convention will lessen the importance of the questions in reference to dissolution. The questions as to the two forms of dissolution may come to be of relatively less importance if this course be taken. The immediate rescission of the determination of Friday would bring us face to face with
the difficulty which appeared so overpowering on Friday morning. If, on
the other hand, the question the referendum be dealt with, we may find that
the question of dissolution does not present one-half of the difficulties
which are feared.
Mr. MCMILLAN:
I think the hon. and learned member has just suggested the most
common-sense way of dealing with this matter. I think we had better
proceed to consider the question of referendum. The whole matter can be
discussed again at another sitting of the Convention; but I think it would be
better to leave the work which has been done up to a certain stage.
The Right Hon. Sir G. TURNER:
I do not agree with some of the remarks of the hon. member, Mr.
McMillan. We must finally settle this question. There is one other
important question left open in regard to which we cannot help ourselves-I
refer to the financial question. But with regard to this particular question, it
should be settled to-day one way or the other. I do not think we ought to
rescind what we have done. We have already provided for an alternative
dissolution, and I believe that many hon. members who voted for that do
not desire to altogether rescind it, but they are prepared to give an
alternative and a double dissolution, throwing the onus on the government
of the day of selecting which. We have determined that we will have the
alternative dissolution; let us take a vote and see whether we are
prepared to throw on the government of the day the onus of following that
up by having a double dissolution. When we have decided that, we shall
have the other question still open-namely, are we prepared to go a step
further, and have a referendum if the double dissolution fails; and, if so,
what sort of referendum? Then we will be in this position: We will have
the alternative dissolution, and the government of the day will decide
whether they will take that or the double dissolution. It seems to me that
that is the course which is most likely to meet with the approval of hon.
members.
The Right Hon. G.H. REID (New South Wales):
Do I understand the Right Hon. Sir George Turner, by what he says, to
mean that he is prepared to allow the amendment of the hon. member, Mr.
Symon, to stand-as to the alternative dissolution of both houses?
The Right Hon. Sir G. TURNER:
I am prepared to proceed further on that, and to give the government of
the day the option of dissolution of both houses at the one time!
The Hon. E. BARTON:
The alternative power of double dissolution?
The Right Hon. Sir G. TURNER:
Yes; the alternative power of double dissolution, and throwing the onus on the government of the day!

The Hon. E. BARTON:
And in the other case the power of dual referendum!

The Right Hon. G.H. REID:
I am looking at the right hon. gentleman's amendment-

The Right Hon. Sir G. TURNER:
That, of course, is to be amended. The hon. and learned member, Mr. Wise, made a suggestion which we are perfectly prepared to accept!

The Right Hon. G.H. REID:
Do I understand that on the matter now before the Chair it will be possible by some method to get rid of the alternative dissolution, because I have the strongest possible objection to it?

The Hon. E. BARTON:
The successive dissolution!

The Right Hon. G.H. REID:
Yes. I do not at all object to there being power in the governor-general in council to dissolve both houses or either house, and that I think would be the best way to get rid of this difficulty. I strongly object to a successive dissolution. I do not object to a simultaneous dissolution, or to a dissolution of one house or the other, in the discretion of the executive power; but I fancy that unless we have an opportunity of rediscussing and reconsidering the amendment of the hon. and learned member, Mr. Symon, we shall get into a false position. If the amendment of my right hon. friend, Sir George Turner, as proposed to be amended, will get rid of that objection, I do not ask that the amendment of the hon. and learned member, Mr. Symon, be rescinded. I believe that if we were to adopt the suggestion made by the hon. and learned member, Mr. Barton, we would deal with this difficulty in a much more satisfactory way; but at the same time I admit that if any member of the Convention has carried a proposition, he will not lightly consent to its rescission. I am strongly of opinion that the suggestion made by the hon. and learned member, is in our own interests, whatever our opinions may be one way or other on the question at issue.

The Hon. A. DEAKIN:
Whatever we may do now will not be absolutely final, and therefore, if we adopt this course, it will not prevent the consideration of the amendment proposed by the Right Hon. Sir George Turner.

The Right Hon. G.H. REID:
We all have a common interest in doing whatever is best, and, unless the
suggestion of the hon. and learned member, Mr. Barton, is adopted, I fear that we will get ourselves into a position which will be more unsatisfactory than now.

The Hon. E. BARTON:
Whatever we do in Committee may be reconsidered on the recommittal of the bill!

The Right Hon. G.H. REID:
No doubt; but that will not take place until we meet again. If what I suggest will be open to us on this amendment, I am satisfied.

The Right Hon. Sir E. BRADDON (Tasmania):
I hope that the course suggested by the Right Hon. Sir George Turner will be adopted. It is quite true, as he has said, that some of those who voted for this first amendment did so in order to guard themselves against what possibly might, or might not, be carried afterwards. Several of those who voted for that amendment will be disposed, for example, to grant the dual referendum. If we proceed with the various amendments, and dispose of them, and if it be found necessary to consider the question of rescinding the amendment of the hon. and learned member, Mr. Symon, we shall then be in a much better position to consider it, and to give a conscientious and thoroughly just vote upon it, than we can be in until we know what is to be done with the subject.

Mr. MCMILLAN (New South Wales)[10.46]:
I should like to say a word or two in regard to difficulties which it strikes me must meet some hon. gentlemen who voted with the majority the other day? My doing so may clear the ground a little. I feel that one of the great objections to a simultaneous dissolution is that it ignores all the facts and conditions of the case that it may be very inconvenient at certain times to have a simultaneous dissolution. You might have this condition of affairs: That one house had come fresh from the country, and it would not be necessary to send the house back, or vice versa. One of my reasons for voting for, and being tenacious to keep the proposal made so far, is that I should like to see some concrete system drawn up, which I personally have not been able to frame, by which there should be an alternative given to the executive to dissolve either the senate or the house of representatives according to the peculiar conditions of the case.

An Hon. MEMBER:
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Mr. MCMILLAN:
No. I would safeguard that. I would desire to safeguard the manner in
which it would be adopted by some proposal like this; if I am in order now in speaking to the question.

The CHAIRMAN:

I do not think as a matter of fact there is anything before the chair at the present time.

Mr. MCMILLAN:

Then I shall go an as if the whole matter were before the chair.

The CHAIRMAN:

There is an amendment before the chair, namely, to leave out the word "if."

The Right Hon. G.H. REID:

That gives a wide range!

Mr. MCMILLAN:

It would require a considerable memory to keep in ones head all the amendments that have been proposed on this matter. I would say at the outset that I am absolutely opposed to a simultaneous dissolution of both houses. I hold that, at the present moment, we are more in what you might call the bi-cameral stage of this discussion than in the stage in which we deal with the senate as representative of the states. When we come to the question of a dual or a national referendum, then we shall deal more directly with the peculiar character of the senate as representing state rights and state interests; but, although I know I am more or less on the unpopular side in the vote that I have given-

An Hon. MEMBER:

Not at all!

Mr. MCMILLAN:

I have a strong desire, for the present, to sustain in its integrity the bi-cameral system of government.

Whatever evolution the future may bring forth, I am perfectly certain that, with a federated Australia, with a complicated system of government such as we are instituting, no people would be safe with only one house of representatives; and, although I do not want to make one jarring note in the harmony that has existed in this Convention up to the present, on the whole, I cannot help thinking that the atmosphere we have been breathing during the last few days has not been of that tranquil temperature which has generally pervaded our proceedings, and which ought to pervade the deliberations of an assembly like this.
The Right Hon. G.H. REID:

The reason is that this is not the complimentary stage of the business!

Mr. MCMILLAN:

I quite allow that we have now come to a stage at which we are practically reviewing certain of our work, and that probably it would have been better if the question of equal representation had been dealt with in conjunction with the question of deadlocks. At the same time, I feel that it is a difficulty that we are in that we are viewing this question now more as a question of one house, which is looked upon as a house of conservative principles, as against another house which is looked upon as the popular branch of the legislature. I cannot help feeling that the atmosphere of our politics, both in Victoria and in New South Wales, during the last few years, has been so charged with electricity in connection with this matter that it is very difficult for us, especially as practical politicians of the day, to get rid of influences which may affect our judgment. At the same time, I hold that we should, as far as possible, get rid of all preconceived views in dealing with this new machinery that we are going to erect. If we desire to put into the constitution a senate which may be viewed in the double light of a second chamber, and of a great states chamber, we ought to deal fairly with it, and if we of the larger states have found it necessary to concede, so to speak, equal representation of the states, then, although we ought to see that the senate should not be unreasonably obstructive of the will of the people, we ought not to draw a line in any part of this machinery which would render it absolutely impotent. I cannot help feeling that a great deal of the trouble which has arisen in this debate has arisen out of the modus operandi adopted in the amendment of the hon. member, Mr. Symon, by which, under all circumstances, the house of representatives must be subject to a penal dissolution. Hon. members, who are, perhaps, overweighed by previous antagonisms with the upper houses of their own colonies say, "Why should one house be penalised as against the other?"

And it seems to me that there is an idea that by thus penalising the house of representatives, you cast a slur upon this body, and give the senate a superior position. I do not care a jot about the peculiar relative positions of these two houses in this case. I simply recognise that the essential root of bi-cameral government is that you must have check and criticism, and, if that is worth anything you must at times come to severely strained relations. A deadlock in itself is not an absolute disadvantage; a permanent and unalterable deadlock is a calamity. The principle which we are going on is this: that if you have no safety-valve and no solution there is no alternative but revolution. In my election address, and in the speeches which I delivered throughout the country before I had the honor to become
a member of the Convention, I said that it would be far better for the smaller states to obtain only proportional representation in the senate than that after having got equal representation it should be rendered absolutely useless. I still hold to that position. I am willing to go as far as possible in order to create some check, to obtain some solution of this difficulty; but I should like to know how you could preserve the principle of bicameral government by having a dual dissolution at the same time? I know that I am dealing with questions which are perhaps not dealt with outside among certain political forces in that calm and considerate manner which should permeate our feelings in a Convention such as this. I know that the moment I say that the senate may be composed of more stable elements than the house of representatives, that it may have embodied in it more or less the conservative instincts of the constitution, I raise an outcry on the part of many who think that there ought to be no bi-cameral government at all. But I want to point this out: If you have a dual dissolution of the houses under certain conditions it will not be a question of state rights that will arise. You may find the representatives of the different colonies in the senate divided upon different questions, and if the two houses go simultaneously to the country the question at issue may not be the subject-matter of the dispute, but the question of one house against the other. I do not for a moment say that there will be any strict analogy between the legislative councils of these colonies and the senate of united Australia; but in certain phases of their political life there will be considerable analogy. We have known ourselves that when we have had a dissolution to obtain consideration of some matter of state policy this matter has been absolutely swept away in the heated passions of class against class, and house against house. Let us look at the practical aspect of the case. When is it that the senate, the revising and checking chamber, will not yield to the overtures of the other chamber, and after every possible means of arriving at a settlement by conference and compromise has failed? It is only then that you have a deadlock In nine cases out of ten the second chamber says to the lower chamber, "We do not believe that you represent the opinions of the people". And when does that occur? It occurs either in the third year of the life of the lower house, or at any rate when that house is practically moribund. How absurd then would it be to say, when the lower house was within three or four months of expiring by effluxion of time, and the upper house simply wanted to be sure of the opinion of the country, and was willing the moment it found out what that opinion was to give way, to dissolve both houses.

The Right Hon. Sir G. Turner:
We provide for an interval of six months!

Mr. MCMILLAN:

I am now speaking with a view to the reconsideration of the whole position. So far as I am concerned, with what judgment I have now, I should not under any circumstances agree to a dual concurrent dissolution. Let us consider the history of this matter in its evolutionary character. In the year 1891, when the last Convention met, there was no question of the dissolution of the senate. It was only in the way of a very mild suggestion that the matter came up at the last meeting of this Convention. I am quite willing to allow that the idea has worked rapidly forward from that time till now, but that is all the more reason why we should be very careful before we commit ourselves to any concrete scheme. Suppose, for example, that the bill of 1891 had passed or that the bill as it was framed in Adelaide had become the law of federated Australia, and suppose any dispute occurred between the two houses, what would have been the result? As a last resort the house of representatives would probably have gone to the country to try and show the recalcitrant senate that it had really the will of the people at its back. What does this modest proposal do? It simply proposes to do what you want—

Mr. LYNE:

That is not the proposal which has been adopted!

Mr. MCMILLAN:

No. Now, that is what I want to come to. Why is it that we have this rapid evolution of opinion? Why have we been told by hon. members who, a year ago, would never have expected any such concession, that the whole federation proposals are going to be wrecked unless the concession is made? I do not believe in this cry of "wolf"? trying to coerce the judgment of others. I have the most profound respect for public opinion; but I do not always believe that the mere froth on the surface represents the opinion of the people of the country. I am anxious to see that we here are not made the slaves of wire-pullers and political agitators, who do not represent the interests and the feelings of the country. I say that, although it is strong language, with the utmost consideration, and having given to it all the judgment I possess. I have never myself been afraid to face the people. Certainly, I have not, as a rule, been on the side of the big battalions; but I have often found that the real opinion of the people was not in unison with the current idea of the moment. I want, in this matter, to put my own
personal feeling very clearly, although it is only a matter regarding myself. I believe we have now come to a period in our deliberations when each individual must be responsible to himself for the trust reposed in him. We have not been asked here to make a constitution merely to suit the end of the nineteenth century; but we have been asked to make a constitution which we ourselves have declared shall be indissoluble. I would be the last to ignore public opinion. I am not a member of the Legislative Council. I never expect to be, or of a senate either. When a popular constituency fails to elect me I shall be no longer in public life, so I am not afraid of the real public opinion; but I cannot forget that even in England, the very home of constitutional freedom, the very cradle of our rights and liberties, public opinion is often absolutely reversed in a few years. When I consider the position we occupy, that our action will not be criticised by the mere ephemeral, frothy views of certain people at the moment, but will be considered by the people of this country through all time, I say that while I am willing to try to the utmost of my knowledge and ability to gauge public opinion, while, I say, that if I knew thoroughly what public opinion was on any question, I would bow to it; still, I believe that the people of this country by the confidence they gave us practically instructed us to make a constitution which would be not merely the outcome of a passing wave and wind of opinion, but a constitution which we believe is based on principle, on the lines of our own constitution, and which will stand the shock of time. I am quite willing, as I said before, to leave to a certain extent this matter in the hands of the executive. I believe myself that in the current of events occasions will arise when it will be well, if there is a deadlock to dissolve the senate. At other times it will be well to dissolve the house of representatives, but I fail to see what sense there is in making a hard and fast rule to dissolve both at the same time. I would be willing to accept a proposal of this kind in order to get out of the difficulty. I have not had an opportunity of discussing it with anybody, and these matters always require a great deal of discussion. I do not think, in regard to any great piece of machinery, that anyone's individual opinion is worth much. You require to have it put in the sieve; to have it thoroughly looked at and tried and weighed, and every possible argument urged against it, because what appears to be a beautiful little theory may very soon be knocked into pieces by the active mind of another. To show, what I mean, I may say that I would be willing, in the case of a house of representatives which had been in existence only two years or not more than two years, that the senate should go to the country first. I have no feeling one way or the other as to
the dignity of the senate in this matter. It is purely a mode of getting out of
the difficulty and getting at the opinion of the country; but I do feel that to
go and ask the senate, half of whose members have perhaps just been
returned, and who believe that they have a knowledge of the opinions of
the people, to go back to their constituents, along with a house that may be
very near its death, would be an absurd thing.

The Right Hon. Sir G. Turner:
We do not desire that. I am quite willing to accept twelve months, but I
think that the two houses should go together.

Mr. McMillan:
No; I am entirely against the two houses going to the country at one time,
because I say that, above all the principles with which we deal in matters
conducted under the bi-cameral government, is the principle according to
which, in the first place, you get the acute criticism of another body of
men. In the second place, if there is any dispute there is a certain time for
consideration, a certain time in which the country can come to a
determination, but to do that you must have no mixing up of the
characteristics of each house. You must have no cry, "Here is the popular
house representing the people (with a big "P"); the other house represents
capital, conservatism, and other elements." We do not want that; what we
want is that, while not giving any undue influence to the senate, we shall
keep up its character as a senate. I say most distinctly that if you send those
two sets of representatives to the country at the same time you will never
get a clear result on the issue.

The Hon. J.H. Carruthers:
Under the constitution the two houses will be elected at the same time in
the first instance, and also afterwards.

Mr. McMillan:
Not at all. It is almost impossible to imagine that them two houses will
continue to be elected at the same time. No house of parliament, even
under the present conservative ideas which prevail as a rule lives out its
full term of existence, and if it is only three or four months short of the
term of its natural existence then, as time goes on, it must differentiate
more and more from the other house in the periods of its elections. That, I
think, is perfectly clear. However, notwithstanding the remarks which have
fallen from the two right hon. gentlemen that this question should be
settled at once, I feel that it would be better to have even a tentative
scheme now with which the larger colonies as a majority are not in
agreement, and leave a certain time to elapse, when we shall have the
benefit of the representation of all Australia in the Convention, than to now
allow these angry feelings to arise, to ask men to be practically coerced in
their judgment from the fear of this movement falling through, because that is the position we are face to face with to-day. We have been told in the newspapers, we have been told by gentlemen on both sides of this chamber, that if this vote is not rescinded federation is wrecked. I object to that sort of thing.

Mr. SYMON:

It is expressed this morning as an ultimatum!

Mr. MCMILLAN:

I do not give any credit to that sort of public opinion, and I do not believe that the more sober-minded gentlemen on both sides of the chamber desire that the ultimatum should be given. This is the natural reaction from the vote on equal representation. You must recollect that we have a large number in this Convention who do not believe in a second chamber, and it is only as a necessity of federation that they agree to the senate under any circumstances. They have given equal representation, not because they believe their colonies desire it, but because they believe it is the only means of getting federation. So far as the people of New South Wales are concerned, I believe the great bulk of the electors prefer proportional representation in the senate. I believe at the same time that they are not going to make it a sine qua non. All I want to do at this stage of the proceedings is to appeal to the fairness of this Convention. You have conceded equal representation; do not try to destroy it. I hold, of course, that having arranged for equal representation, you must have, probably, more stringent checks on the senate than you would if you had proportional representation. And it would have been better for the smaller colonies to have proportional representation in the senate with less stringent checks than to have equal representation and checks which would render their action almost impotent.

The Hon. H. DOBSON:

Would the hon. member mind stating again what course he agrees to as to a dissolution?

Mr. MCMILLAN:

I would agree to some arrangement which, as I have said, I have not been able to put in a concrete shape, by which, under certain circumstances, the senate would be dissolved, in order to get at a knowledge of the will of the people, and under other circumstances the house of representatives would be dissolved.

The Hon. H. DOBSON:

What are the circumstances?
The Right Hon. C.C. KINGSTON:
The hon. member's idea is to send first to the country the house which had not last been to the electors!

Mr. MCMILLAN:
My idea generally, if it can, be managed, is to send to the country that house which has been longest away from its constituents.

The Hon. F.W. HOLDER:
That will always be the senate!

An Hon. MEMBER:
No, half of the senate!

Mr. MCMILLAN:
That is understood.

The Hon. H. DOBSON:
Would the hon. member dissolve the senate if one-half of that house had only just come back from the people?

Mr. MCMILLAN:
I would not.

An Hon. MEMBER:
He says "No"!

The Hon. H. DOBSON:
Then his scheme would not work!

Mr. LYNE:
It would not work; you have to face the thing straight out!

Mr. MCMILLAN:
My hon. friend's views are well known.

Mr. LYNE:
And it would have been better if they had been followed further in this Convention!

Mr. MCMILLAN:
My hon. friend is now only in a state of evolution, because he has told us that he is not quite sure whether it would not be better to have one house.

Mr. SYMON:
What stage in the evolution has

Mr. MCMILLAN:
I think he is between the devil and the deep sea.

Mr. LYNE:
The hon. member is misstating what I said. I never said anything of the kind

Mr. MCMILLAN:
My hon. friend said at one time he was not quite sure that it would not be better to have one house.

Mr. LYNE:
I beg the hon. member's pardon. I did not!

Mr. MCMILLAN:
Then I was wrong. I am not usually given to so much repetition as, unfortunately, I have been guilty of this morning; but I feel that this is a matter which requires the fullest possible explanation and consideration. It has, unfortu-

Mr. TRENWITH:
In that case, would the hon. member make the other house comply with the verdict as given?

Mr. MCMILLAN:
The house would have to comply.

Mr. TRENWITH:
No; that is the difficulty!

Mr. MCMILLAN:
It would be practically a compliance if the senate were returned. That, of course, brings up the question of finality. There is no finality in the scheme. There is no finality in the dual referendum. And there is no finality without destroying the idea of federation. I am not going to say that there may not be occasions in which the mass vote of the people would be the right vote for a particular subject; but I think it is impossible to
discriminate what is a matter connected with state interests, and what is a matter of general interest.

The Hon. H. DOBSON:

It cannot, be done!

Mr. MCMILLAN:

You cannot do it. No human being can possibly discriminate between them. Even supposing that you were to take the whole of the subjects which you relegate to the federal parliament to-day, and supposing that by a nice discrimination you were going to make a difference between them, you do not know in the future, and no man knows what subject might arise which would be really a matter of state interests, but which would appear to be a matter of solely general interest. I have spoken, perhaps, rather warmly, but I do think it will be a question of very careful consideration on our part before we introduce any system which, to my mind, is absolutely fatal to the dignity and revising function of the other house. I do not hold with those who think that the senate is going to be a powerful chamber, except, of course, that it does practically represent the same constituencies. The house of representatives, having the executive government in it, having the right to initiate expenditure, having all the patronage and all the power arising out of government, must be the great preponderating house, and, therefore in dealing with the senate, unless we have an absolute prejudice against its very existence, we ought, when once we introduce it as an element into this federal government, to see that no drastic regulation is introduced which will render it absolutely impotent.

The Hon. A. DEAKIN (Victoria)[11.19]:

The hon. member who has just resumed his seat has once more contributed to the debate. a thoughtful and impartial study of the situation from his point of view. I believe we are indebted to him on this occasion for the judicial temper of his remarks, which at all events should restore us to a more equable state of mind than obtained during the discussions of the past week. If I may be permitted to say so, it appears to me that we are in some danger of encouraging outside, and, perhaps, of developing within these walls, a mistaken view of the federal constitution as a whole, by dwelling, as we are compelled to dwell at this stage, upon what is, after all, an adjunct, so to speak, to the main body of the constitution. Our attention is concentrated upon disputes and dissensions which the most pessimistic of us do not expect to occur with any frequency. Still, when we are discussing these aspects of the question day after day, we appear to be in some risk of impairing our judgment by constantly dwelling upon its irregular, and, in a
sense, ungovernable manifestations. These may occur in connection with any constitution, and ought, doubtless, to be provided against; but the study of them day after day and hour after hour, the constant picturing to ourselves of two houses in serious conflict and verging on civil strife is not calculated to promote that view of the constitution or of its normal working which we must not fail to bear in mind. The daily processes of this constitution will not necessarily imply deadlocks, or demand any of the expedients we are considering. The regular, normal, healthy working of this constitution will resemble the working of those constitutions with which we are familiar in this colony and its neighbours. What is the deadlock that we dread? It is, in plain language, a breakdown of the legitimate machine. One chamber represent the people, and acts under the impression that it has a mandate to do certain work in a certain way, while the other chamber, also claiming that it has a mandate from the people, resists that policy, or its expression, in it particular measure. Such extreme antagonisms of opinion are abnormal. Under the system of government proposed to be created, it is desirable to evoke differences of opinion in order to obtain a full discussion upon every question that is submitted. I am a hearty advocate of the bi-cameral system, and see within the range of prophecy no time within which that principle can be safely departed from. But recognising as we do that whilst in normal processes of discussion between the two houses differences of opinion must arise, and are intended to arise, we surely cannot disguise from ourselves the fact that these differences will be settled ninety-nine times out of a hundred by ordinary methods, and without recourse to special expedients. There will be mutual concessions; there will be delays; there will be compromise; and there will be on the part of one or the other, surrender. But, by one means or another, the bulk of the questions which arise day by day will be settled by the devices with which we are all familiar. If we remember this, we shall realise that, vital as the question is, by dwelling upon it continuously as the circumstances of the case now compel us, we are apt to overload our imaginations, to overcharge our apprehensions, and to arouse an unnecessary amount of heat. After all, if both sides will recognise that we are not at present dealing with normal operations of the constitution, if we recognise that what is sought to be provided for is the unusual and abnormal, we are then able to approach what I may call its pathological treatment with greater calmness than we should if we assume, as some hon. members appear to, that we are really dealing with the ordinary operation of the constitution. We are proposing to deal with uncommon conditions, and with special and exceptional circumstances. We are only seeking to cope with circumstances which arise outside the ordinary operations of the
constitution. We may well consent to deal with them in an extraordinary way, which we would not be justi-

fied in adopting in the ordinary working of the constitution. Under our system, differences of opinion are inevitable, but those grave and serious differences which give rise to what we term deadlocks will be rare, and, as they are rare, may fairly be met by exceptional methods. I fail to grasp the full force of the argument of the hon. member who has preceded me, that the proposal which has been submitted to us—for a simultaneous dissolution of the two chambers, is in its nature, and in its essence, antagonistic to the bi-cameral system. The hon. member put it strongly, and he put it in a variety of ways, but, it may be owing to its novelty, his argument has failed to make that impression upon my mind that it has made upon his. I admit with him that occasions can readily be imagined on which the double dissolution is the employment of too great an engine for the solution of the difficulty. I admit with him that there are occasions when a dissolution of one chamber may meet the difficulty, but I am not able to follow him in his assertion that under no circumstances whatever—and that is what his contention amounts to—is a simultaneous dissolution defensible. I entirely fail to see how a simultaneous dissolution under the circumstances could impair in any sense the efficiency of the bi-cameral system of government. I will not detain the Convention by detailing at length the conditions which suggest themselves to me under which a double dissolution would be the natural and effective remedy. They are those to which our attention has been called almost to the exclusion of all others, those with which the question of state rights is coupled. When state questions are supposed to be involved in a particular measure, and there is a prolonged contention, the senate may say to the house of representatives, "We question whether on this proposal which affects the rights of the states you have the assent of the majority of the people"; or the house of representatives may reply to the senate, "We represent the large majority of the people, and the nation is with us; but we doubt whether, when properly submitted to the populations of the states, it will be found that they are in favour of our view." Those are disputes that may occur where state rights seem to be involved. These cases, would be rare; but, when they do appear, when state rights arise, is it not unreasonable to send the house of representatives to its constituents without also sending the senate? What argument is there against dissolving both at the same time, when the point in dispute must be remitted to the same public at the same polls? The question would then, in every part of the country, be discussed from two sets of platforms in every constituency of the commonwealth, the representatives of the senate putting their case as
they would have a right to do, and the house of representatives putting their
case. Can we imagine a more favourable condition of things for the
operation of moderate influences, than when both houses would be in
touch at the same time with the people? The electors would have both
sides of the question put before them. At the same time that they would be
listening to the wooing voices of candidates for the representative house
they would also be hearing appeals from those who sought seats in the
senate. The double dissolution would be quite as much an advantage to the
senate as to the other house; it would give an opportunity of preventing the
mass of the electors from being carried away by the enthusiasm of one
party without having opposing views properly submitted. The two parties
would meet on a fair and equal footing before the electors, and if anything
could produce an educational influence on the conduct of the election, and
elicit an expression of the soundest judgment of the electors, it would be
such a contest con-
ducted by such means. For my own part I consider those state questions, as
I have often urged, would rarely arise, and the real question which would
be submitted-however you have your dissolutions would be the question of
the one party against the other-the policy of one section of the community
against the policy of another section. Hon. members throughout this
discussion appear to me to have, to some extent, biased their judgment on
both sides. The one party by assuming that necessarily the majority in the
house of representatives will be the liberal majority which in our
legislatures usually obtains the mastery in that chamber, and probably will
obtain it in the commonwealth. In the same way, those who are defending
what they believe to be the rights of the senate, have in their minds the
resistance offered by the legislative councils throughout these colonies as
affording them the best illustration of the struggle which they expect to be
raised. That analogy fails once more, because in this instance both bodies
spring from the same franchise. Both bodies spring from the same class of
electors, simply divided into different constituen
cies. Under those
circumstances you can have no deadlocks under this constitution unless
you have one party dominant in the one chamber, and the other party
dominant in the other. Under no circumstances will it be a struggle, as the
hon. member put it, of house against house -using those terms strictly - but
it may well be a struggle of the majority of one party in one house against
the majority of another party in the other house. Under those circumstances
- the questions being rarely state questions - the questions being party
questions - the struggle being of one party in the country as a whole,
against the other, each party having its representation in both houses, and
each party's aim being to have that majority in both houses which will enable it to control the policy of the whole country according to the principles of that party, it appears to me that deadlocks are less likely to occur in this constitution than in any federal constitution the world has yet seen. The ordinary modes of settlement are likely to operate all through owing to the equal franchise - and the similar constituencies, and qualifications of the two chambers - in nine cases out of ten. When the serious struggle does come it will never be a struggle of the large states against the small, or the small states against the large. It will be the ordinary party struggle maintained now in every chamber throughout Australia, the one party ranking against the other. Those who so jealously view this double dissolution have no more to fear the majority in the house of representatives than they have to fear the majority in the senate itself. I admit that our great difference on this question, as on so many questions, arises from one fact: that these colonies, at present, are in very different stages of political development. Our friends in Western Australia have all their troubles before them. The right hon. member, Sir John Forrest, an optimistic premier by nature, and also by experience, seeing that he has never known what it is to lead an opposition or be in a minority in the colony he represents, and who is obviously most unwilling to learn what it means to be in a minority here -

The Right Hon. Sir JOHN FORREST:

I am old enough to learn!

The Right Hon. G.H. REID:

He wants to make a place for himself under the constitution!

The Hon. A. DEAKIN:

Most happy should I be to see so able an administrator and doughty a champion find his due place under the constitution; but if he will permit me to say so-speaking from my small to his large experience-I think he will admit that on those questions which relate to the difficulties that arise in the working of a constitution, necessarily New South Wales, as the oldest colony of the group, can speak with the strongest voice, and the other colonies without distinction can practically speak in the order of their birth. In the states where there is the largest population, naturally there has been the earliest assertion of those constitutional rights which in the mother country have led to the undoubted ascendancy of the popular chamber. The Right Hon. Sir John Forrest, with his optimistic view, drawn naturally from his own experience in the colony he represents, if he could see with the spectacles which have had to be worn. in the older colonies, would perceive the difficulties which inevitably arise out of our constitutions, and
would be more willing than he seems at present to assist us in providing some means of solving the difficulty. This is the position: the different colonies are in different stages of political development; it is a disappearing difficulty, and will tend more and more to disappear, for reasons which I have mentioned in connection with another part of this subject. In every colony in the group—even in the Right Hon. Sir John Forrest's own colony, and in his own policy admirably adapted to the circumstances of that great and growing part of the continent, I have myself seen an undoubted advance in a liberal direction year by year, and certainly parliament by parliament.

The Right Hon. Sir JOHN FORREST:
I have been the leader of it!

The Hon. A. DEAKIN:
I admit it. The right hon. gentleman is the leader, and I believe be is likely to remain so, and I warn the Legislative Council of Western Australia, through its acting President, Mr. Hackett, that when the time comes for the struggle between the two chambers of that colony, and the cure for deadlocks is undertaken, the fiercest champion he will have to encounter will be the right hon. gentleman, Sir John Forrest. It will be simply a question of time and experience.

The Right Hon. Sir JOHN FORREST:
We have no provision at all for that!

The Hon. A. DEAKIN:
Because you have not two parties. Practically, you have not two houses. Practically, there is only one house, one party, and one premier. Now, if what we have to face is not a struggle of state against state, but of party against party; if that is maintained upon lines of party politics and party principle; if the effort is simply to obtain a majority in both houses, and if those two houses have, as under this Constitution they have, practically the same constituency, what is the natural, the inevitable solution—as it appears to me—that is called for by the very circumstances of the case, and in the very constitution we are drafting? What is the natural solution of all difficulties which may arise? Both chambers are elective, both derive their authority from the same electors. What more natural than to refer both chambers, in the first instance, back to the people? The conclusion is inevitable. This constitution provides for that at certain periods—at least every three years the house of representatives and one half of the senate must face their constituents. At least every six years must the whole of the senate be renewed. We have enshrined the principle of the rule of the majority in this constitution, and surely there is nothing sacred in the mere time of its application. The sacredness is in the principle that the majority
should rule. There is no sacredness in the condition that it is to be every three years or six years that the people should express their will. We say, "Under the regular, natural operation of the constitution, the elections every three and six years will suffice, and be likely to prove ample."

Mr. MCMILLAN:
That is under ordinary circumstances!

The Hon. A. DEAKIN:
Yes. But when we have a special emergency, what are we to do? That which we do now under the constitution every three years to the whole of one body and to half the other, we should do to both at once. That is the natural way of solving the difficulty. Could there be less departure from the principles of the constitution, or the machinery we have embodied in it than that? We are to have under the constitution one means only of obtaining authority from the people, and of returning to ask for a renewal of their trust, that is by an election of both chambers. What more simple than to say that under certain circumstances both those chambers should appeal to the electors for instructions as to a particular about which they cannot or will not agree.

The Hon. H. DOBSON:
Supposing half the senate had just been re-elected? How can you get over that difficulty?

The Hon. A. DEAKIN:
The hon. member who preceded me said very fairly that you could put a number of cases in which obviously a single dissolution of one house might suffice. But if you have half the senate just elected, and the whole of the house of representatives just elected, what are you going to do under those circumstances?

The Hon. Dr. COCKBURN:
No dissolution would ever be ordered then. They would wait until the house of representatives had nearly expired!

The Hon. A. DEAKIN:
That is probable, but not always certain.

The Hon. Dr. COCKBURN:
Almost certain. The executive would never inflict any more punishment on the house of representatives on which it depends for its very existence than it could help!

The Hon. A. DEAKIN:
Quite so. The hon. gentleman has given me my strongest argument. Under the proposal for the dual dissolution they can never dissolve the
senate without dissolving the house of representatives, which, as my hon.
friend points out, they would be particularly slow to dissolve. What better
guarantee does the hon. gentleman ask for the senate?

Mr. MCMILLAN:
You do not follow the hon. member!

Mr. SYMON:
You have not caught his point!

The Hon. Sir J.W. DOWNER:
Only as far as convenient!

The Hon. A. DEAKIN:
Let me hear the hon. gentleman explain if I have done him any injustice.

Mr. SYMON:
You have the wrong end of the bludgeon to which the right hon. member,
Mr. Reid, referred!

The Hon. Dr. COCKBURN:
The executive would always inflict the least possible penalty upon the
house of representatives, from whom they would derive their existence.
They would punish the senate, but not the house of representatives.

The Hon. A. DEAKIN:
What my hon. friend means is, that the executive will not dissolve the
house of representatives until its term is drawing to a close, and then the
election will be held practically at little or no extra cost to the house of
representatives, but at great cost to the senate. The hon. member has failed
to note that the Premier of Victoria has already intimated to the Convention
that he is willing to accept an intervening period of six months or twelve
months. He has stated that he is willing to agree that the dissolution should
be delayed even for twelve months. As the hon. member will see, that gets
rid of his objection.

The Hon. Dr. COCKBURN:
It does not get rid of it altogether it mitigates it!

The Hon. E. BARTON:
Does my hon. and learned friend mean that they would delay the
dissolution?

The Hon. A. DEAKIN:
The Premier of Victoria this morning said that in order to meet the
possible objection that the

double dissolution might be employed by the house of representatives
when, under the circumstances of the case, it was compelled to be
dissolved itself, and when, therefore, it would be making no special
sacrifice, he was prepared to allow six months, or even twelve months, to
elapse between the day when the measure was rejected by the senate and the day on which the two bodies should be sent to their constituents for an expression of their opinion on the merits of the question.

The Hon. R.E. O'CONNOR:
If the question can wait for twelve months it cannot be very urgent!

Mr. LYNE:
Better leave it alone, if you are going to make the time twelve months!

The Right Hon. G.H. REID:
It would want a special incubator to bring it to life again!

The Hon. A. DEAKIN:
The interval to elapse may be discussed when we come face to face with the question. The amendment, if adopted, offers a complete reply to the objection urged by the hon. member, Dr. Cockburn, and as such I employed it; but I by no means say that the same object is not to be attained by other and better means. I point to one simple and obvious means which has already been indicated; and, under these circumstances, claim that, having answered the interjection, I have disposed of the whole of the objection urged to the double dissolution by those who, like my hon. friend, consider that we in some way infringe upon the bi-cameral system by the simultaneous dissolution—not "Symon-taneous."

Mr. SYMON:
A very good pun; it quite lightens the discussion!

The Hon. A. DEAKIN:
A simultaneous dissolution, as the hon. member Dr. Cockburn's interjection showed, is a course by no means likely to be adopted by an executive responsible to the house of representatives, except under extreme pressure, and its equity, under these circumstances, is one of its chief recommendations. It gets rid of the idea that either house is being penalised. In one sense, a dissolution at anytime is a penalisation of the particular members who are put to personal inconvenience, outlay, and difficulty in order to contest their seats. But, looking at it from a public point of view, the word "penalisation" cannot be said to apply especially when both parties to the dispute are sent to their constituents at the same time. I think the hon. and learned member, Mr. Symon, himself might be expected to admit that the existence of such a power as that of simultaneous dissolution in the constitution would be an even greater incentive to moderation on the part of both chambers than any proposal for a single dissolution of

will naturally seize every opportunity of punishing their opponents by compelling them to face their constituents, and will take every chance of
destroying the government on any side-issue which they may be able to introduce. I admit at once that the argument might be put with similar force against the otherwise reasonable proposal of the hon. member, Mr. McMillan, for a dissolution of the senate alone. If the house of representatives had the dissolution in its hands—that is to say, the dissolution of the senate—the executive in the same way, if the majority in the senate was against them, would say, "If you reject this bill we will take the opportunity, even though we otherwise would accept your amendment, of seeing whether we cannot turn your majority into a minority, and regain a majority for our party in the second chamber." The hon. member will see that under these circumstances in each case the one house has something to gain by dissolution. The executive has something to gain or something to lose. This would make dissolution frequent.

Mr. MCMILLAN:

But the hon. and learned member will allow that there is some sense of responsibility?

The Hon. A. DEAKIN:

I allow there is a sense of responsibility.

Mr. WISE:

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The Hon. A. DEAKIN:

It is because of the responsibility evoked that I wish to emphasise the advantage of a double dissolution. I honestly believe that if this provision for a simultaneous dissolution be placed on the statute-book, as you put equal pressure on both parties to the dispute, as both parties to the dispute have to pay an equal price in support of their own opinion, as both parties to the dispute have to take their political lives in their hands and face their constituents, if they persist in disagreeing, you have an eminently fair and equitable device for rendering disputes short and dissolutions rare.

Mr. WISE:

Each will act under the same sense of responsibility!

The Hon. A. DEAKIN:

It appears to me that the defect in the method proposed by the hon. and learned member, Mr. Symon, and that suggested by the hon. member, Mr. McMillan, is this—and I am using one of their own arguments against themselves: You will multiply elections and make dissolutions of frequent occurrence for working the constitution for merely party purposes. Neither party would hesitate to seize and use the power to dissolve a chamber in which there was a majority opposed to it. Whenever one party was in a minority in one house, it would make use of this single dissolution for its own political ends, and not to solve deadlocks or in the interests of the
state. But if you place them on exactly the same footing with the same penalty imposed upon both, you make both equally desirous of avoiding strife. You give the greatest encouragement, the greatest inducement both to compromise and to hasten a settlement that you could possibly offer. Both chambers would occupy the same position. Instead of one taking its life in its hands at the bidding of the other, both would escape dissolution so long as they agreed. After twenty years' experience of political life in one colony, and some slight acquaintance with politics in other colonies, I have yet to discover any two houses of parliament anxious to dissolve themselves before their time. I firmly believe that the introduction of this provision into a federal constitution would be the greatest safeguard, the greatest encouragement and inducement to moderation, agreement, and harmony between the two chambers, which you could contrive. One majority would not be able to punish another majority. Both sides would have a similar end to gain, and both would be likely to approach a settlement of the question in a spirit of fairness, straightforwardness, and willingness to concede something in a rational way to the other's views rather than run the gauntlet of an election together.

The Right Hon. C.C. KINGSTON:

The country might say, "a plague on both your houses!"

The Hon. A. DEAKIN:

The strongest instinct in the Australian elector, as in the British elector, is the instinct of fair play. And when the electors were brought to a knowledge of the compromises which had been rejected by one house or by the other, the house which was recalcitrant would be made to pay the penalty. It is quite possible that the country might consider that neither house ought to have forced such an extreme step as a dissolution, in which case both parties might be made to pay the penalty by an indignant body of electors. It seems to me, without elaborating the matter any further, that the main support of the proposal lies in these manifest advantages which a double dissolution enjoys over a single dissolution from a public point of view. I say that the more frankly because this proposal marks a great concession on the part of the men who have made it. I cannot conceal from myself our existing differences of opinion and of political principles in this Convention; and I submit that, from the standpoint of hon. members from the less populous colonies, they have made, a great stride towards unity. If this had been made in Adelaide, it would have considerably relieved the tension of the situation; but not being made in Adelaide, it has roused so great a feeling that the public here are not now prepared to stop where they
might have stopped before. At that time it appeared that no proposal for the solution of deadlocks would be accepted by a majority of the Convention. At this meeting we find that a proposal which, when made by Mr. Wise in Adelaide, received but a few votes, is carried by a majority of the Convention against a minority, some of whom, like myself, regard the proposal as a considerable concession. I regard that as marking a great advance. The proposal is one which, if no other could be obtained, I myself would accept; but because I would accept it in the absence of a better proposal, it is not necessary that I should blind myself to the fact that, having in the light of this debate more closely examined the proposal for a dissolution of one house or the other, I have come to the conclusion that a single dissolution in neither case can prove itself efficacious. The only dissolution of any value which could properly become part of the constitution, and encourage the settlement of difficulties, is a double dissolution. I now see that a single dissolution would mean the perpetuation of mere party warfare instead of a solution of deadlocks. If a simultaneous dissolution be accepted, it has been suggested that the proposal to provide a still further step in the shape of a dual referendum is unnecessary.

Mr. MCMILLAN:

Would not the want of finality make the difference more marked?

The Hon. A. DEAKIN:

There is no absolute finality, I admit; but the provision for a double dissolution first, would often permit of the settlement of difficulties without the referendum. The greatest merit of this proposal is that it provides an opportunity for a pacific settlement of most difficulties without an appeal to a double dissolution. You will have introduced into the constitution an admission of the principle that the prevention of deadlocks is better than their cure.

Mr. MCMILLAN:

Does not the hon. member think that the provision for a referendum may induce the senate to still more strongly oppose the house of representatives?

The Hon. A. DEAKIN:

I will come to that presently. I admit that there is no absolute finality in a double dissolution.

And even when you go beyond that to a double referendum there is no absolute and certain finality.

Mr. MCMILLAN:

With a double dissolution you may give rise to more complication than
ever!
The Hon. A. DEAKIN:
I think not. Even under existing circumstances it is necessary to have a
single dissolution before you settle vexed questions; but the advantage of a
double dissolution is that, in a number of cases, it would not be applied.
The mere existence of the provision would operate for the settlement of
disputes. If you have a double dissolution the circumstances of serious
difficulty which remain after it will be infinitesimal in number, and if they
do remain you can take the farther step of a double referendum. Even those
who oppose the referendum admit that at an election it is impossible to
properly solve a single and separate issue owing to local considerations,
and party considerations of many kinds. Electors may differ with their
member on one point, but will not always lose the services of a man who
has represented their constituency for a number of years because of that
difference, vital though it may be.
Mr. SYMON:
The electors will put men before measures then!
The Hon. A. DEAKIN:
I do not think they should always put measures before men. There are
many circumstances and considerations which determine their choice.
Take, for instance, such leaders of policy in England as Mr. Gladstone and
Mr. Balfour. I could understand conservatives or liberals in the
constituency of either of those gentlemen sinking their principles at the
polls so that neither man should be lost to the councils of the nation. I do
not say that in exceptional circumstances that course would not be
justifiable. But the circumstances would be exceptional. The familiar fact
is that at our elections you cannot, as a rule, so isolate an issue as to obtain
the verdict of a constituency upon that alone. If, on the other hand, you
take the referendum, it will allow you to clear away all such electoral
inconsistencies. All those purely personal and local questions which are so
frequently introduced into an election will disappear. The personal
question would certainly disappear, and it would become a question of the
measures, not the man. Under these circumstances, it is manifest that the
dual referendum has the advantage of clarifying a situation, by showing
what the electors do think upon a precise issue. Hon. members say there is
no finality in the step. I admit that. Before you take the dual referendum,
however, you have had a double dissolution, a simultaneous dissolution,
when all party forces having been brought into play, you will have
obtained a general verdict, as nearly as local circumstances will permit,
upon the issue in dispute. When you come to the second struggle, no doubt
some other considerations will come into play. Each party will attack the
weakest point on the other side, efforts will be concentrated upon the
doubtful states, and it is probable that in the great proportion of cases, a
majority which was doubtful, from a double dissolution, may be rendered
certain by the referendum. In neither scheme of dissolution can you have
absolute finality. But this process will afford such instruction to politicians,
and such a warning to the executive of the day that even if it does not solve
the deadlock, it will teach us the, true situation as nothing else can. I have
not now much to add. I cannot disguise from myself the fact that hon.
gentlemen representing different political principles are naturally opposed
to a double dissolution. A dissolution of the senate is to them something
they cannot swallow without a wry face. I appreciate the magnanimous and
generous speech of the hon. member, Sir John Downer, who, I understand,
is prepared to make some sacrifice

with a view to the solution of this vexed question. We ought not to forget
that we are being met in this matter in a conciliatory spirit, and the
encouragement which has been offered in the solution of this and other
difficult questions by members from less populous states, has been the
means of saving this Convention at its first hour and in its last. They saved
it in Adelaide, they saved it here.

An Hon. MEMBER:
From the extremists on both sides!
The Hon. A. DEAKIN:
We gave them an overwhelming majority for equal representation,
showing we were not unwilling to follow the noble lead they had given us.
They have met and are meeting us in the fairest possible spirit, and it
appears to me that the only words that ought to be used in this debate are
those which express and convey concord, amity, and good feeling.
Naturally a somewhat vehement politician, prone perhaps to take offence, I
have been unable in this Convention to feel my wounds, though I have
received a considerable number of blows, perhaps deserved, especially
those from my hon. friends, the presidents of legislative councils. It is my
cross in life to have the presidents of legislative councils perpetually
chastising me, because they love me. With becoming meekness I have
submitted to the correction which they have administered, and am unable
to remember it with any regret. It appears to me that in this Convention the
growth of good-feeling has been greater than any of us expected or
believed possible. I did not dream for one moment that we should see
approaches which we have already witnessed on the part of hon. members,
and decline to believe that, having approached so closely, we shall not
before we separate place in this measure some provision in regard to deadlocks. It may not be perfect from any point of view, but it will exhibit the stream of tendency in ourselves, and which exists out of doors. We shall show that the reality of this issue is recognised, and that while we believe that under this constitution there will be less complication and less opportunity for serious deadlocks, and though we believe that they will occur only under very exceptionable circumstances, yet, recognising that what we are constructing is a legislative machine, we shall not be turned aside by the word "mechanical" - "mechanical means of escape", or "mechanical safety-valve" - from adding this essential to our machine, though even that may not make it perfect. We are here to do our work scientifically. Having seen the possibility of a grave parliamentary contention, which might threaten the very life of the community, no matter how remote may be the concatenation of circumstances necessary to generate them, we have been forewarned. Knowing what we have ourselves experienced in these internecine disputes, knowing how high party spirit can rise, and recognising that the very principle of the British Constitution implies the shock of opposite opinions, discussions, and constant differences, and the solution of difficulties in a manly way by constitutional procedure, we have not hesitated to provide the best means in our power so as to protect this constitution in the future, and enable it to maintain in harmony its onward march. We are planning a constitution in which this provision shall find a place apart-as its medicine, and not as its daily food which will prove that a statesmanlike foresight existed amongst us, and that nothing was wanting on our part to provide against all the dangers which might possibly occur.

Mr. SYMON (South Australia):

Such a provision as the hon. and learned member, Mr. Deakin, has so eloquently described in the close of his speech is embodied in the amendment which was carried on my motion on Friday last; therefore, I might leave the general description of the great benefits that are to arise from a provision of that kind to the language so well employed by my hon. and learned friend just before he sat down. It would be ungracious if I did not acknowledge the exceedingly fair and moderate, as well as powerful, effort made by him to bring under our notice every possible reason in favour of the simultaneous or concurrent dissolution, as against the successive dissolution which we support, and I also feel that he is quite justified in referring with expressions of appreciation to the vote of hon. members representing the smaller states in support of his view. But we might expect him to recognise, at the same time, the magnanimity
operating in the minds of hon. members representing the larger states who in opposition to a state of feeling—a state of clamour I think I might almost call it—have come forward and vindicated their own independent judgment and have supported the proposition which we from the other states have brought forward. If there is magnanimity on one side, there is equal magnanimity—greater magnanimity, it seems to me—on the other, because, as has been pointed out over and over again, the influences which are brought to bear are difficult to resist. It is very hard, indeed, for members representing the larger states to act as they think right upon an independent, honest, and conscientious judgment in order to give effect to a proposition which is immediately scouted because it is said, most unjustly said, to be the outcome of a combination on the part of the smaller states. I deny that position.

The Hon. F.W. HOLDER:
That has been withdrawn already!

Mr. SYMON:
I was not referring to what my right hon. friend, Sir George Turner, has said. My hon. friend, Mr. Holder, is mistaken. I am referring to statements that are cast broadly throughout the land. We meet them at the hotels, we meet them in the streets, we meet them in the public press.

An Hon. MEMBER:
Hotels are the best places in which to meet them!

Mr. SYMON:
"I do not want to be diverted in any way from what I am submitting to hon. members; but-underlying what my hon. friend, of course, in a jesting way, interjected—there is no doubt that the feeling which animates all of us is that threats, jeers, and gibes of all kinds are to be drowned in some way or other. So far as we from the smaller states are concerned, we intend to put them wholly behind our backs. I thank the hon. member, Mr. McMillan, for his courageous speech this morning. It may not have been convincing, but it was brave, and I tell him, and also hon. members of the Convention, that we are not going to have our judgment coerced; we are not of those of whom it was said:

A marcial Providunce fashioned us holler,
O' purpose that we might our principles swaller.

We do not intend to do anything of that kind; but such a speech as my hon. and learned friend, Mr. Deakin, has just made, is calculated, at any rate, to induce men to reconsider from every point of view the position which they have taken up, and to give all possible weight to the arguments
which he has addressed to them. I think that my hon. and learned friend would have been more convincing if the senate and the house of representatives had identically the same power—if hon. members had allowed us in the senate the same money powers, if they had allowed us in the senate some control over the executive, if they had allowed us in the senate, not all, but some measure of that control over appointments and administration which exists—I think in an unnecessary, excessive, and improper degree—in the constitution of the United States. Then I say there would have been a great deal of force in the speech of my hon. and learned friend. It is just because you have shorn the senate upon

which the states which are the less populous now, but which may not be the less populous states in the future, of the great nation which we are about to create, rely, and which is the protector of these communities, of the powers which are necessary for an equal control, that my hon. and learned friend's argument fails in its effect. What are we to do now? Are we to hand over the senate bodily to the greater populations represented by their greater power in the house of representatives—represented by the executive government, which is responsible to the house of representatives, and to the house of representatives only?

An Hon. MEMBER:
That is the point!

Mr. SYMON:
My hon. and learned friend said that we had made a great concession. I consider that we have made an immense concession. In 1891, there was no suggestion of the necessity for making any concession of this kind.

The Hon. A. DEAKIN:
Yes; I moved it in the Constitutional Committee. The division was against me!

Mr. SYMON:
Well, I know that, so far as I have been able to ascertain, it was not dealt with seriously in the Convention of 1891. I freely grant that in the process of time there is a natural evolution of political principles and practice too.

The Hon. S. FRASER:
And divergence, too!

Mr. SYMON:
Possibly. We are developing from day to day, and it is for that reason that this second session of the Convention is now being, held. I said a few days ago that in the interests of the cause we have at heart, and as safeguards were provided, I should not further resist the provision which took away
from the senate the power of amending tax bills. In my belief we had settled and dealt with it finally at the Adelaide Convention. There were no additional reasons brought forward, and as there were important safeguards, as I felt them, amongst which this so-called deadlock provision is one, to permit of time for consideration, I yielded on that point. But, and this comes home to me more because of the hon. and learned member's speech, if we had given this up at the Adelaide Convention, instead of paving the way for harmony and finality it would have paved the way to additional and larger demands. Is the Premier of Victoria content to accept the concurrent dissolution as final? Is he content to waive his demands for a dual referendum?

The Right Hon. Sir G. TURNER:

Considering that I went for a dual referendum, and only put in a double dissolution on pressure, I do not think it likely. I am perfectly prepared to take the dual referendum without a dissolution.

Mr. SYMON:

Is my right hon. friend prepared to take the converse?

The Right Hon. Sir G. TURNER:

No. I only take that as a compromise!

Mr. SYMON:

Then we are landed in the double dissolution and the dual referendum, and super added to that we may have a national referendum as well. If we give way upon this point we will have to give way upon other points. Hon. members are like the horse-leech. With them it is give, give.

An Hon. MEMBER:

The daughter of the horse-leech!

Mr. SYMON:

An authority reminds me that it is the daughter of the horse-leech. When we give way on this matter, which is so essentially a matter of principle, other matters of principle will be put before us, and we shall be expected to give way upon them. The axe is laid at the root of the tree, and if we do not take care, the senate, which represents the constitutional tree, will be felled to the ground. All my hon. friends who are desirous of adhering to a clear and intelligible principle will, I hope, stand firm as to this,

and will say that, granting it is well that in order to secure the success of federation there should be some outlet, some safety-valve, and that that safety-valve should take the form of a dissolution of the senate at some stage or other, at any rate that dissolution should not take place until after the house of representatives has gone to its constituents and come back.
with a mandate to which the senate must either yield or be asked in the constitutional way to seek the authority of its constituents to maintain its position. I think the suggestion as to procedure made by the right hon. member, Sir George Turner, is the best one. I do not for a moment believe that the amendment establishing the principle of successive dissolutions will be rescinded in this House. But if the right hon. gentleman says that he wishes to have an opportunity given for the executive government of the federation to put in force the alternative, if the conditions require it, there is great reason in that attitudes and it is possible that some hon. members—at present I am not one of them—who support the other may be willing to entrust the federal executive which is responsible, to the house of representatives with the power, as they will have the responsibility, of undertaking so serious a selection as that.

The Hon. F.W. HOLDER:
It would always end in a dual referendum!

Mr. SYMON:
I do not wish to shut my eyes to the views taken by different hon. members; but, putting it as a question of procedure, so far as bringing the matter under consideration to decision is concerned, it seems to me that this provision for successive dissolutions is that which has met, and I believe will meet again, with the support of a majority of hon. members. At the same time, there may be a majority who are willing to trust the federal executive and to have the alternative suggested by my hon. and learned friend as well.

Mr. WISE:
The amendment I propose to move, if the blank is left, is an alternative proposal!

Mr. SYMON:
I do not intend to go over the ground that we have already covered in these debates. The shorter we can make the discussion, so long as our views are fairly expressed, the better. But I want to emphasise what I have put before, and what I have said again to-day. The functions of the senate are twofold. That, it seems to me, some hon. members do not bear in mind. First of all it is for the protection of state interests, seeing that in the larger sense it is the states house, and when difficulties arise between the house of representatives and the senate, the custodian and guardian of state rights, things will become very serious indeed. But in addition to that the senate is the house which imposes check and secures delay in the ordinary legislation of the country. In that capacity it seems to me that its duty is to see that the house of representatives is giving effect, in the measure brought before it, to the will of the people. If that is not the function of the
senate so far as its position as a revising house is concerned it has no function at all. Its duty is to interpose delay and bring about reconsideration, and the only purpose it can serve is to secure that it gets a full and adequate expression of the will of the people. To send back a measure to the house of representatives with amendments, or in its original state, declaring that it will not accept it, and that the House must go to its constituents before the measure can be brought under their notice again, seems to me a perfectly adequate and right position for the senate to take. If, on the other hand you say that merely in another session, after an interval of six or twelve months, the bill has to go up again to the senate, then you are not getting an expression of the will of the people at all. You are getting the expression of the will of the house of representatives, which may not be in harmony with the people they represent. Difficulties have been pointed out, and there are difficulties of course in every solution you may attempt. If you have a successive dissolution, you have an election at two different times; if you have a concurrent dissolution, you have an election at the same time. But with a concurrent dissolution you will intensify the struggle that has been initiated between the two houses, because you will have the members of the senate, and the members of the house of representatives addressing their constituents throughout the country at the time, and you will have the personal element introduced which is sought to be eliminated by the referendum. You will have popular prejudice introduced, and you will have the men on both sides raising the standard of a struggle between the house, of representatives and the senate.

The Hon. F.W. HOLDER:
You will have both sides of the question put at once; by the other method both sides of the question will be put at different times!

Mr. SYMON:
My hon. friend does not see that if you have both sides of the question put at different times, you do not have the two champions coming into constant conflict.

Mr. TRENWITH:
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Mr. SYMON:
Of course there is a remedy, that is, to fight it out; but that is the Donnybrook kind of argument.

Mr. TRENWITH:
That is better than having the fight all on one side!

The Right Hon. G.H. REID:
The hon. member says, "Let the other fellow fight it out!"

Mr. SYMON:

My argument is, let the house which is in the position of the quarrelling house—not the house whose duty it is to exercise a check, and to soothe and subdue the inflamed passions of the other man—let it go to its friends and constituents and see if they approve of this excited front that it presents to those who are supposed to check him, and when that house comes back with the approval of the constituents

The Hon. I.A. ISAACS:

They will continue the fight!

Mr. SYMON:

Not at all. You do not continue the fight any more than you do now. What would happen in our colony, for instance, if you had such a dissolution? The members of the house of representatives would be withdrawn from the fray; they would be out of it. It is, then, a question whether members of the other house have acted as they have done with the sanction of their constituents; that is all. I wish to say that I have no desire to aggravate the difficulties of the question. Our duty is to see if we can arrive at a just and fair solution. If your solution is better than mine, I am prepared to accept it; but I say mine is the best at present. If yours is better than mine, and it is put into the constitution, we must give consideration to the most effective way of recommending it to our people; but at present we are endeavouring, by bringing the propositions together, to secure something which will be just to all, and fair in the solution of this very difficult problem. But I am pointing out now that the very difficulties which you suggest, and which may arise, undoubtedly, in a successive dissolution, you will have in just as large measure with the concurrent dissolution, with the added personal element, the added element of personal bitterness in fighting the matter out, which you are bound to get when the members of the house of representatives and the senate meet before exactly the same constituents. You will have the members of the senate heated and angry instead of calm, as they would otherwise have been—calmer still if my hon. friend had been a member of it. They

will be filled with the idea that they have been caused the endless expense and trouble of an election by the overbearing majority—a very unjust expression to use no doubt in the house of representatives.

Mr. TRENWITH:

The senate cannot be overbearing; it must always be the house of representatives!

Mr. SYMON:
I do not know, I am sure; but I think that they, very possibly, might be overbearing. I do not say that they are more likely to be angelic; they will be human beings with passions like ours; and I do not think they will be any more angelic than the house of representatives. It is for that very reason, as my hon. friend feels and I am sure he will accept my deduction—it is because they are men having like passions with the members of the house of representatives that I do not believe in the concurrent dissolution. You will not have them addressing their constituents with the same calmness, or, at any rate, with the same moderating effect on the public mind, as you would have them in the case of a successive dissolution, with intervals of six or twelve months between. Then the hon. member, Mr. Deakin, said there would be little or no probability of these powers being exerted. That is a position that cannot be emphasised too strongly. For the very reason that that is, probably, the opinion of the whole body of this Convention, it is not an argument for putting this provision in the constitution; but it is a very good argument for saying that it should not be put in. If we are so satisfied that this difficulty will not arise, the less drastic the powers we put in the constitution to exercise a controlling influence over the senate, the more we are likely to frame a lasting and prudent machine of government. The double dissolution, my hon. friend said, would be less likely to be used. I am not so very sure about that. In some respects it might not be likely to be used; but what an instrument it is you are holding over the senate!

The Hon. F.W. HOLDER:

And the other chamber too!

Mr. SYMON:

Not so much the other chamber. The hon. member knows that the other chamber, in every well regulated system of English responsible government, is liable to be sent to its constituents now under a dissolution. I do not call it a penal dissolution. I object to that term. It is only a mode of bringing them into harmony with the feelings of the country. That exists at this moment. It applies to some upper houses in some unified constitutions; it does so in ours; but we are introducing it as a new thing in a federal constitution. We are putting a new weapon in the hands of the federal executive and a majority of the house of representatives. If we do put it there, we ought to take care that it is not a two-edged sword, but a weapon that will have no more destructive effect than we can possibly help. Let us minimise it. We are all agreed that there should be a dissolution; let us make it as moderate in its effect as we possibly can. It does seem to me that the moderating influence is all in the direction of having a successive dissolution, with an interval for reconsideration of the same measure-an
interval for calming the political passions which have been excited—and if we have that, it will be ten thousand times better than a mere interval in which you do not get the opinion of the country upon a measure; but merely the same opinion of the same body of representatives. When both houses go to the country concurrently the result will be that you will have an acrimonious struggle, and it may be that you will bring the parties back in exactly the same position as they were before. It will be ineffective as well as troublesome. I feel sure that such a provision as that will be a blot upon the constitution which we are now engaged in training.

The Hon. I.A. ISAACS:

Without that there will be no constitution to have a blot upon!

Mr. MCMILLAN:

I do not know why the hon. member should talk in that way!

Mr. SYMON:

After an interval of six months for consideration there is to be a double dissolution. My hon. friend will feel that he has been a little hasty in making that remark. I am sure that he did not mean it. However, we shall endeavour to make the best constitution that we can. We have submitted our proposal. I venture to think that that which was carried the other day is the best, looking at it under all the circumstances. My hon. friends will make such proposals as they think right for making it still more effective, and in the meantime I am sure that all of us will only be too ready to listen as we have done with great instruction to such arguments as my hon. friend, Mr. Deakin, addressed to us from his point of view. I do not propose to deal now with the dual referendum or with the national referendum. The dual referendum I confess I do not like. I think it is an abnormal provision altogether. There are reasons against it, as there are reasons against the national referendum. Of course one point of objection does not exist with regard to the dual referendum which, in the estimation of those who come from the less populous states, applies to the national referendum. I think we are now at really the most critical point in the construction of this constitution; we all desire to see it so framed that it shall be an enduring foundation for the indissoluble community that we propose to create under it; and I hope myself that whatever plan is adopted, it will be received even by those who may be defeated, whether I am on the defeated side, or my hon. friends are on the defeated side—that it will be received by all of us with goodwill, and with the determination that, whatever our own personal opinions may be, we shall give the constitution, whatever shape it may take, our best support when it is handed over to be
adopted by the people who send us here.

The Right Hon. G.H. REID (New South Wales) [12.35]:

I should be extremely pleased if I thought the situation of affairs was so simple that we could proceed at once to the question, as my right hon. friend, Sir George Turner, has explained. So far from feeling that, I deemed it my duty a day or two ago to speak very emphatically as to the dangers of the position which we are about to find ourselves in—and I thought in doing so that I acquitted myself of a duty to this Convention, because it would be a thousand pities if we in this Convention did not fully exchange our opinions upon vital matters such as these—nothing would be more agreeable to me, nothing more easy, than to indulge in a number of pleasant observations which would excite complete harmony, and probably lead to the general conviction that I was a prince of good fellows in federal matters. But, in taking up such an attitude upon a crucial matter of this sort, I should betray the Convention and my own colony. I should be asking the Convention to take up an attitude which I feel would not be accepted by the people whom I represent, hence my anxiety to impress my views upon this Convention. I was very pleased indeed to listen to the speech of my right hon. and learned friend, Sir George Turner, upon the matter. We all know the power of his acute intellect, and what pleased me about my right hon. friend's speech was that he seemed prepared to bow now to a more liberal solution of this matter, judging from the observations which he has addressed to this Committee. I should be prepared for very much stronger arguments from my hon. friend if he was not in that happy frame of mind. So far as I am concerned, I have made it very obvious to the Convention, sitting both in Adelaide and in Sydney, that the only point on which I become obstinate is the point when I believe that the Convention is getting on a track which will lead to disaster. I am prepared to trust federation in the largest possible way; but I cannot get beyond what I believe are the limits of moderation, still less can I get beyond the limits which will be supported by the people of this country. Now, it seems to me very clear that my hon. friends who represent the smaller populations, and who have shown such a resolute determination to safeguard their powers in the constitution, cannot be at all surprised being conscientious themselves if the same anxiety is shown by those who represent the larger populations a similar position and said that we, as representing the larger populations, would not be satisfied with any constitution which did not in every event safeguard the rights of the majority of the commonwealth to rule—if we took up that position, I admit that we might be safely censured from their point of view, as I honestly
think they are censurable from our point of view.

The Right Hon. Sir JOHN FORREST:
That is the very thing you are advocating!

The Right Hon. G.H. REID:
What?

The Right Hon. Sir JOHN FORREST:
That you should always have the power to rule!

The Right Hon. G.H. REID:
No. So far, seeing the steadiness and determination with which my hon. friends have determined that a minority should rule, I have ventured to put in a word or two in the interests of the majority. I quite agree that if we were to endeavour to override the interests of the smaller state by some rough-and-ready method which would secure the preponderence of the larger population, I admit that we should be exposed fairly to the same criticism from the other side. Now, I want to see if we possibly can discover some sort of solution of this difficulty which will not be exposed to the fault that it leaves the smaller states entirely at the mercy of the larger, and I am equally anxious that we shall arrive at a solution which will not leave the larger at the mercy of the smaller. There is our trouble. If my hon. friends from the smaller states had their way in this constitution, a state of things would arise in which, no matter how overwhelming the majority on the national vote, it would be in the power of a comparatively small minority to set aside for ever the voice of that absolute majority. Coming down to figures, we will suppose that there was a mass vote, representing 2,000,000 or more in the federal population.

The Right Hon. Sir JOHN FORREST:
They would be all in accord I suppose!

The Right Hon. G.H. REID:
Since my hon. friend declines to allow me to get an explanation from him, I hope he will allow me to proceed without interruption. Suppose that a mass vote representing over 2,000,000 of the people affirms one line of policy in legislation for this federal body. It is quite possible, under things as they are proposed at present, that a majority of an inner circle of population, representing not 2,000,000 but 600,000 people could absolutely and finally not only block the voice of the 2,000,000, but by their power of saying "no" to every proposition emanating from those representing the 2,000,000, would produce such a state of deadlock that, perhaps, for the salvation of the federation, the voice of the enormous majority would have to be set aside and affairs adjusted to the will of the
small minority. That sort of federation no sane people in New South Wales will accept.

Mr. TRENWITH:
Or anywhere else!

The Right Hon. G.H. REID:
Or, I should think, anywhere else. That being the case, we must bend our best energies to see if we cannot relieve this constitution from the odium, from the destructive criticism to which it will be exposed if it is put in that shape before the people of this country. I am sure that hon. members will see that it is infinitely better that that sort of criticism should be heard in this chamber before the work is done than that it should be made with destructive effect after the work is done. So far and so long-as I represent the people of this country in this federal matter, I decline to hand over the prospects of federation to men who are bent on destroying them. I am anxious, if possible, to see this constitution assume a shape that I can go forth into the country and to the districts of the country loyally and honestly supporting it. And hon. members cannot expect me to do that if the constitution is left in such a shape that I find myself absolutely unable to say a word for it. I think my hon. friends who differ so strongly with me will bear with me.

An Hon. MEMBER:
Suggest something! The Right Hon. G.H. REID: I intend on this occasion to see whether I cannot in some way or other suggest something which will enable me at any rate to see a solution of the matter, which will enable me to go into the districts of this country and support the constitution. I quite feel the force of the criticism which was levelled at me with reference to the speech I made a day or two ago. I quite admit that we are bound as far as we can to find some solution of these difficulties which we are compelled at the same time to point out. Now, before I endeavour to do that, I think I ought to show in what respects the solution which has been adopted by the Convention fails to satisfy those conditions. The Committee has adopted the proposal of the hon. and learned member, Mr. Symon-and it is quite a concession as usual-which provides that when representatives of the people as a commonwealth wish to pass certain legislation which is not agreeable to the gentlemen who will compose the senate under a widely different franchise, then the first thing which shall follow shall be a dissolution of the house of representatives.

The Hon. A. DOUGLAS:
Where is the difference in the franchise?

The Right Hon. G.H. REID:
The expression was wrong, but my hon. friends know, I think, precisely what I mean.

The Hon. A. DOUGLAS:

No, I do not!

The Right Hon. G.H. REID:

I will tell my hon. friend. A sort of arrangement in the constitution under which six gentlemen, representing 150,000 souls, will have as much power in dealing with the money and legislation of the commonwealth as six gentlemen representing 1,300,000. I am indebted to my hon. friend for his correction. It is not a fair political exchange, as far as the senate is concerned, without some sort of balance in another part of the constitution.

An Hon. MEMBER:

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The Right Hon. G.H. REID:

I have accepted it because I see no federation without it; and, having accepted it, I want to endeavour, in other parts of the bill, to put the constitution in such a shape that the people of this colony will also accept it. That is my desire in the remarks I am making now. With reference to the senate, unless some alteration is made, you cannot commend it to the common-sense and justice of the 1,300,000 people of this country, that, in dealing, we will say, with the finances of the commonwealth, six gentlemen, representing 150,000 persons, should have precisely the same power-

An Hon. MEMBER:

Nothing of the sort!

The Right Hon. G.H. REID:

I quite admit it is not so in the house of representatives; but I have sufficient knowledge of the working of constitutions to know that the supreme power in the second chamber, which is not liable to the same constituency, which is not liable to the same risks of dissolution, at the same time is practically an immovable authority, that it is a comparatively thankless task to have the responsibility of driving the state coach when a passenger inside can always apply the brake. That is really the position we are in. We are given, apparently, a democratic chamber on the broadest possible basis. We are given a grand stage coach with "democracy" painted all over it, but those who give us this state coach are determined that the man on the box shall always be a safe conservative, and that the man who
has the brake shall always be a safe conservative. I am not prepared for that sort of democracy, in which the brake is so strong that it can always arrest the progress of the state coach without supplying anything which will enable those who are responsible for its progress to adjust it so that it can advance.

The Hon. A. DOUGLAS:
Why did you bring us here?

The Right Hon. G.H. REID:
Well, I am sure I do not know. I do not know what brought the hon. member here; I did not. What I desire is that whilst there should be a strong break in the second chamber, which can always prevent the will of the representatives of the people from acting at once as it likes, that there should be in this document something; not in the interests of this or that party, but in the interests of the whole people, in the interests of the whole concern, which will prevent the constitution we are framing from being defective in some vital respect.

Mr. HIGGINS:
Does the right hon. gentleman wish to make the brake weaker?

The Right Hon. G.H. REID:
I do not mind how strong the brake is, so long as the man at the brake is in some sort of responsibility which will reconcile the man on the box with the man who is using the brake. As long as the driver could use the brake there would be some sense in the management of the vehicle. But if one man has all the trouble of the driving, and the other man can put on the brake whenever he likes, and is strong enough to stop the coach whenever he likes, then we get a sort of machine and a sort of progress for which it is scarcely worth while putting our hands into our pockets. I would remind the Convention that its own deliberate vote has affirmed that statement. There was a time when provision for deadlocks was ridiculed. I was exposed to the keenest satire once, years ago, for advocating a cure for deadlocks. I will be frank. Many of my criticisms of the bill have disappeared in the light of better judgment and greater experience; but this is the one criticism which I have felt all through, and still feel was a just one; and the position I took up in that one respect—if only in that one respect was justified the other day by a large majority of the Convention. The proposition was solemnly put to the Convention the other day, "Shall there be a provision for deadlocks, or shall there not," and there was a large majority in favour of the provision.

An Hon. MEMBER:
Of two to one!
The Right Hon. G.H. REID:
Yes, of two to one. By a majority of two to one we have agreed that there must be in this constitution something which will enable us to look upon the machine as one which will get out of a deadlock, if such a thing—it might never occur—unfortunately happens.
The Hon. S. FRASER:
We have given you a lot more than "something"!
Mr. SOLOMON:
A great many voted for that on the ground of expediency, and not of necessity?
The Right Hon. G.H. REID:
I voted for equal representation on the ground of expediency; but without some adjustment in the constitution to prevent what might follow from such a concession, I would never have dreamt of voting for it. But I voted for it with my eyes open; I did not get up and tell the Convention I was doing a wondrous and virtuous thing. I said nothing, but I voted for it. I will stand by my vote, and I am prepared to vindicate it all over the country when the time comes, if the situation which may arise out of that principle is provided for. Hon. gentlemen of—I will not say ferocity because that is foreign to natures like those of the hon. members, Mr. Fraser and Sir William Zeal, but gentlemen with calm, cold-blooded temperaments, have shown, that there are no men in Australia who have got a keener perception of the bearing of these things in practice than my two hon. friends. There are no men whose convictions are more sincere. Mor

The Hon. S. FRASER:
Oh no!
The Right Hon. G.H. REID:
The will as expressed by the representatives of the people. Of course, there are a number of gentlemen who always think they are expressing the will of the majority, in their better moments, by going against them at all times; but in politics we cannot have these saviours of society we have to go to the ballot-box. As I say, the keenness with which this thing is fought by men of sense and discrimination shows that there is a good deal in it.

The Hon. S. FRASER:
No doubt!
The Right Hon. G.H. REID:
Exactly.
The Hon. S. FRASER:
I do not dispute that!
I agree with my hon. friend that there is a great deal in it that we, as representing the larger populations, have to watch.

The Hon. S. Fraser:
We represent the larger populations!

The Right Hon. G.H. Reid:
We!

The Hon. S. Fraser:
Sir William Zeal and myself!

The Right Hon. G.H. Reid:
I will not venture to say what the opinions are in the other colonies; I can merely speak of my own. Speaking entirely for the people, one of whose representatives I am I wish to point out that the tenacity with which my hon. friends represent the senate view has so impressed, and properly impressed, intelligent persons in this community, that they are naturally anxious that the other view should be safeguarded with equal faithfulness, equal ability, and equal determination; and the other is this: That whilst we concede equal representation—as this is a federal union, and as union would be impossible without it—we want to see some sort of provision which will, afford to the people of all sets of opinion, this satisfaction: that however wrong the decision of the people, or house of representatives, or the senate, or altogether may be, the machine is not to break down—that there is to be some finality. The fatal defect of all these provisions is that not one of them gives us finality. You draw out a number of intolerable and, perhaps, expensive contrivances as a remedy against deadlocks, not one of which possesses, the element of finality. I say if there is to be no element of finality in your provisions against a deadlock the old bill is infinitely better. If a deadlock is to be left insoluble, the old bill of 1891 is a far more sensible measure than this will be. If it is affirmed that the deadlock is not to be left indissoluble, and if we, by a resolution of two to one, have affirmed that there shall be a provision against deadlocks, we have taken the responsibility of constructing a provision which will show some appearance, at any rate, of finality. That is the responsibility we are under, and we have taken it upon ourselves. If hon. members had said "No, we will have no provision except the common-sense of the two bodies working under conditions which will inevitably bring about a solution in some way or other," I could understand it. But inasmuch as we have gone beyond that, and have said, "There must be some provision against deadlocks," I say the provision of the Premier of Victoria, the provision of the hon. member, Mr. Symon, every provision. before the chamber except
the provision of the hon. member, Mr. Lyne, is lacking in, finality, and therefore is worse than useless. Let us look at the matter as it is presented by the hon. member, Mr. Symon. The elections for the house of representatives, if dissolved, would show the members of the senate, precisely what; public opinion was upon the question in dispute.

[The Chairman left the chair at 1 p.m. The Committee resumed. at 2 p.m.]

The Right Hon. G.H. Reid:

There was a remark of the hon. and learned member, Mr. Symon, in which he referred to the dissolution of the house of representatives in order to bring it into conformity with the will of the people. That expression only throws a vivid light upon the difficulties we should be thrown into by the proposition before the Convention. What is the use of ascertaining the will of the people unless that will is to have some sort of effect? For instance, there are two wills that have to be consulted under the propositions before the house—the will of the people in one sense, meaning the commonwealth, then the will of the people, as a different quantity altogether, forming the constituencies of the senate. For instance, in the appeal to the people of the commonwealth it might be clearly brought out that, although there was a very large majority of the electors of the commonwealth in favour of a certain course, and only a small minority against that course, yet that minority was in such localities that its power was equal to that of the majority; and there being a conflict between the senate and the house of representatives, whilst the house of representatives would be re-formed in the light of the appeal to the people of the commonwealth, the difficulty would remain in that case more. intensified than before; because, while the persons forming the majority in the house of representatives would come back and say, "We have won," those in the senate who took the opposite view would say, "No, we have won, because a majority of our constituents have expressed themselves in favour of the view we have taken."

An Hon. Member:

That would be a majority of the states!

The Right Hon. G.H. Reid:

Yes. My hon. friend will see that, on the different composition of the two houses, it might very well happen that, while taking the larger states together, there was a larger majority for one side of the contest, yet, looking at the smaller states in a majority of those there would be a majority in favour of the view of the senate, and that majority quite
decided enough to justify the senate in saying, on the lines of this constitution, "This appeal having been made in the case of the house of representatives, it brings out the fact that, in the opinion of our constituents, we have been doing our duty, in resisting this measure." All the trouble would have left things precisely as they were, only in a position of greater difficulty. While the one house would be clamouring and saying, "We have had an appeal to the people of the commonwealth, and it shows the majority are for us," the members of the senate would say, "You talk as if there was no constitution. The constitution gives as a certain position, and, looking at our position, the appeal has gone in our favour." Well, that would not settle a deadlock. It would intensify it. Then we take the next step. The two houses having been brought into this state of uncompromising opposition, the constituencies of both having approved the opposite policy of both, what have we before us? A prospect of repeating exactly the same operation in, I will admit, a slightly different form. There would again be an appeal to all the electors of the commonwealth, and the effect of that appeal would be that, after the vote was taken, the votes would be sorted out again under the dual referendum, and the result might come out-national referendum, a large majority for the lower house; states referendum, a large majority for the senate. So that we should have to face the deadlock again in a still more intensified form. We should have had the people twice saying to both houses, "You are both right."

Mr. SYMON:
The dual referendum is full of mischief!

The Right Hon. G.H. REID:
I do not say that. It might be a good thing; but in this particular case, for this particular object, it might leave us in a worse position than before. What is the use of exposing the people and the public business to this incessant contest, and this great expenditure over a matter, perhaps, affecting vitally the interests of the whole community, if at the end of it all we are left in a worse position than before? I say again, it would be infinitely better for us to give up any idea of solving deadlocks unless we are going to solve them. It is no use playing at settling deadlocks. It may be an amusement to us, but it would, be a loss and an injury to the people, and would prove a keen disappointment to the people. Very wisely there is a provision in the constitution that it shall not be amended unless a majority of the states, as well as a majority of the population concur. That is a basic principle for an amendment of the constitution; but, unfortunately, we are put, by the other provisions of the constitution, in this position: that every conceivable proposition which may be submitted to the commonwealth
parliament has to undergo exactly that same test. Unless it commands a majority of the people in one house, and a majority of the states in the other, no legislation is possible, and nothing can be done. Can any constitution work when it is absolutely necessary, in the case of every form of legislation, that there should be a concurring majority in both houses—not a concurring majority of ordinary chambers of legislature in one community—that is comparatively simple—but a community majority under the two different sets of circumstances, and on the two opposite and almost hostile qualifications? Such a constitution would work under very great difficulties. I listened with great interest to a reply which was made to my reference to the items which are to form the subjects of legislation in the commonwealth. It was pointed out to me by my hon. and learned friend, Mr. Barton, that every one of these may be said to involve a state interest. That does not carry us any further. It is impossible to think of a state interest without the interest of the people in the state. The expression "state interest," as apart from the interest of every human being in the state, is an expression I cannot understand.

An Hon. MEMBER:

It means the same community!

The Right Hon. G.H. Reid:

Exactly; it means the same community. It is no use wasting time to tell me that every state community has an interest in every subject of state or commonwealth legislation. The question is not answered in that way. Every individual in every state is in the commonwealth, and in the electorate of the commonwealth; and his interest as an individual in the state is absolutely protected in the same way as the interest of every other human being in the commonwealth is protected. Take, for instance, the tariff question. Can any one fairly say that that question, with all its complexities, will ever be settled unless it is settled on the one test—the test of the majority of the people of the commonwealth?

The Hon. A. Douglas:

The small colonies would not take it!

The Right Hon. G.H. Reid:

Of course, we cannot speak finally on a subject of that sort. In a matter of taxation and trade, the interest of every person in every state is only the interest of every person in the commonwealth. He is not two individuals; he is the same individual, whatever the state or commonwealth interest. So that, while it is quite true that every state has an interest in everything,
every state has not an interest as apart from the people of the state; the people of the state, and their interests, can only fall into the common lot and be decided by the general opinion of the whole commonwealth as represented in the house that frames the tariff, or it cannot be represented at all. It would be infinitely better, if we are to have no provision against deadlocks, to let the upper house amend money bills, because if some particular state, or two or three states, representing only a small number of the taxpayers, the persons interested, have the power together to do that which prevents any tariff law from being enacted because it does not satisfy them on one or two isolated points, when shall we ever have a tariff at all? This clashing of interests in tariff matters must have an end; there must be a final arbiter, and if that arbiter is not in the house which has the power to amend, how can we find it in a house which has no power to amend? It is of no use talking about the house of representatives being the arbiter, because if on some aspect of the tariff a majority of the smaller states are dissatisfied, they can prevent any tariff from being constructed by simply saying, "No." That, to me, is an intolerable state of things, from which I shrink, and it brings us back to this: If there is to be a solution of deadlocks, it must be one which must lead to finality. On this point we must all speak with great diffidence, because the difficulties are very great. While speaking earnestly, I do not wish hon. members to think that I am putting forward anything I say with any great confidence. I do not say that the proposal, which I put forward as one to be considered, will certainly be satisfactory; but it will have this improvement upon all the others, that it will be final.

The Hon. J.H. Howe:

Oh!

The Right Hon. G.H. Reid:

The hon. member may laugh; but surely my hon. friend, as a good business man, would himself, in any important business matter, especially one which affected the interests of his own clients—people say that the matter was not quite one to be laughed at if it were left in a state of uncertainty. This is particularly and especially the case in matters affecting the tariff of the country, because in that case, if you have no finality you have no prosperity, no certainty. Surely it is not necessary to point out to all who are interested in business communities that a long fight over a tariff, absolute uncertainty as to what a tariff is going to be, is a serious evil. And this will be one of the first questions to which the commonwealth will have to address itself. The public require in such a matter that there
should be finality, and they expect us to make the measure of such a
character that it will be satisfactory on some basis which is fair to all. I
have been endeavouring to see as far as I can, by studying the constitutions
of other countries, how difficulties in those countries are met, and as the
result of any study which I have been able to give to this matter, referring
to those constitutions, and looking at the proposition before us now, I have
come back to the conviction which I expressed when I issued my address
to the people of this country as a candidate. I pointed out then all the
difficulties in this matter as far as I could foresee them, and I endeavoured
then to throw out for consideration a plan which at any rate would have the
merit of finality. It is a plan which, although some hon. members may be
strongly opposed to it, may in the end, I think, be accepted as a solution of
the difficulty, whatever the conditions may be. I do not object to a
dissolution. I prefer, however, that the power should be given to the
executive to be exercised simultaneously or not. The matter is one which I
do feel very strongly about; but I think there should be power in the
executive to dissolve one or either house, or both of the houses. That is the
first step, which is, I think, a highly proper step, so that the people of the
country may have a voice in any matter which forms the subject of dispute
between the two houses. After that appeal to the different constituencies-
those of the senate and those of the house of representatives-if it be then
impossible to get over the difficulty, I can find no other conceivable
method which will give us finality than some provision under which the
two houses would be made to sit together and settle it. But these are
matters of detail. I must deal first with the main point. Now, I find that this
sitting and voting together by legislative bodies is by no means so
uncommon a practice as it at first seems to be. For instance, in France,
under the reformed constitution, the two houses sit together, although their
numbers are very different, the upper house having 300 members, and the
Chamber of Deputies 584—much the quota that we have in this constitution,
namely, two to one. It is the law there that, even in so important a matter as
the revision of the Constitution of France, the change shall be effected in
that way, the two houses sitting together, deliberating together, and voting
together, in the most important question of constitutional change.

The Hon. I.A. ISAACS:
Can the hon. gentleman give us an instance in which that has been done
in France?

The Right Hon. G.H. REID:
It is comparatively a new constitution. It cannot be done at all, unless in
each house there be a vote affirming the necessity for constitutional
change. That is a condition precedent; but, on the two houses agreeing that
there shall be a change in the constitution, the question of what that change shall be is decided by the two chambers sitting together.

The Hon. I.A. ISAACS:
Called the national assembly!

The Right Hon. G.H. REID:
Let us look at what is done in that very mixed quantity of another country, the Austro-Hungarian Empire. We know that these federal difficulties exist there in greater force and complexity than under any constitution we have thought of here. We all know the complex elements of the Austro-Hungarian Empire; and the fact that there are two different parliaments—the Hungarian and the Austrian—shows how difficult the problem has been in that empire with its different races. There are two sets of parliaments.

Mr. SYMON:
And two executives!

The Right Hon. G.H. REID:
Two executive governments, and all the difficulties arising from difference of race and creed and so on are solved in this way. Well, they have to solve their federal difficulties. The two parliaments each send sixty delegates—twenty from the upper house of each parliament and forty from the lower house. The 120 delegates then sit and vote together, and decide matters affecting the empire in its larger sense—war, finance, and so on. These questions are settled by a simple vote at this joint sitting. The decision of these two delegations voting together binds the whole empire. This is another case where, whenever there are great difficulties, the solution of sitting and voting together on the part of two legislative bodies has been adopted.

The Hon. Dr. COCKBURN:
Does the right hon. gentleman suggest that the senate and the house of representatives should send an equal number to the conference, as is done by the two parliaments in Austro-Hungary?

The Right Hon. G.H. REID:
No. The two cases are certainly not similar. There you have two great empires of independent existence. I do not think the cases are parallel. At present I am not insisting on anything; I merely wish to mention the one or two instances which I have come across where difficulties are settled in this fashion. That is all I am putting before hon. members at present. In Norway the two houses, if they disagree over a bill, meet together.
An Hon. MEMBER:

Does that apply to Norway alone, or to Norway and Sweden?

The Right Hon. G.H. REID:

To Norway separately from Sweden. In Belgium there is a joint sitting of the two houses in matters affecting the capacity of the monarch, the appointment of a regent, or the guardianship of the heir presumptive during his minority. The two houses sit together in Belgium for purposes of that kind. In Switzerland, while there can be no alteration of the constitution, as with us, except by a majority of the states, as well as a majority of the people, as hon. members know, in that federation there is the freest possible opportunity given for a mass vote which decides all measures of legislation. I do not need to go into it—it is much more ample than anything talked of here—but in effect that federation preserves the rights of the states by equal representation in the upper house; but, at the same time, matters of difficulty which arise between the two chambers or matters of legislation are settled by what is known as the mass referendum.

An Hon. MEMBER:

Must not the law pass both houses?

The Right Hon. G.H. REID:

No, the people themselves can propose a law. Now take the United States. Look at the vast powers the President has under the Constitution of the United States. The question of who is to be president is decided by a mass vote of the United States, without reference to the rights of particular states. I quite recognise the difficulties of my hon. friends about a national referendum—I do not blind myself to their difficulties at all—but, at the same time, if nothing better is proposed, if I, as a deliberative unit of the Convention, have to choose between these tangled propositions, which lead us into greater difficulties than before, and do not solve anything, I shall vote with my hon. friend, Mr. Lyne, without the slightest hesitation; because, although his proposition may be unsatisfactory to representatives of the smaller states, it has the one cardinal virtue which we must expect from any proposal under the head of solving deadlocks—that is, it gives us some chance of settlement.

The Hon. A. DOUGLAS:

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The Right Hon. G.H. REID:

I sympathise with my hon. friend's difficulties; but I shall have to vote for that proposal against the other propositions, for the one reason that it does solve a deadlock, Whether it is or is not satisfactory to some members of
the Convention, as a solution of this difficulty, it is infinitely better than the
dual referendum. I look upon the dual referendum as the greatest
monstrosity, the most utter absurdity. I can understand a reference to the
people of the commonwealth; I can understand a reference to the people of
the states as people of the states; but how can I understand this double-
tongued sort of appeal to the people of the commonwealth, the effect of
which would be that you might get the answer "yes" from 2,500,000, and
you might get the answer "no" from 600,000, and the "no" of the 600,000
would be as powerful in the dispute as the "yes" of the 2,500,000?

The Hon. I.A. ISAACS:
Is it not the same with a double dissolution?

The Right Hon. G.H. REID:
Not if it is followed by something. This is just the position we are in. I do
not recommend a joint sitting of the two houses as the most perfect course,
or even as at all perfect. But, driven as we are, I think that we have
practically come to a dissolution of both houses, whether at once or
eventually—the hon. and learned member Mr. Symon's amendment affirms
that—and having practically agreed that there shall be a dissolution of one or
both houses, if necessary, now the practical question before us who are
anxious to remove these difficulties is, "Are we to stop there-to be satisfied
with that?" I say "No." Those of us who say "No" have to choose and say
what is to follow. I say with the greatest respect, that to follow it with a
dual referendum is—perhaps I used too strong language just now, and ought
to withdraw those expressions, but they very roughly represented my views
on such a problem—I think that it would bring the referendum into the most
utter disrepute all through the world, so lame and impotent a process would
it be.

The Hon. I.A. ISAACS:
They have that in Switzerland, and it has not brought it into disrepute
there!

The Right Hon. G.H. REID:
It is an effective referendum there—it is a mass referendum.

The Hon. I.A. ISAACS:
No!

The Hon. Dr. COCKBURN:
Not for a change of the constitution. It is the double referendum then!

The Right Hon. G.H. REID:
I am not talking about that point. I began by admitting that on matters
affecting the constitution, a majority of the states as well as a majority of
the people is necessary. We have that provided for in the constitution now.

The Hon. I.A. ISAACS:
The right hon. gentleman is not right. Since July, 1891, they have had a referendum to the people of the states on matters of ordinary federal legislation.

The Hon. J.H. Howe:
And it has worked exceedingly well!

The Right Hon. G.H. Reid:
I have not had time to wade through the mass of literature on this subject; but I have seen a list of the appeals to the Swiss electors by referendum—a mass appeal.

The Hon. I.A. Isaacs:
I read the extract the other day!

The Right Hon. G.H. Reid:
I accept my hon. and learned friend's statement. My hon. friend is a close student of history, and I may be wrong in that respect. But that does not at all touch the trend of my observations. I am leaving all these unsatisfactory illustrations—they are all unsatisfactory—and I am dealing with the thing as it is. I admit that the referendum has the preliminary objection that it would lead to enormous expense—even the best form of referendum would have a strong objection on that score—and when I am asked to commit myself to a sort of referendum which would go through the form of settling the difficulty between the two houses and would throw the people into confusion—compel them to go miles to vote when the votes of 500 persons because they happened to live in certain localities would outweigh the votes of 2,000,000 because they happened to live more closely together—I say that such a sort of appeal by referendum, it seems to me, is not likely to give any sort of satisfaction.

The Hon. H. Dobson:
It is consistent with a federal constitution such as we are framing!

The Right Hon. G.H. Reid:
Does the hon. gentleman call this dual referendum a federal referendum?

The Hon. H. Dobson:
Certainly!

The Right Hon. G.H. Reid:
Well, would it not save a great deal of time, as well as being a matter of fairness and political principle, if, instead of going through the farce of asking the big populations what their opinions were, there were a quiet referendum amongst those who really could decide the matter—a referendum among the smaller states? That would settle it. We should know where we were, and we should save expense. Why should we put 2,000,000 people to the trouble and expense of recording their votes which,
under easily imagined circumstances, might not be worth the paper they were written upon?

The Hon. J.H. Howe:
You forget the overwhelming power of the house of representatives!

The Right Hon. G.H. Reid:
If "No" can be said to them, they might as well sit down and give up the task of attempting to legislate.

The Hon. J.H. Howe:
The hon. and learned gentleman knows better than that. Numbers will always rule!

The Right Hon. G.H. Reid:
If that is so, what is the use of making a fuss about this? It is a vague, ineffectual, attempt to hold back the tide of public opinion. You will only irritate it. You will not do any good. I do not agree with my hon. friend. He is a business man, and he knows that if he gets the constitution in the form in which it will be when we have a double dissolution and a dual referendum-

The Hon. J.H. Howe:
I am willing to leave it to the people!

The Right Hon. G.H. Reid:
Then the hon. member would accept a mass referendum?

The Hon. J.H. Howe:
No!

The Right Hon. G.H. Reid:
According to my hon. friend there seem to be two kinds of people in the commonwealth, one black and the other white.

The Hon. J.H. Howe:
I mean the representatives of the people, in the two houses of parliament. They will settle everything!

The Right Hon. G.H. Reid:
Oh! the representatives of the people are the people. I never understood it in that sense before; but I am very glad to think I am the people after all, though I never tell them so when I go up for election, and I do not think my hon. friend does. There is a slight difference between the people and their representatives, and we feel that when we are going before them. It is no use talking about the referendum. What I say is this; if there is a question at issue between the two houses over which there has been a dissolution, the effect of which is to leave both houses as obstinate as ever, the hon. member must see that, supposing there were five colonies in the federation, if a referendum showed that in two colonies 2,000,000
people were in favour of a proposed change, and in the three other colonies a majority of 400,000 or 500,000 against it, the senators representing the smaller colonies would be bound in political honor and honesty to stand their ground; and the result would be that, instead of solving the difficulty, you would have put every hon. member in the senate in one immovable position, and every hon. member in the senate in another immovable position. I know what the result of that would be, and so do other members who are wise in their generation. In a great struggle, the immovable senate would always get the better of the movable house of representatives; and, instead of the commonwealth being governed by principle, it would be governed by intrigue. Those who held executive power would, in order that the progress of legislation might not be impeded, give way to the minority in a thousand underhand ways, and the minority would rule. I do not object that minorities should interpose time for deliberation and reconsideration, so that every sentiment of fairness could be brought out; but if we stand here in this chamber, before the people, having solemnly affirmed that the solution of deadlocks is necessary in this constitution, it is necessary to do one of two things: either to say that we cannot find a solution, and that we give up the task, or at any rate give up the idea that a double dissolution, and a double referendum

An Hon. MEMBER:

Let us leave it, like other things, to the federal parliament!

The Right Hon. G.H. REID:

That is the old point that we have now got away from, and very properly so, because the balance of the constitution cannot be left to accident. No constitution will work well if there is not in it some broad principles which will enable adjustments to be made, not by intrigue but by constitutional methods. This battle-and it is that which makes it so serious a contest in my mind, if I have any knowledge of practical politics-is as to whether, in the future necessities of the commonwealth, great emergencies are to be dealt with constitutionally in the open, or privately by intrigue, stratagem, and underhand management. An immovable senate must be victorious at last, and I earnestly submit that if we can find nothing better, in mercy to the people of Australia let us adopt this simple expedient of allowing the two houses to appeal to their constituents, and if after that they fail to agree, let us compel them to come together and decide the matter as one body.

The Hon. H. DOBSON:

What majority would the right hon. member allow to carry the bill?

The Right Hon. G.H. REID:

Well, let me get this provision inserted in the constitution, and I will talk
to you about that afterwards.

The Hon. Sir J.W. DOWNER (South Australia)[2.36]:

I feel sure that the house is indebted to the right hon. member, Mr. Reid, for the remarkably fair speech he has just made, and which has convinced me that he has carefully considered the subject from a point of view not altogether unfriendly to federation. I felt a little anxious when my very clever and talented friend, the hon. and learned member, Mr. Deakin, paid me a few compliments this morning. I began to fear the Greeks very terribly when they were becoming civil. I admit that, as a last resource, I would make considerable concessions of my views, and try to persuade others to follow my lead, in order to bring about federation; but I am not at all clear that the time has yet come for doing this.

The Hon. A. DEAKIN:

I will not compliment the hon. member again!

The Hon. Sir J.W. DOWNER:

My hon. and learned friend's speech, which, with the embellishments his taste and fancy would naturally supply, followed very much the leader of the Daily Telegraph this morning, made me rather anxious than reassured, because, although he is at present content with a double dissolution and a double referendum, he did not say he would stop there; so that, when we meet again—if we have the misfortune not to finish our work during the present session—there might be a proposal that we should have a national referendum added, as a means of curing all disorders.

The Hon. A. DEAKIN:

I spoke about that the other day at length, and I did not want to repeat my remarks!

The Hon. Sir J.W. DOWNER:

Is the hon. member still in favour of it?

The Hon. A. DEAKIN:

I would vote for it, but I could not make the same appeal in its support. This is a compromise!

The Hon. Sir J.W. DOWNER:

Yes, we are to make a compromise, and get nothing out of it. That has been the game all through, and I do not blame those who are doing it if they think they are wise in doing it, or if they think they will make us better friends by doing it. The hon. member, Mr. Symon, resisted the stand which I have taken throughout, that this provision for deadlocks is absolutely unnecessary; that, as the hon. member, Mr. McMillan, says the very possibility of deadlocks is a necessity of federation; and just in proportion
as you create this bogy and destroy its possibility you weaken the cause you are guarding. "Deadlocks" is a mere term; what is meant is the difference between two houses having equal rights, the absence of that agreement which we carefully provide in our constitution must occur, for an agreement must occur before proposals can become law. The very precautions which the wisdom of our ancestors has suggested are tried to be made the subject of terror, and are called names which frighten the fearful. I agree with the hon. member, Mr. McMillan, that the term can never be applied until the difficulty between the two houses approaches a calamity. Until then there is no such thing as a deadlock. When you reach such a condition that civil war is imminent, then it might be well that you should have some remedy; but anything short of such a possibility as that ought not to deprive us of a proper constitutional check.

The Hon. I.A. ISAACS:

That would be the time to use the provision, not to create one!

The Hon. Sir J.W. DOWNER:

I agree with my hon. friend there. As far as the hon. member Mr. Symon's amendment is concerned, I think it is rather a pity that we did not at the present stage, at all events, adhere very strongly to the position which we took up before, that the possibility of deadlock is the safeguard of the constitution. Between the proposition of my hon. friend and the proposition of those who want the dual dissolution, I fancy experience will show there is no practical distinction. At first sight, I admit I liked the notion of the dual dissolution because it appeared on the face of it to penalise the representatives in order to get the opinion of people on the question. But looking at it more closely I saw it would work out in the same way under either of the proposals, because there would be no dissolution of the representatives if the proposal of my hon. and learned friend was carried out—that is to say, there would be a nominal dissolution. The government, as the Hon. Dr. Cockburn interjected, would be always studying the wishes of the house of representatives, and would take precious good care not to be premature in their dissolution of that House. The result would be that their dissolution would be a mere name—would have no substance, in fact. It would be mere expiry by effluxion of time of the house of representatives, and then what would happen? The government would send the senate to their account.

Mr. WISE:

We could guard against that!

The Hon. Sir J.W. DOWNER:
I know it is very easy to say we can guard against it!

Mr. SYMON:  
All I sought by my amendment was to affirm the principle, and I intended to add something afterwards!

The Hon. Sir J.W. DOWNER:  
The more you think about conditions the more impossible they are, and the more difficult it is to formulate and explain them. I agree entirely with what fell from the Premier of New South Wales. I very humbly at previous times ventured to say the same thing. I say your double dissolution is a farce. I believe your double referendum will be a farce or I would not agree to it. I do not wish to be misunderstood a bit. If I thought that by agreeing to the double dissolution and the double referendum I would be frittering away the basis of a federal constitution I would be no party to it. But my hon. friend took a different view, and we will have to leave it. As far as my judgment is concerned I am willing to take the risk. How it will work out it is very hard to say. The similarity between institutions with which we are acquainted and this federation I decline to ically one house, there might be two or three men here who would agree to that; but there would not be more, and I am not sure that there would be one.

Mr. WISE:  
It would depend upon what kind of colony you made. If you made it New South Wales, all the members from that colony would agree!

The Hon. Sir J.W. DOWNER:  
I was not referring to it from that point of view. If a proposal were made that Australasia should be one colony with two houses, with the same qualification for electors, with varying tenures of office, but both liable to dissolution at the will of the ministry, I do not believe them is one colony in Australasia that would agree to it, Yet that is substantially what we are now asked to do. That is the proposal Underlying all these deadlock arguments, and all these attempts that are being made to weaken the very essence of the federation we want to establish. Then we have precedents brought from various places, and varying arguments addressed to us by identically the same individuals from a diametrically different standpoint. The Premier of New South Wales told us that we were essentially English, that we should follow what we are accustomed to, and ought not to go to foreign countries for constitutions which arose from their own surroundings and idiosyncrasies, and which we find great difficulty in assimilating to our own temperaments.

The Right Hon. G.H. REID:  
If you give the governor-general power to add to the senate I will agree
with you!

The Hon. Sir J.W. DOWNER:

My hon. friend was on the question of the executive when he took that view very strongly, Hon. members who are in the habit of saying that we must have under this bill an executive established on the lines of responsible government always do take that view. Having taken that view, and having got their own way in it, they want something else. They straight away rush from dear old England, and ramble all over the Continent, taking precedents in the most ruthless and reckless way to support an argument of a diametrically opposite character. To a man of feeble intellect, who likes to see one thing at a time, these speeches become puzzling. When my hon. friend told us of these precedents from Norway, Belgium, Switzerland, and so on-

The Hon. S. FRASER:

Most of them were wrong!

The Right Hon. G.H. REID:

My book is dated 1890!

The Hon. Sir J.W. DOWNER:

These things all vary according to the opinions of the text writers. I hope it will be a warning to my right hon. friend to in future keep to one line, and that is the British Constitution.

The Right Hon. G.H. REID:

I am going to keep to this "Lyne"!

The Hon. Sir J.W. DOWNER:

We are told that in Norway the two houses sit together, and that in Belgium they sit together. And as for Switzerland, I really think the Committee should present me with a testimonial if I do not refer to that country, because we have had its Constitution discussed at very great length.

The Hon. A. DEAKIN:

Tasmania is three times the size of Switzerland, and more important!

The Hon. Sir J.W. DOWNER:

I am very much obliged to my hon. and learned friend for mentioning Tasmania: he always does help me. Tasmania is a remarkable instance of this policy. We talk of its being impossible to work a government under a British constitution with an upper house which has the right to amend money bills. In Tasmania they do this. It is true that the power has always been disputed, but nevertheless it is always exercised. We have there an object lesson of a place which my hon. friend reminds me is larger than the model country, in which the constitution has been worked with the end of insuring the perfect freedom of the people in it, and in which this fatal
power—which they say none of the colonies would submit to—of the senate amending money bills has been in force for years, and with very little difficulty.

The Hon. A. DOUGLAS:

They say we must not do it again, but we do!

The Hon. Sir J.W. DOWNER:

I think we have had this matter pretty well talked out before to-day; and if we are to fight it out on the true lines of federation, I shall stand by my previous vote, and try to give a stronger vote to prevent even that means of settling deadlocks being provided for. Consistency is generally what I am accused of. I stand by the words I used the other day, not before we finally depart from here, but before the Convention finally breaks up. I am not satisfied that those who ask for this now will not ask for more in the future.

Mr. TRENWITH:

What if they do? If this will clear up the difficulty, refuse them all!

The Hon. Sir J.W. DOWNER:

That is what I propose to do with the permission of my friends. As far as I am concerned, I would refuse it. This is no time now for compromise. This is a time for getting fresh offers which you do not bind yourself to accept. No business man would do such a thing. Even if my friends opposite bound themselves now that they would stand to this whatever happens, they could not do it. Still, we have the Premier of New South Wales who disagrees with it, and we know, therefore, that whatever we give at the present time more will be asked in the future. Under these circumstances, it seems to me that the only method we can adopt is to stand by the amendment we carried.

Mr. LYNE:

Does the hon. member think it is wise to go on with it now in view of Queensland coming into the Convention, because it will all have to be done over again?

The Hon. Sir J.W. DOWNER:

I think it is a matter deeply to be regretted that we are not able to finish the work of this Convention. I think it is a matter deeply to be regretted that, when we were hurried through the business in Adelaide in order to enable a certain number of gentlemen to go to England, with the understanding that we were to meet in September and finish the bill, and when we all came here under that impression, we were not informed at the time that it was impossible that the Victorian Ministry could devote to the consideration of the measure the time which was necessary for completing
it. Still, I recognise the imminence of the position. It is a question of postponing, I suppose; if I thought it was not, I would certainly go against any postponement. I admit that it is a question of postponing or breaking up the movement for some considerable time. Under these circumstances, what is the good of asking us for an interim session, for a sacrifice of both our intelligence and our conscience in favour of something we may think of even greater importance than an interim session unless we know whether more will not be asked for afterwards. I have made up my mind to stand by the amendment which has been moved and carried at the present stage of the Convention. I repeat my regret that, instead of that amendment being moved and carried, the representatives of the colony that require protection did not join with me in resisting all means of curing deadlocks, at all events, at the present stage of the Convention.

The Hon. S. FRASER (Victoria)[2.56]:

I need not say that I am just as ardent for federation as any member of the Convention. I realise that to my own colony and to the other colonies it will be of vast benefit. In a national sense, of course, the benefits and facilities afforded to us cannot be overstated. But rather than agree to pass a constitution, which, in my opinion, is fraught with serious and grave dangers to the people-rather than see a federation that would jeopardise the liberties of the people, I would see no federation. I make this remark with great regret. I am not going to go back on my vote. It is admitted in every country that two houses are necessary for the good government of the people. I think it is generally admitted in every country on the face of this earth that the bi-cameral system is absolutely necessary. We have stripped the senate of all powers that might endanger the liberties of the people by this bill which we have agreed to so far, and now we are going to make the senate amenable to the dictation of any unscrupulous government at their own time. For the sake of my argument I will use the words "unscrupulous government."

Mr. SYMON:

It will not be unscrupulous!

The Hon. S. FRASER:

Does my hon. friend, Mr. Holder, object to the word unscrupulous"?

The Hon. F.W. HOLDER:

From the opposition point of view they are always unscrupulous!

The Hon. S. FRASER:

I greatly respect my hon. friend's objection to the word, and for the sake of my argument I will say a designing government.

The Hon. F.W. HOLDER:
They are all designing from the opposition point of view!

The Hon. S. FRASER:

A designing government will select their own time for an appeal to popular clamour, and my only objection to a concurrent dissolution. in the fact, and only the fact, that I am afraid that the deliberate judgment, of the people may not be given. I have no hesitation in agreeing to what I agreed to the other day, the dissolution of the house of representatives; and the opinion of the country being then given I have not the least objection to a dissolution of the senate, provided that they do not agree to the measure passed by the house of representatives. Of course it is said that that is penal. I say that the upper house is only there as a steadying machine. In every countryman the face of the earth the upper house is only there to steady the political machine.

Mr. TRENWITH:

Then why give it more power?

The Hon. S. FRASER:

You do not give it one-tenth part of the power that you give to the house of representatives. If you agreed to give it similar power, perhaps I might agree to all you ask for; but I say that you assume a position which is not a fact. You assume that the senate has similar power to the house of representatives, but that is a grossly extravagant statement to make. The upper house has no power to initiate the spending of one shilling; it has no power to increase expenditure by one shilling; it has no power to throw out an appropriation bill except by an absolute veto. It has no power even to amend a tariff bill, except by suggestion. It has no power to amend a loan bill.

An Hon. MEMBER:

It has power to veto any bill!

The Hon. S. FRASER:

It has only the bare power of saying "No" to an appropriation bill.

Mr. LYNE:

Or any other bill!

The Hon. S. FRASER:

Of course any other bill. If you do not give it power to, veto any other bill, or to make amendments, in it, what is the use of an upper house? The senate, in my opinion, is shorn of all its powers. Therefore, I fail to see why you are so much afraid of its doings in respect to its veto. I do not think there is any danger of the upper house interfering in regard to the regulation of trade, the raising of money, post and telegraphs, military and naval defences, munitions of war, and so on. I wish my right hon. and
learned friend, Mr. Reid, was here. I would draw the attention of the Committee to clause 121 of the bill. Suppose it was proposed that the constitution should be amended under that clause, so as to give a national vote with regard to the navigation of the Murray, the Darling, the Edwards, the Murrumbidgee, and other rivers in Australia, would the New South Wales representatives agree to the constitution being so amended that South Australia or Victoria could regulate the waters of the Darling, the Murrumbidgee, and the Edwards rivers?

Mr. TRENWITH:
They should have their fair voice in it!

The Hon. S. FRASER:
It is quite on the cards that if that question was submitted to a national vote New South Wales would be outvoted. South Australia would be very anxious to get control over the Murrumbidgee, Darling, and Edwards waters, because they are close to their territory, and all are navigable rivers. The Victorian people might also vote for it. The Tasmanian people, having no interest in the matter, would vote either way; and the same with regard to Western Australia. New South Wales might find herself in a dilemma if you do away with state rights.

An Hon. MEMBER:
Quite right if she wanted to act unjustly with those waters!

The Hon. S. FRASER:
I say that if you do away with state rights the Murrumbidgee, the Darling, the Edwards, and other rivers may be controlled by the federal parliament. There is no doubt about that. I only repeat that for the edification of the New South Wales delegates I commenced from the first in favour of state rights, and there is not the remotest chance of federation without state rights. Therefore, what is the use of wasting our time here, it we are to go back to the A B C of our education? Some months ago I issued an address to the people of Victoria, and I advertised that address practically in all the papers of the colony, certainly in all the leading papers. I will read a part of it. In that address I said:

The federal parliament shall be composed of a senate elected by the vote of the ratepayers,

Remember, "elected by the vote of the ratepayers"-

or as proposed in the Commonwealth Bill by the parliaments of the several states for the term of six years, and the house of representatives shall he elected by the votes of the people for a term of three years.
I have gone further than that. I was elected on that basis.

Mr. TRENWITH:
Not much!

The Hon. S. FRASER:
I had many thousands of votes to spare. The hon. member knows it.

Mr. TRENWITH:
I did not mean it in that sense. I say the hon. member was not elected on that very much!

The Hon. S. FRASER:
I appealed to the voters of the colony of Victoria on that basis, and I spoke at only two or three centres.

Mr. TRENWITH:
You would have had more votes if you had not appealed on that basis!

The Hon. S. FRASER:
Probably I might have had less. I say that I have gone further than that in the votes that I have given here. The other day I went further. To cure deadlocks I went further than I was justified in going. I have gone a deal further than my published address by agreeing to the dissolution of the house of representatives, and, secondly, to the dissolution of the senate.

An Hon. MEMBER:
Make the reform complete by "going the whole hog"!

The Hon. S. FRASER:
I would willingly go as far as I could. As a matter of conscientious principle, I have gone as far as I can. I have been about twenty-five years in political life. Like my hon. friend, Mr. McMillan, I have declined to take office frequently. I have done so lately. I say that if we are going to refer this matter to a national vote, then we might just as well go home; we are only losing our time here in discussing it much further, because, as far as I can judge, we are going more apart instead of approaching each other. I should like, of course, to agree with others who are opposing me if I could see my way; but as a matter of principle I cannot vote otherwise, than as I did the other day.

The Right Hon. Sir JOHN FORREST (Western Australia)[3.9]:
I feel myself in some difficulty in addressing hon. members on this subject a second time. I should be sorry if hon. members should think that I am taking the action which I am taking in this matter solely because I represent one of the smaller populations of the Australian continent. I do not act in this way because I represent one of the smaller states; but because I desire that the senate that we are making should be a strong
body, not only in our interests, but in the interest of every one in Australia. I regret that the whole of the day should have been spent in discussing this matter. I do not think for one moment that we shall be able to throw much new light upon it, seeing that we have discussed it for two days already. It seems to me an extraordinary position to get into. A very unusual course has been taken in the matter, and I cannot help thinking that those who are responsible for it have shown us a very bad precedent and example. And I am quite certain that the course which certain hon. Gentlemen have taken, and which we have not dissented from because they seemed so very anxious about it, is not a course to which they would have assented if the representatives of the smaller states had happened to be in a minority. If, in regard to the question of the power of the senate to amend taxation bills—upon which question I voted in the minority—I had almost immediately proposed to take the course which has been taken on this occasion, I think I should have had very little support from those who were in the majority. In fact, we have got into the wrong groove altogether. Instead of going on with our business, we are rediscussing a question upon which many hon. gentlemen are not willing to accept the verdict of the majority. A great deal of unnecessary time will be expended upon it, and as a result we may not get very much nearer a solution than we should have done had we gone on with our business in the usual way. The discussion upon the matter has been allowed to be general, and I must take the same course which has been pursued by others in putting before hon. members the view I hold in regard to the matter. We are asked practically to reverse the decision at which we arrived the other day. We are asked to give up the opinions we held, to change the vote’s we gave, and to show ourselves—I think I may use the expression—weak and vacillating. But we are asked to do more than that. We are not only asked to show ourselves weak and vacillating, but we are asked to take up an undignified position, which I, for one, am not prepared to do. I do not think it at all probable that I shall change my opinions as time goes on; and, notwithstanding that time works a good many changes, which I freely admit, without a reasonable interval I think it is unreasonable to expect anyone who has given a deliberate vote on an important matter, to change his opinion. I have no knowledge as to what the views of other hon. members are. I am not an election canvasser or agent. I do not go about trying to find out whether members have changed their opinions. Therefore, I have no knowledge as to whether any one will vote differently from the way be voted the other day. All I can say is that if I find hon. members voting differently, I shall take care when the opportunity offers not to go tiger-hunting with them, as I fear they would leave me to the tiger. It has been asked by the Premier of New South
Wales, and by others, why, in a case of difference between the two houses, the house of representatives should be the first to be dissolved. That question has been asked over and over again by those who really must or ought to have the solution of it in their own minds. Under the constitution under which we live at the present time, there is no power for the dissolution of the upper house. The great difference between the two houses under the constitutions with which we are acquainted is that one has the control of the executive government and the other has not. That is the great difference between the two houses of legislature in these colonies, and the great difference between the two houses we are asked to form under this constitution; and we may depend upon it that ministers who owe their existence to the house of representatives will certainly consider their wishes before they consider the wishes of a senate which has no power to control their existence. Everybody knows that I was opposed altogether to any provision for deadlocks. I hoped and felt that, under the constitution we are erecting, mutual respect and a desire to carry on the business of the country would be sufficient, as it is at the present time in all these colonies, for two houses to carry out the duties intrusted to them without any undue amount of friction. Of course there will be some friction. If the two houses would always work in accord, there would really be no need of two houses at all. Still the wisdom and patriotism of the British race has always been sufficient in the old country and in many other parts of the world to carry on government without undue friction.

Mr. TRENWITH:
In the old country they have the means of solving deadlocks!

The Right Hon. Sir JOHN FORREST:
That means is seldom taken advantage of.

An Hon. MEMBER:
Because it is understood that the lower house must rule!

The Right Hon. Sir JOHN FORREST:
At any rate there are no means where the hon. member comes from, and for over twenty years there has been no friction there. There may have been friction to a small extent. If there had been any serious friction I have no doubt the people would have taken means to remodel their constitution, but they have not done so. The fact that in Victoria the Legislative Council is as popular to-day as is the Assembly, shows, I think, that the people of that country are satisfied with the institutions under which they live.

Mr. TRENWITH:
The general election did not show that *****
The Right Hon. Sir JOHN FORREST:

Hon. members have decided, against my wish, that there shall be a provision against deadlocks. Then the question arises "What provision shall there be?" The hon. member, Mr. Symon, has made a proposition, which has been termed by the hon. and learned member, Mr. Deakin, a concession. I think he called it a great concession, as coming from those who were opposed to any provision being made. We say that the provision exists now and is exercised now of dissolving the lower house. The ministries of the different colonies have that power, and they have exercised it on many occasions. They exercised it in this colony not long ago, in order to show to the Upper House what the feeling of the country was, and, I believe, with good effect. That power should remain. In addition to that, if the Upper House does not heed the views of the country, as expressed by the house of representatives, when returned fresh from the country—if it perseveres in a course adverse to the wishes of the house of representatives, then it, too, in the wisdom and at the will of the Government, should also be sent to the country. That seems to me a great change, a great advance on things as they exist at the present time. I know that in Western Australia there is no provision whatever against deadlocks. The Upper House is absolutely supreme. There is no means of coercing it except by the effluxion of time. Every two years one-third go out for re-election. There is no other means whatever of coercing that body. Although difficulties occur, still the government of the country is carried on. If it is possible in these colonies to carry on the government without any provision for escaping from deadlocks, surely this extra power given to the government to send the senate to the country ought to go a great way to obviate any difficulty that is likely to arise. A great deal has been made of the concession, as it is called, of equal representation in the senate. For my own part, I would rather not have equal representation in the senate than have it given to us with one hand and taken away from us with the other. I would much rather have proportional representation in the senate, with equal power on the part of the senate over taxation, than have equal representation with the position in which it is proposed to place the senate. The Premier of New South Wales drew a very pretty picture of 2,000,000 persons in the larger colonies being coerced by 600,000 persons in the smaller colonies. He seemed to think that the sole object of the 600,000 persons would be to try to coerce the 2,000,000 persons. He did not look at the other side of th

The Hon. J.H. GORDON:

Make it a three-fifths majority, and you get a fair proportion!
The Right Hon. Sir JOHN FORREST:

I only mention this to show that what the right hon. member fears so much in regard to the smaller states, he does not seem to fear when the larger states are in question. Throughout all this discussion I cannot, help thinking that hon. members representing the larger colonies cannot forget that they have been opposed for many years to an upper house. The representatives of the larger colonies, generally speaking, come from lower houses, as we have just been told, and they cannot forget that the lower houses have been in controversy with the upper houses in the various colonies. They seem to think that the senate will be a body similar in all respects to the upper house, which they do not like. I do not think that will be the case. I am in favour of the proposal we carried the other day. In all disputes time is the essence of a solution. People are not likely to settle disputes unless there is a considerable interval of time. In our daily intercourse with each other, unless some time is given, we are not likely to settle disputes which arise. I would ask hon. members to consider what will happen under the proposal for a dual dissolution. A measure will pass the lower house, we will say, without any difficulty, and it will go to the upper house. In that chamber there is a great discussion about it. The newspapers favourable to the government will at once begin to threaten the upper house that, if they do not pass the measure, they will be dissolved. While they are considering the measure, a pistol will be held at their heads. Is that the sort of constitution we want to create in this country? Is that what we desire?-that the upper house should be coerced at the beginning-that it should be told, "If you do not pass this measure in the way that we have passed it, you will be dissolved" I They would be threatened even before they had actually come to any decision, and great disaster would result.

Mr. HIGGINS:

Is not the very same threat held over the lower house continually?

The Right Hon. Sir JOHN FORREST:

The lower house knows well that, under its constitution, it is subject to a dissolution. It is not altogether a matter in the hands of the governor-in-council. It is generally supposed that the governor exercises some sort of constitutional right of his own as to whether he will accept the advice for a dissolution. But, be that as it may, the lower house knows that it is part of its constitution, part of what it is accustomed to-that, if it gets out of touch on any great measure with the wishes of the ministry, and if the electors have not had an opportunity of deciding with regard to that measure, its members may be sent back to their constituents. Although I am sure that, under this constitution, it will rarely occur, still, it is a constitutional
position which every lower house thoroughly understands. As far as I am concerned, I am very anxious to try and work amicably with hon. members in dealing with these important matters. I have not, perhaps, given way very readily in regard to those matters that have been carried against me, because they have not been in accord with my wishes. At the same time, I have been willing to accept the decision which has been arrived at, and make the best of it. But I think the time has come when that inclination on my part will soon come to an end. If you make the senate weak, as I think you will, by providing means of coercing it, I do not think I shall be able, at any rate, to recommend the acceptance of the constitution by the people of Western Australia. That may be a small matter now; but it is the position which I am forced to take up. I do not think it lies altogether in the mouths of hon. members representing the larger states to say that they have in any way given way—that we desired to give nothing, and they have been giving way all along. If we compare the constitution bill in its present shape with the bill passed in 1891, I think hon. members will see a great deal of difference, a great change, even from a democratic point of view. For instance, the upper house is to be elected by the whole people, whereas it was proposed in 1891 to have it elected by the houses of parliament. In fact all along the line we have been asked to give way. I admit freely that I have not given way very willingly, because my firm belief is that the stronger we make the senate the better will it be for the constitution. For all that, we have had to give way, and I have accepted the verdict of the majority upon these various points. I do not think I need say more. I hope hon. members will deal with the matter as quickly as they can. I think we should be able by this time to make up our minds in regard to it. That which we do now is not final;

we shall have to meet again, and in view of that circumstance I think some decision might be soon arrived at. Although it has been done, without any ill feeling whatever, we who represent Western Australia, have been twitted with voting together on all questions. That is not altogether the case. We have not always voted together. On various occasions some of my colleagues have not voted with me. The same statement would apply to some extent to the representatives of the larger colonies. We do not find them voting in different ways very frequently. The majority of them generally vote pretty well together. After all it is only reasonable for persons who come from the same colony, whose interests are identical, who desire to pull together as much as they can to stand by one another and vote together. It has been said also that we in Western Australia are somewhat indifferent to federation, that we do not really intend to come in.
If that is so we are a very foolish people, because we have taken more trouble than has anyone else to be represented upon this Convention. Why should I have urged the legislature within three or four days of my return from England to allow parliament to be prorogued in order that ten representatives of the colony might be here at a time when their attendance was required elsewhere; why should I have urged that the whole business of the country be upset by the course I suggested, unless I thought the country was really anxious to take its part in the efforts which were made to form a federation? I deny altogether that the people of Western Australia are here for pleasure. It is altogether against my own interests to be here. Both my duty and interests require my presence elsewhere, and I can say with truth that the sooner we complete this business, and I and my colleagues can return to our homes, the better pleased we shall be. I ask only this of hon. gentlemen: If they desire that Western Australia should take any part in framing a federation for Australia, let them allow moderate counsels to prevail. We shall have a hard task, perhaps as hard a task as any of you who represent the larger colonies will have, in inducing our people to accept this bill, and to enter the federation, and unless some moderate counsels prevail, and some scheme be finally adopted which we can recommend to the people as being just to all, I feel that that great federation to which we have all been looking forward will not come to pass for many years.

The CHAIRMAN:

It has been remarked that this discussion is irregular. No doubt it is so, but then it must be remembered that the standing orders have been suspended, and that this Committee has received authority from the Convention itself to rescind one of its resolutions. Under those circumstances I felt compelled to allow the general question to be discussed.

The Hon. J.H. CARRUTHERS (New South Wales)[3.35]:

I think it would be a calamity if this Convention were to adjourn without having come to some decision upon a point which has engaged our attention for so many days. The only apology I make for addressing hon. members this afternoon lies in the hope I have that, by some amendments which have been circulated among hon. members, an opportunity will be afforded of taking divisions which will test the opinions of the Convention upon all the proposals which have been submitted. I gather that the suggestion which emanated from the Premier of this colony this afternoon is one which is growing in favour with the Convention. It has this in its favour: that it is a proposal which insures finality. No proposal to deal with
deadlocks would be acceptable to the people of this colony, or to the people of Australia, which

left deadlocks intensified by the provisions which would have been brought into operation. I regret very much that in this debate the question has been considered almost entirely from the states' standpoint. I have never in the discussion of this matter, or in the votes I have given considered the state-rights question as the predominant influence. The phase of the question which I have always regarded as carrying conviction to my mind has been the right of a majority under any constitution to ultimately rule. I do not think that this proposition involves the question of state rights at all, but in the whole of our discussions emphasis has been laid markedly upon the way in which the various proposals would affect the larger or smaller states. I will put one case which has been overlooked, and which might possibly happen, and I would like the smaller states to consider this aspect of the matter. The enabling act provides that the constitution shall be brought into operation after a certain procedure. Three of the colonies having passed the necessary resolution, and this constitution bill having been passed by the Imperial Parliament upon the address of those three parliaments, you might have such a state of affairs as that Victoria, New South Wales, and Tasmania would be federated. The parliaments of those three colonies might pass the necessary address to the Crown for a federation. Where, then, would be the safeguard to the small state of Tasmania? What would be the use of her having six representatives in the senate to be outvoted by the twelve representatives from the larger colonies? Has that aspect of the case ever presented itself to hon. members who have been so stalwart in their advocacy of the senate as a body to uphold the rights of the smaller states? It may, possibly, happen under a federation that the states having the balance of power would not be the smaller but would be the larger states, and all those provisions made in the constitution to safeguard rights supposed to be trampled under foot by the larger colonies would be without avail. It will be seen that the rights of the smaller states are inadequately safeguarded by the provisions of this bill; but I do not regard that aspect of the case at all. Like the hon. member, Mr. Deakin, I believe that the moment this commonwealth is established, it will be found not that lines of geographical demarcation divide us—they cannot divide us when we are one in heart, language, and feeling—but that we shall be divided by those matters of politics which now divide us in our various local concerns. We shall have conservatives and democrats, free traders and protectionists; there will be all those matters of politics which naturally divide the people of one race, speaking one language, and possessing the
same amount of reasoning power. What I fear is that there may, possibly, be from time to time a refusal on the part of parliament to give effect to the will and wishes of a large majority of the people. When that occurs—and it will occur sooner or later—it may not occur very frequently, but it is a possibility that must be taken into account—when it does occur, the result will be a national calamity unless the constitution provides some elastic machinery to meet such an emergency, possibly by letting evolution take effect, rather than force a revolution by having too rigid a constitution. I am lost in admiration of a great many hon. members who hold totally different views from mine. The hon. and learned members, Mr. Symon and Sir John Downer, have been stalwart in their adhesion to their principles, and have refused to allow a safety-valve provision to be inserted in the constitution. I respect and honor them for their opinion, and I have listened to their arguments with a great amount of admiration. I will only say in regard to those hon. and learned members that I would rather see the Convention ended by a clear test—some distinct line of cleavage—than I would see a compromise of such a character that nobody would be at all satisfied with it. If we have a compromise of such a character that it is a sacrifice of liberty on all sides, we shall have a constitution which will not have any enthusiastic supporters, but critics on every hand, who will direct a deadly criticism at it, and, without enthusiastic supporters, and with criticism of that kind, the constitution will be in a very bad plight indeed. We have been asked to insert in this constitution a provision as a safety-valve. Many of the provisions offered to us are mere pitfalls, much more to be feared than the dangers of deadlocks, and I have no hesitation in characterising the proposition that has already been carried, and some others which we have been invited to consider, as offering a stone to people who are asking for bread. We have been asked, and shall be asked later on by our Victorian friends, to follow the double dissolution by the dual referendum. May I say at once that if you are going to muzzle the people by your constitution, it is dangerous to take their muzzle off just for a few short days while the election is on, and after the election is over to put the muzzle on again. It amounts to this: If you allow 2,000,000 people to know that, when they possess the will and the wish, the constitution does not give them the way to have their desires and their wills put into law against 500,000 people, you are muzzling the popular voice, and you may depend upon it that if there is any manhood in the English race, you having disclosed the power of that multitude, and having also disclosed their powerlessness under the constitution, you will do one of those things which produces revolution, and if revolution does
not take place, it will simply be on account of the proverbial patience and common-sense of our race - the patience and common-sense which are enthusiastically eulogised by hon. members here, and by a large number of the politicians in various portions of the colonies. I am surprised, indeed, to hear so many hon. members who speak of being satisfied to trust to the common-sense of the people - to always abide by popular opinion - say that there is a decided objection to allowing the people to express their opinion in their own way and by their own methods, and assert that we should always take their opinion through some representative. If we are going to attach any importance to public opinion and to the common-sense of the people, it is wise, when an emergency does occur, and it is very hard to discern what that opinion is from the representatives, to let the people themselves have their say, so that they can speak for themselves better than their representatives have spoken for them. I may say at once that I see very little possibility of this Convention carrying a vote in favour of the mass referendum. I hope there is no possibility of the Convention carrying a vote in favour of the dual referendum, because it will only be an insult to the intelligence of the people, if we offer them that which practically does more than perpetuate the evil of a deadlock - which flouts the people by offering them something which is totally antagonistic to that which they require - by offering them an instrument by which the minority may again outvote the majority and so take the deadlock from inside the walls of parliament into the homes of the people and to the ballot-boxes at the hustings. A referendum of that character should have no place whatever in our constitution. I would rather have no referendum at all than one of that kind, and I hope that the hon. and learned member, Mr. Symon, and those other hon. members who have been so stalwart in their advocacy against the safety-valve provision, will not in any way modify their views so as to accept as a compromise that which will be more dangerous to the cause of federation than any proposal made in the bill. Until we test the matter by a practical vote I shall continue to advocate the referendum.

But I wish to point out that what we have to consider is not merely the possibility of a deadlock arising from the obstructive action of the senate; we must, in all fairness, consider that it is possible for either house so to obstruct the work of legislation as to cause a deadlock. I am not in favour of any instrument which is to be directed entirely at the senate. I go with those who say that, if you do construct this house, having defined its powers in the constitution, it is an utterly improper thing to attempt to weaken the senate by any machinery whatever. What I propose to do is to have a machine which would equally weaken -if weakness is to be an
element in the proposition at all—either the senate or the house of representatives; that it shall be a two-edged weapon, one which will strike equally at the house of representatives as at the senate. I say advisedly that reflection teaches me that it is not a proper forecast of the future, and that the right hon. gentleman, Sir John Forrest, and other hon. members here, especially Mr. McMillan, are utterly in error in supposing that the senate is going to be the conservative body of the constitution. I have always held the opinion that the senate will, in actual operation, be found to be the radical body, not, perhaps, after the first election, but ere long. It stands to reason that when the people of a colony or state as a whole elect ten members—when you ask the people to vote in battalions—that party, whatever it may be, which has the best organisation is the one that will carry the whole of the states; and the chances are that, under this constitution, the radical chamber, ere long, will be the senate. Elected by one man one vote, by the whole colony as one constituency, where organisation can have the best effect, you will have all the states captured by one or other organisation. The consequence will be that where there is a wave of popular impulse on any matter that excites the people, the senate is the house that will first, most assuredly, most keenly, feel that wave of popular impulse. Therefore, it is just as well for the conservative members of the Convention—and there are conservative members of it—to have regard for that aspect of the case; and it may be well to have a check of some sort, not merely on the senate, but to have a mutual check on the house of representatives as well as on the senate. I can put a case which will commend itself to the minds of hon. members. This constitution gives power to the federal parliament to deal with all questions of currency or coinage and banking legislation. We may, at a very early period in our existence, have the question of bi-metallism introduced. We have already our silver state—we have one or two silver states—and the question of the value of silver may very soon become an important factor in federal politics. We may have that question brought up as a states question. The senate has the power of originating legislation on a matter of that kind—it is not one of the forbidden subjects therefore we may have legislation introduced from time to time in the senate in regard to the money-value of silver, in regard to our currency and coinage, and we may have that legislation blocked time after time in the house of representatives. The senate may claim that they represent public opinion, and that the popular will is not finding expression in the treatment which their proposed law meets with in the house of representatives.

The Right Hon. Sir JOHN FORREST:

They could do nothing in such a case!
The Hon. J.H. CARRUTHERS:

It would be a wise thing, in such a case, that a deadlock beginning in the senate and carried on in the house of representatives should be met by a provision applying equally to the house of representatives, when it was the obstructive body, as to the senate, when it was obstructive. Every proposal of this character must be of a mutual character, not directed at one chamber, but at either chamber as it from time to time stops the progress of legislation. A proposition of this character is one which should receive support. The next proposal is that there may be a joint dissolution of the two houses. If a state question be involved-and that is the point which carries so many votes for or against the proposal-take my hon. and learned friends, Mr. Symon and Sir John Downer, for instance-you may be satisfied that a dissolution of the senate will produce no good whatsoever, because the men who stand up most for the rights of the states they represent are the men who will have earned the gratitude of their constituents and who may be most certain of being returned. You will therefore have the deadlock continued and intensified; but you will not have finality. We must be prepared to go further than that, and the proposal I wish to advance is that after we reach the stage when there has been a dissolution of both houses of parliament, if the proposed law be again refused concurrence in the obstructive chamber within thirty days after it has been received by that chamber, there shall be a full conference of the two houses of parliament. It seems to me that we are not giving parliamentary institutions fair play if we do not exhaust all the means available for bringing the two chambers together, and, by reasonable conference and voting, attempt to end the deadlock. It is no use to say that the parliamentary machinery provides for conferences. We know that such conferences are merely assemblies of ten men chosen from one house and ten from the other, with no voting power and no power to make any compromise unless it is one agreed upon unanimously, or practically unanimously. So that the machinery which may be called into operation-the ordinary standing orders of parliament-will be inadequate to cope with a question of this kind. We have a proposal before us to adopt the Norwegian system of joining the two houses. I am only prepared to accept that provision on the distinct understanding which was conveyed to my mind by conversation with hon. members, and by listening to the debate here, that a large majority would be against the carrying of the mass referendum. That being so, I must be prepared to take the best course I can, and I think it is no invasion of the rights of parliament to ask these two chambers, elected practically on the same basis of one man one vote, to
meet together and attempt to settle their differences, and to provide that, if
the estates of the realm cannot by ordinary intercourse and argument settle
their differences, there shall be a vote of the people sufficiently large to
insure the representation of the majority of the state interests taken, and
that that vote shall bring about finality.

Mr. LYNE:
But does not the hon. member include the mass referendum in his
proposal?

The Hon. J.H. CARRUTHERS:
I hope hon. members will understand me. I am determined, so far as I can
carry the matter to an issue, to have a vote in this chamber upon the subject
of the mass referendum. I do not believe in that compromise which gives
up matters before you have tested the opinions of those with whom you are
working. No one would respect me if I halted at any step short of getting a
final decision from the body in which I sit. It is, therefore, my intention to
divide the Committee at some stage upon the question of the mass
referendum.

If I get it I shall be pleasantly surprised, and I am sure that the people of
this colony will be agreeable to taking it. I propose that in this full
conference a two-thirds majority of those present and voting shall be
necessary and sufficient to pass a proposed law with or without
amendment, and that thereupon it shall be presented to the governor-
general for the royal consent. I provide in resolutions 6 and 7-

Mr. SYMON:
The hon. member does not want resolutions 6 and 7 now!

The Hon. J.H. CARRUTHERS:
My hon. and learned friend does not want them; but until the Convention
tells me by standing on the right and the left what it wants, I am going to
press forward this proposal. Like my hon. and learned friend, I am a
reasonable man, and, if I cannot get all I want, I am prepared to take the
best I can get for the people of the country. But I am not prepared to go
before the people and to say that I abandoned any principle to which I was
entitled before I have been defeated upon it. With regard to the referendum,
I have no doubt that if my hon. friend, Mr. McMillan, was here, I could
show him that even his vote might be given for the principle. I do not
regard the referendum merely as an instrument to say when a law shall
pass. I regard it also as an instrument to say when a law shall not pass. That
is how the referendum is used in Switzerland, and so here I propose that it
should be used to prevent the passing of laws against the wishes of the
majority of the people as well as to aid the passing of laws which are in accord with the will of the majority. Therefore, I propose that after the conference has finished its labour, and a two-thirds majority has passed the necessary resolution affirming the bill, it shall be lawful for the minority to petition the governor-general for a referendum to ascertain whether the law should or should not receive the royal assent; that is, that the minority, although outvoted in the conference, shall have the right to claim a referendum to veto the bill if they have the people behind them. So, if a two-thirds majority cannot be obtained in the conference, an absolute majority shall have the right to petition the governor-general to send the proposed law to the people to express their will upon it. These proposals are in a very tangled condition; but as soon as the Committee reach a stage when we can have these proposals submitted, I will propose them. They have this virtue: that every proposition submitted to the Convention can be tested upon them by an amendment. The Tasmanian proposal, which I regard as a remarkable concession, coming from so small a community, can be tested in this way. The Victorian proposal, of having a dual referendum instead of a mass referendum, can also be tested, and so can the proposal to have a simultaneous double dissolution, instead of a successive dissolution. I hope that we shall not conclude our labours after so lengthy a discussion on these matters without coining to some resolution which will give the people of the country an opportunity during the interim which must elapse between now and our next meeting-an opportunity equally with ourselves-of considering the work which we have done, and of analysing it. I hope that with these remarks I have not tended to weary the House; but I thought it was only right, having a proposition of this character to make, which would bring our proceedings to a close with something definitely done, that I should offer these remarks in explanation of the proposal I have to submit.

The Hon. I.A. ISAACS (Victoria)[4.1]:

I think it is right to say briefly that the proposal that the two houses should sit together is, in my opinion, so much waste of time. It is quite true that in France

there is a provision in the Constitution that the two houses may sit together in certain cases.

Mr. GLYNN:

Is not that the case only with constitutional amendments?

The Hon. I.A. ISAACS:

Yes. But France is not a federation, and there is no question of equal representation there. The whole provision has been condemned by a writer
who has been quoted already, that is Dr. Burgess. His observations are very clear in a chapter on the organisation of the state in the French Constitution. He disposes of the criticisms of one writer, whom he mentions, and he goes on to say:

There are but 300 senators to 573 deputies. This difference alone would enable the deputies to overpower the Senators in National Assembly, and force upon them constitutional revision in regard to subjects which they in separate assembly would never have consented to bring before the joint assembly. The fact is that when the constituent Convention ordained the Constitution of 1875-6 the Legitimists, Orleanists, and Bonapartists made up together the majority in that body. They constructed the Senate so as to make it the representative of royalty as against republicanism, and they meant to furnish the Senate with the power to prevent the deputies from revising the Constitution at their will.

Are we going to make provision to enable the senate to prevent the assembly from doing as they like with the affairs of the nation?

It is true that the republicans are now in a majority in the senate, but the senate is still far more conservative in its republicanism than the Chamber of Deputies, and, therefore, a conflict may still arise between the two bodies concerning the fundamental principles of the organic law. In the second place, it is conceivable that if the two chambers were composed of the same number of members, still the majority in the national assembly might not represent the majorities in the two chambers taken separately. Yea, it is even conceivable that a practically solid senate, if supported by a respectable minority of the deputies, might overcome the majority of the deputies in national assembly and force revision of the Constitution in regard to subjects which the deputies in separate session would never have agreed to bring before the joint assembly.

Mr. GLYNN:

They can only deal with matters which they have already decided in their own houses to take up. That makes a great difference!

The Hon. I.A. ISAACS:

That is another objection. It is no provision for settling deadlocks unless the two houses choose to meet together. What we want to provide is some means of settling deadlocks when the two houses will not agree. What would this amount to? It amounts to a suggestion that wipes out the small states in some cases absolutely, and it wipes out some of the provisions which we have laboriously endeavoured to put in the constitution, most notably the provision as to money bills. As to how the thing would work out, I ask hon. members to consider for a moment. If the proposition is that a mere majority of the houses sitting together is to prevail, I should like to
see the representatives of the small states who would agree to it. If it is to be anything more than a majority of the houses sitting together, I should like to know how this is a proposal which will enable the majority of the population to enforce its own will? If it is a proposal that is not to enable the majority to carry out its own will, as the Premier of New South Wales said ought to be provided, it leaves deadlocks just as possible as they will be under any other system.

The Right Hon. G.H. Reid:

No!

The Hon. I.A. Isaacs:

Let me point out why. If you are to have six colonies with six senators for each colony, and if you are to have a quota of 2 to 1, which I may tell hon. members will never be agreed to, with this provision in, you will have a minimum of seventy-two members in the house of representatives and thirty-six in the senate. Sixty-two will represent the majority, and if it is going to be a ques-

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tion which the dual referendum will not settle, if it is going to be a state question on which you will have the two large states against the other four small states, you must expect a block vote in the two houses whether voting separately or jointly. If you get a block vote of that kind you will never get a proper majority, and unless you provide that an absolute majority is to prevail you will have no satisfactory means of settling the deadlock. You will tell the large colonies, "You may have a joint sitting of the two houses, but you will still be thwarted."

Mr. Glynn:

If two-thirds is the majority!

The Hon. I.A. Isaacs:

That is a negation of the principle that the larger populations should prevail.

Mr. Wise:

Should they prevail?

The Hon. I.A. Isaacs:

If not, the dual referendum is the proper remedy.

The Hon. J.H. Gordon:

No doubt, but members will not agree to it!

The Hon. I.A. Isaacs:

Let us consider what is the proposal of the hon. member. My opinion is definite and clear that, unless you have the quota of 2 to 1, the representatives of the small states will not consent to the houses sitting together. If you have the two houses sitting together, it is absolutely
hopeless to maintain the quota provision. I can speak confidently of Victoria, and I say that it will not be agreed to there that the quota should remain as it is; and, judging from a very able and unmistakable article in the Sydney Daily Telegraph, New South Wales will speak in the same voice. This extraordinary provision of 2 to 1 cannot be allowed to remain in the constitution scarcely under any circumstances, and certainly not with this so-called Norwegian scheme wedged into the constitution also. I wish to be perfectly clear and frank. My right hon. leader has gone to the very verge. There was nothing we were so pronounced against in our campaign among the electors of Victoria than this proposal of the two houses sitting together. I have left out of sight altogether for the present the possibility of conservative and liberal questions arising. We have, in our colony, an extraordinary position, some people say to my mind it is remarkably ordinary. We have a Legislative Council and a Legislative Assembly, and, if there were a proposal made there for the two houses to sit together, it would be scouted in an instant. We should have an almost inconsiderable minority in the Assembly being able to ally themselves with practically the bulk vote of the Legislative Council, and the majority of the people's representatives in the popular chamber would be out-voted at once.

Mr. HIGGINS:
Your upper house is based on property; but there will be no property qualification here!

The Hon. I.A. ISAACS:
There may be no property qualification. But we do not know how this is going to work out. We do not know whether the one electorate is going to give us conservative or liberal representation. But if there was anything as to which the Premier, the Chief Secretary, and myself pronounced ourselves more definitely than another, it was on this single proposition which is now urged by the Premier of New South Wales, and by the hon. member, Mr. Carruthers. As far as I can judge, it is simply wasting time to endeavour to carry that proposition. We have stated what we think is the easiest course to adopt. The dual referendum is admitted on all hands to afford to the small states

Mr. HIGGINS:
The Premier of New South Wales said it would be a farce!

The Hon. I.A. ISAACS:
It is not a farce. It is an appeal from the representatives of the people when they have come to such a position of variance that they can proceed no further, and then we have a right to go to the people and say to them, "Will you maintain this state of collision?" I have no doubt whatever that
the people in their good sense and wisdom will find a means to extricate themselves from it. If it is such a question that they cannot agree, that the smaller states cannot fall into line with the larger, for my part, I am willing to allow the matter to remain in abeyance, because I admit that in such a case, under the constitution as we now have it, you cannot fairly ask the smaller states to give way. But if we are going to bring the two houses together, we have not only the difficulties I have just spoken of, but this further difficulty: we allow the senate to come into the determination of questions relating to finance. Now, there has been nothing more difficult in the Victorian Assembly than to stand by, as far as we can, the provisions of the compromise with regard to finance. We do not stand in this proposal by them all. I endeavoured in vain to persuade the Legislative Assembly to maintain the clause allowing the senate to make suggestions instead of amendments. I failed there. They voted in a majority against me. We have carried it here. But do hon. members entertain the slightest doubt for an instant that the Victorian people would reject any proposal which would allow the senate to come to the decision of questions relating to finance, except to the extent of rejection?

Mr. HIGGINS:
   It is not proposed!

The Hon. I.A. ISAACS:
   It is proposed.

Mr. HIGGINS:
   No!

The Hon. I.A. ISAACS:
   It is proposed distinctly that if they cannot agree the two houses are to meet together.

Mr. HIGGINS:

The Hon. I.A. ISAACS:
   My hon. friend does not do justice to his own perspicacity. He sees perfectly plainly that the senate sends down a suggestion as to a money bill; the suggestion is rejected; the senate then refuses to pass the bill.

Mr. HIGGINS:
   It is not proposed to apply the joint conferences to the cases suggested!

The Hon. I.A. ISAACS:
   My hon. friend, if he waits a moment, will see that I am right, and will see how it works out. In the first place, the senate has the power of suggesting an amendment; the house of representatives refuses to carry the suggestion out; the senate rejects the bill, and a dissolution takes place; then the senate is called to a joint sitting with the house of representatives
to determine whether the bill shall pass or shall be rejected or shall pass with amendments.

Mr. HIGGINS:
    No!

The Hon. I.A. ISAACS:
    My hon. friend has not read the proposal.

Mr. HIGGINS:
    The proposal here is not as to finance bills!

The Hon. I.A. ISAACS:
    It is as to everything. I can understand that the smaller states would be most particular as to these finance questions. But if you take it as to finance questions, these are the subjects we may have most difficult collisions about. However, the thing presents such terrible difficulty on all sides that I think it right to be frank with my hon. friends in this Convention, and to say that, if they want to take the shortest course of raising difficulties, it is to carry a proposal that, if carried, means, in any event, the disappearance of the quota. If it means the disappearance of the quota, it leaves the representation of the house of representatives to grow with the population, and ultimately to swamp the senate. If it does not, it means absolutely the rejection of the proposal. I put it to my hon. friends whether they will not do what was done before, either take the double dissolution or the dual referendum with or without the double dissolution, or else put us in the position of voting for the national referendum.

Mr. SYMON:
    Is the hon. member prepared to take the dual referendum without the dissolution of the senate?

The Hon. I.A. ISAACS:
    Certainly. We have advocated the dual referendum as a provision against deadlocks. We proposed that from the very first, and when it was put to us by some hon. members that parliamentary institutions required that there should be something between the deadlock and the referendum, we reluctantly consented to that. We have not asked for the double dissolution to be put in between the two. We met the small states fairly.

The Hon. J.H. HOWE:
    Is the hon. member willing to accept that if we accept the other?

The Hon. I.A. ISAACS:
    Certainly. My right hon. friend Sir George Turner's amendment now standing on the notice paper speaks of dual referendum, and of that only. I would like to bring the attention of my hon. and learned friend, Mr.
Symon, to one very important matter. In the Constitutional Committee, in Adelaide, I submitted a series of proposals which now stand exactly in the form in which the South Australian Assembly has passed them. In them I provided that, in certain cases of deadlock, there should be either a dissolution or a referendum of the kind I have mentioned. I saw afterwards that that might not be fair to the smaller states—that it might put into the hands of the executive of the day the power to dissolve the senate, and in my further proposals I struck that out, because I wanted to stand fairly and properly with regard to equal representation and with regard to the smaller states, and then our proposal was that we should have a dual referendum. To my mind, that would settle nineteen-twentieths of all the questions that might arise. In the residuum, if it is a question that concerns state rights as such, I admit at once that that is a thing which should not be forced on the smaller states by the larger populations. But if we are to be told that we are not to have even that much, if we are to be told that the senate is to force itself into the consideration of these other questions, to insist upon sitting with the house of representatives, and still to have no provision that the majority of the two houses shall prevail, as is the case in France, if I remember rightly; and if we are to be told also that there is to be no security for settling deadlocks, even in that case, I say we are asked to give up a great deal more than we were ever called upon to give up. We are asked to concede a matter we pledged ourselves absolutely, against, and I see no prospect whatever of carrying it.

The Hon. J.H. GORDON (South Australia)[4.18]:

With the hands of the clock pointing to the hour when this Convention must adjourn, it will be a mistake to delay hon. members by any further remarks than are necessary to state plainly the position which I take. From the first I have been an advocate of the scheme proposed by my hon. and learned friend, Mr. Isaacs, for the dual referendum; but it appears to me that no hon. member who has followed the debates during the last two sittings can have come to any other conclusion than that the dual referendum will not be accepted, at any rate, by New South Wales.

An Hon. MEMBER:

Yes, it Will!

The Hon. J.H. GORDON:

We have the clearest expression of opinion from the leader of the Government that it will not.

The Hon. I.A. ISAACS:

It will be accepted in Victoria!

The Hon. J.H. GORDON:
We have the clearest expression of opinion from the right hon. gentleman, Mr. Reid, who is the leader of the Government here, and we have the clearest expression of opinion from the hon. member, Mr. Lyne, who is the leader of the Opposition here, and everybody who reads the influential newspapers of Sydney, all of us who have been mixing with the people of Sydney during the last ten days must have come to the same conclusion, that the dual referendum will not be accepted by New South Wales. It is of no good to engage in a war of wits or a war of wills if we see that no practical result is to come from these fights. So that I am going to be a pervert from the scheme of my hon. friend opposite, not because I do not still think it is the best thing, but because I think it is one to which this Convention, at any rate, will not agree.

The Hon. I.A. ISAACS:

The hon. member might have told us so a day or two ago. It might have saved a lot of time if he had.

The Hon. J.H. GORDON:

The proposal of the hon. member, Mr. Carruthers, was not then before the Convention. Again, I suppose one may be pardoned for leaving his moorings in a storm like this if he can find a better anchorage. I think the proposal of the hon. member, Mr. Carruthers, is one which solves the difficulty practically-not the best solution, by any means, but the best which this Convention will accept.

The Hon. I.A. ISAACS:

You do not adhere to the quota principle!

The Hon. J.H. GORDON:

The quota principle must stand; that is basic.

The Hon. I.A. ISAACS:

There is no hope of that. I can assure the hon. member!

The Hon. J.H. GORDON:

I was a little surprised when I found my hon. friend, for a time, the ardent champion of the small states when he was championing this proposal.

The Hon. I.A. ISAACS:

I occupied the ground which I had taken up all along!

The Hon. J.H. GORDON:

The hon. member has always been very logical and very fair. With regard to the quota, as a basic principle, it must stand. I think that the suggestion which has been made is one which will meet the views of the majority of the Convention. It is a practical, common-sense way out of this difficulty, involving the subsidence of opinion all round, a compromise on all sides, and the preserving of the working of the constitution by practical methods.
It is quite clear, on the one hand, that the national referendum will not be accepted by the smaller states, and it is equally clear that the dual referendum will not be accepted by the larger states.

An Hon. MEMBER:

The Hon. J.H. GORDON:

One can only take the opinion which has been expressed by hon. members and by the public. The suggestion of the hon. member, Mr. Carruthers, meets the difficulty splendidly, and it had the advantage of being fairer, I think, to both houses than the suggestion of the hon. and learned member, Mr. Symon, because his proposal referred only to legislation initiated in the house of representatives, and has no correlative application to legislation initiated in the senate. By this proposal the senate would have the same rights as the house of representatives with regard to legislation which, having been initiated in the senate, may be blocked in the house of representatives. To that extent it clearly strengthens the position of the senate. This proposal also has the advantage of cheapness. The referendum would be immensely costly; but here is a simple method of obtaining the expression of the will of the people by a fair majority of representatives. If no clear and certain sound, as far as the will of the people is concerned, can be gathered from two-thirds of both houses sitting together, then, as suggested by the hon. and learned member, Mr. Isaacs, the bill may well re-

The Hon. I.A. ISAACS:

It is an utter impossibility; they will never consent to it. Take the press of this city!

The Right Hon. G.H. REID:

The hon. member referred to the press of Melbourne!

The CHAIRMAN:

I would ask hon. members not to refer to press comments!

The Hon. J.H. GORDON:

Except so far as they may be mentioned as a part of public opinion I will
not refer to any particular paper. But it is competent, I presume, to refer to
the opinions of the press as representing the opinions of the public. I am
not going to detain the Convention. I suggest that when the hon. member,
Mr. Carruthers, moves his motion in detail, that he should strike out in
subsection III the words "and the senate," leaving the executive to dissolve
only the house of representatives. With that exception, I shall vote for the
proposal. I shall support the proposal made now, inclusive of sub-section v.
The Right Hon. G.H. Reid:
I should like to draw the attention of the Attorney-General of Victoria to
the speech delivered by the Right Hon. Sir George Turner, who was not in
the chamber when the hon. member quoted him as not being in favour of
the dissolution of the senate. The right hon. member, Sir George Turner, on
Friday, spoke very strongly against one house being dissolved without the
other, and went on in this way:
I cannot see my way to ask the Convention to support a constitution in
which, in the first instance, the house of representatives, which may be in
the right, should be penalised without at the same time penalising the other
house.
The Hon. I.A. Isaacs:
As a sole remedy for deadlocks!
The Right Hon. G.H. Reid:
I assure the hon. member that if he looks at the speech he will see that Sir
George Turner strongly objected to one house being dissolved without the
other being dissolved at the same time.
The Hon. I.A. Isaacs:
That is quite consistent!
The Right Hon. C.C. Kingston (South Australia)[4.25]:
I hope that if the right hon. member, Sir George Turner, has expressed
the opinion just quoted by the right hon. and learned member, Mr. Reid, be
will stick to it, because I am inclined to think that we shall be making a,
great mistake if, in a matter of this sort, we free the senate from the
responsibilities to its electors to which we subject the members of the
house of representatives. I have been prepared in connection with
federation to recognise the necessity for allaying the fears of the small
states that their interest will not be properly safeguarded. With this object I
have been a, willing party to the creation of the senate, and I am prepared
to give that senate every power which is necessary for the protection of
state interests, but I am not prepared to go further. Certainly I am not
prepared to put the senate in this position—that it can with immunity throw
permanent obstacles in the way of the accomplishment of the popular wish
without the slightest responsibility to the people who sent them there, and
without the risk of being properly punished as a responsible house ought to be punished by the verdict of the constituencies an the question at issue. Something has been said about the disadvantages to which the senate might be subject by a provision of this description. One eloquent representative draw a very touching picture of the state of subjection to which a weapon of this sort wielded in the hands of an opposite party would naturally reduce the party which was threatened. But what is the position as we find it to-day? What is the position in view of the amendment that has been adopted at the suggestion of Mr. Symon? It is this: that in discussing a matter of this sort the senate can rest upon their oars utterly disregarding the force of the arguments advanced by members of the house of representatives, and tell them plainly that they will not listen to reason unless that house goes to its constituents and comes back armed with a fresh mandate from the people. Then the senate will not be in a position to be punished for their misinterpretation of the views of their constituents. After all this is done, they can hark back and agree to some compromise which they ought to have agreed to in the first instance. Look what would be the result to the house of representatives. The country has been put to an expense which might have been avoided. Members of the house of representatives have been put to an expense and inconvenience from which they ought to have been free. They come back, practically told by the country that they are right, and yet nothing whatever is to be done to the senate, and they are to be encouraged in a repetition of the same course with impunity. It seems to me that, in the natural order of things, seeing the greater frequency with which the house of representatives goes to the country as a whole, the presumption should be in favour of the house of representatives, in a serious matter of this sort-of course, nothing, but a serious matter would be made the subject of a deadlock-more accurately representing the country and the feeling of the constituencies, which both houses are equally supposed to represent, than the senate itself. Why, then, should the senate be put in a position to send members of the house of representatives to their constituencies without going themselves? Surely there

Mr. HIGGINS:
Each to face the same music!

The Right Hon. C.C. KINGSTON:
To adopt the expression of the hon. member, Mr. Higgins, they should each face the same music. There is no doubt that quarrels of this sort will be infrequent. I think, seeing the way we have provided for the creation of these two houses-responsible alike to the same constituencies-that we have
very little reason to fear that they will often occur. Still when they do occur they may be of the greatest importance, and seeing that each house, from its constitution, is supposed to give effect to the will of the same constituency, although voting in different groups, surely in the question which will be at issue as to which is faithfully representing the view of the constituencies, both should be treated alike, and asked to obtain a mandate from the people whom they profess to represent. It is possible that, under such circumstances, the verdict of the country might be practically "a plague o'both your houses." There is no doubt whatever that the country would be disposed-and it seems to me properly dis-disposed-to resent an unnecessary quarrel

involving the state in an expenditure of the character to which I have referred. If you expose only one house to this responsibility, you arm it with a weapon which will be used to the disadvantage of the other house and to the injury of the community; and I trust, under those circumstances, no such provision will be obtained. I do not find fault with the amendment which has been carried at the instance of the hon. member, Mr. Symon, except to this extent: that I take it that it is the final provision which he intends to propose in this matter.

Mr. SYMON:

No!

The Right Hon. C.C. KINGSTON:

I am glad indeed to hear that it is not. It was, I understand, suggested at the time it was moved, as an adequate provision for meeting the mischief of a deadlock. I trust that we shall add to it at least a further provision. Taken as it is it recognises this position: That when there has been a dissolution of the house of representatives in the middle of the struggle, and the new house reaffirms the position which was taken by the dissolved house of representatives, there shall be a power on the part of the executive to send the senate to its constituencies. I think that is following out the line of argument which was used by the hon. member, Mr. McMillan, who attempted to draw some line to define the house which should be sent to its constituencies by considering which was last from the country. I have suggested that, in the natural order of things, the house of representatives will be the body last from the country; but it is possible to be otherwise. But possibly that object might be met by giving to the executive in a case of that sort the power to send to the country the chamber in respect of which there was the least interval as regards the senate from a periodical election, or, as regards the house of representatives, from a general election. No doubt there is some reason in that, but arbitrary rules as to
which House you are going to send seem to me, to some extent, objectionable; and although the hon. member, Mr. McMillan, has put it that there may be a warmth of feeling which might well be avoided when two houses appeal to the constituencies, at the same time it strikes me that, in the heat and clash of popular opinion, both sides being fairly put by those who are contesting the constituencies, you are more likely to get a true verdict as regards the popular will than are you under any other circumstances—than if one house went at one time, and the other house went at another. Provide for the simultaneous dissolution, and it seems to me you will have this: Not only will there be a great disinclination on the part of both parties to bring anything of the sort about, but if they are plunged into it, at least both sides of the case will be fairly put to it, and you will get a fair verdict which will enable you to form a correct conclusion as to who is really in the right and who is really in the wrong. I am afraid that those who have already gained the victory will not willingly listen to anything in the shape of an abandonment of the amendment which they have already carried. I would not press for anything of the sort; but I would ask for an addition in the way of conferring on the executive a power of sending the two chambers to their constituencies, subject to certain safeguards, which will prevent this power from being used without due consideration. I will not suggest all the details of these safeguards; they can be fixed after we agree to the principle. It seems to me, however, that we ought to provide for the carrying of the subject of the deadlock in the house of representatives, or it might be in the senate, in two consecutive sessions, with a certain interval. Where you find, under those circumstances, that you cannot get the houses to agree, then I put it, as they substantially represent or are established for the purpose of representing the same constituencies, only in different groups—either they are doing so and will be strengthened in their position by an appeal to the constituencies, or they are not doing so, and ought not to be permitted to continue in that course. Here I may say this: something has been said as regards the parties into which the federal parliament will resolve itself. Something has been said—it may be mistakenly—as to the parties into which this Convention is resolving itself. I do not believe, when we have the federal parliament established, that we shall find parties of small states against large states, or anything of that sort. We shall be liberals and conservatives; it may be free-traders and protectionists. Free-trade and protection seems to me to be a matter natural to be settled in the early stages of federal history, and will not permanently divide the various parties as the other classes to which I refer. But it strikes me that, in a
matter of this sort, every liberal instinct compels us, who class ourselves under the category of liberals, to vote in favour of the popular control, not of one chamber or the other, but of both chambers, and of the solution by an expression of the popular will of any difference as to whether or not these two chambers, owing their existence to the popular breath, on the same broad franchise, on the matter of quarrel are or are not really representing the constituencies which they profess to represent. I can well understand that, either here or anywhere, a strong conservative feeling which seeks to justify the creation of a body designed for permanently checking, blocking, and baffling the popular will, will strive for the purpose of removing one or other of those chambers from the popular control, knowing full well that for conservatism to achieve the control of one of those chambers their end is encompassed, because progress is impossible without the consent of both. With regard to a simultaneous dissolution at the will of the executive, is there any representative who thinks that that will be lightly exercised, and punishment extended, not only to those who are supporting the opposition view in the house of representatives or in the senate, but punishment wantonly inflicted on ministerial supporters? I am sure representatives generally will see that it is impossible to apprehend any position of that sort. The power may, therefore, be safely left to the executive to refer these matters for the decision of the people in the knowledge that that power will be exercised with the utmost discretion, seeing that it will affect alike ministerial supporters and ministerial foes. Then, suppose we have a dissolution of both houses, and by the verdict of the people of the states the senate is justified, and by the verdict of the nation as a whole the members of the house of representatives are supported in the attitude they take up what will be the position then? Some have said a national referendum, others have advocated-a dual referendum. When I spoke on this matter first, I said I would be delighted if we could provide for a separation of cases involving state interests and those having no such effect; the one in which a dual referendum might be necessitated, and the other in which it could not be justified-and I think we can, if we seriously make the attempt. The great majority of cases will not, to my mind, involve state interests, and, therefore it would be well to generally provide for the solution of a deadlock, after a double dissolution, by a national referendum. I think I expressed-myself pretty clearly on this point at an early stage of the debate. I am willing to submit all these questions to a dual referendum, while, at the same time, I am not willing to submit them all to a national referendum. Take a question affecting the waters of the river Murray. That is a case in which state interests are likely to be par-
ticularly involved. We have created a body representative of the people-the
house of representatives-and we have created another representative of the
states-the senate-and I think, in a matter of this sort, where the individual
interests of a state as a state might be so seriously involved, before any
action is taken when a deadlock has occurred, you ought to provide for the
two majorities as a mode of guarding the existing condition of affairs.

The Hon. S. FRASER:

There are many other points!

The Right Hon. C.C. KINGSTON:

There are a number of other points; but I am only addressing myself to
such as occupy my attention at this moment. No doubt, the other points
will be more satisfactorily dealt with by others. What I suggest is this: that,
while you provide for the national referendum generally, you should give a
power to a certain section, a small but representative proportion, of the
house of representatives, to demand a national referendum where they
consider that state interests are involved.

Mr. HIGGINS:

Would not the opposition, in almost all cases, be strong enough to carry
the demand for the dual referendum, so as to embarrass the ministry?

The Right Hon. C.C. KINGSTON:

I do not think so. I trust that those who are called upon to discharge their
important functions-the members of one or other of these high and
responsible bodies-will do so with some due regard to the principles on
which this constitution is framed, and will not wickedly and want only take
advantage of a provision such as that which I suggest. The power of
demanding a dual referendum I would give to one-third of the house of
representatives, or to one-half of the representatives of half the states in the
house of representatives, and I would provide for the purpose of guarding
against abuses of the character suggested by the hon. and learned member,
Mr. Higgins, that the final referendum should be demanded by affirming a
proposition that the question affects, not only the interests of the
commonwealth, but also the interests of any particular state or states.

The Right Hon. Sir G. TURNER:

Would not that allow the smaller states to dictate to the larger states?

The Right Hon. C.C. KINGSTON:

No. This is the position I take: that in purely national questions, when
there is no suggestion of any necessity for interference by the
representatives of the states in state interests, the nation should rule. I think
that is a principle from which we cannot get away. At the same time, in
state questions, in matters in which state interests are really involved, we
have created a senate for the purpose of guarding those interests, and we ought to give it an effective power. We ought not to allow the senate within its proper jurisdiction to be overruled by any other persons than its own constituents. The national referendum, alone would enable the senators to be overrated by—I am justified in using the word—other than their own constituents, because, although they are the same people, they are voting in different groups. The dual referendum will throw around them the protection of the groupings which is provided in the state interests. Is it not possible to differentiate between the two classes of cases? The case of the Murray waters within our own boundary is surely a matter in which we have a risk to the protection of the dual majorities. Take, on the other hand, matters of the character you will see referred to from time to time within the powers of the federal parliament—matters relating to marriage and divorce, the guardianship of infants, and other questions.

The Hon. J.H. GORDON: Do you not think that divorce may be a very vital state question?  
The Right Hon. C.C. KINGSTON: No; I do not think so. I think it affects the individual and the nation. It seems to me that it is intolerable to say that in a matter of this sort—say of marriage and divorce—the senate may block the way of any advance, may practically negative reform and re-enact the existing law by the support, as has been put by my right hon. friend, Mr. Reid, of 600,000 people—who may prevent, in that respect, effect being given to the wishes of 2,500,000, or even a greater number. Is that a fair thing? Each individual in a matter of that sort is equally interested. It is a national question, in the gravest sense of the term. It is not a state question; and, in a matter of that sort, the majority

The Hon. J.H. GORDON: Still the provision is open to the objection that there is no finality in the dual referendum!  
The Right Hon. C.C. KINGSTON: There is no finality, and there ought not to be in a federation. There ought not to be conferred on the representatives of the nation power to overrule the representatives of the states, except by the means to which I refer, that is, a dual majority where state interests are concerned. 

Mr. LYNE: How do you provide for that?  
The Right Hon. C.C. KINGSTON: I do not intend to provide for it at all. I am prepared to provide for the
overruling of a minority by a majority when the question is a national question, and not a state question. I take it that the federal idea, the essence of a federation, lies in the erection of a second house in which all these safeguards are provided, and where state interests will be duly conserved. Whether you give the power of control in the first instance, or in the end, it is the same thing. I do not think that where there is really a clashing of interests the representatives of either house should be compelled to give way; but I do think that upon national questions which would naturally chiefly occupy the attention of the federal parliament, the power of the majority ought to prevail. I think also that a provision can be adopted enabling it to prevail, at the same time safeguarding the rights of a minority on state questions in the way to which I refer.

Mr. HIGGINS:

Suppose that we cannot get the national vote, and the states vote to agree on a tariff!

The Right Hon. C.C. KINGSTON:

Does the hon. gentleman think that a tariff is a state or a national question?

Mr. HIGGINS:

I think it would be treated as closely affecting the states, if any question is to be so treated!

The Right Hon. C.C. KINGSTON:

I think there is a good deal to be said in favour of its being considered a state question, but at the same time I think that matters of the sort should be dealt with in the way I described. If there had been a dissolution, and if the members had come back at issue-and I make bold to say there seldom will be such a thing, because they will soon agree if each of them have the same liability to a dissolution-but if there were a dissolution, and members came back disagreeing, there could, if the facts warranted it, be an affirmation that state interests were involved by a representative section of the house of representatives, by one-third of the whole number or one-half of the representatives of one half of the states. The doubt would then be solved by those who said that it was a state question and required the protection of a dual majority.

An Hon. MEMBER:

Under that arrangement 600,000 persons might stop the passing of a tariff desired by 2,000,000!

Mr. LYNE:

There should be a mass referendum!
The Right Hon. C.C. KINGSTON:

If the hon. member says that the will of the people should prevail to the extinction of state interests, I am not going with him, and so far as that is concerned, he may go alone. I am going to the extent I have indicated, which I think is a fair thing. Upon national questions let the nation be supreme, irrespective of the groups into which it is divided, and the artificial boundaries which appear upon the map; but upon questions which are alike of national concern and peculiarly affecting state interests let us give to the people of the states that protection which every true federation affords. Let us throw around them the protection of a dual majority—a majority of both houses—and if you cannot get that, let existing affairs wait until you do. I do not think that there will be much suffering as the result. As regards the way in which the thing would work out by way of figures, I have taken it that under the existing conditions the house of representatives would be composed of 76 members, of whom New South Wales would have 26; Victoria, 24; Queensland—and I am sanguine as to Queensland being with us—9; South Australia, 7; Tasmania, 5; Western Australia, 5; 26 of these representatives who were willing to take upon themselves the responsibility of saying that state interests were involved in any particular question, could demand the protection of a dual majority. Going a little further, and taking one-half of the representatives of one-half of the states, and applying that provision to the smaller states, then four South Australian, three Tasmanian, and three Western Australian representatives who set their hands to a declaration of the character to which I have referred could ensure a similar result. What more is wanted? It would not be right and proper to intrust this definition of state rights to a majority to the extinction altogether of the views and wishes of a minority. I take it that no poll would be demanded unless there were some real ground for it.

Mr. LYNE:

Could a number of small states demand that the referendum be a state referendum upon the question, for instance, of the tariff?

The Right Hon. C.C. KINGSTON:

A majority of the three states to which I have referred could affirm a resolution, but they would not be likely to do it lightly; it would be done with a due consideration of the constitutional provisions relating to the scheme. The affirmation of a resolution that state interests were involved in the question would ensure to the states, on whose behalf they spoke, the protection of a dual referendum, and they ought to have it. This is the position: on one side we have those who claim a national referendum in all cases; on the other hand, we have those who say that there shall be a dual referendum in all cases. For my part, what I want to do—and I suppose we
all wish to do that—is to bring about a fair agreement among ourselves. I think it would be a mischievous thing if, with the weight of one side or the other, a resolution were carried by a narrow majority which the other side bitterly resented. It would be infinitely preferable, although it might involve some small departure from principle, that we should agree upon a scheme which we could all go to our people and recommend; and feeling as I do that this is a fair middle course between the two schemes—a national referendum and a dual referendum—I suggest it for the consideration of the Committee. As a usual thing a national referendum would be preferred, and upon questions of state interests a dual referendum would not be required unless there were some fair reason to ask for it. In other words, there would be a national referendum, unless a dual referendum were asked for.

Mr. MCMILLAN:

The Right Hon. C.C. KINGSTON:

The size of the majority is a matter of detail. I have provided that there shall be a representative minority, and a representative minority would not claim to exercise a power of this sort unless they thought they were fairly entitled to it. It would be a question of state interests or no state interests, or, in other words, a national referendum or a dual referendum. A national referendum could always be discarded in favour of a dual referendum if there were fair cause for it. That is secured by giving a minority the power to call for, a dual referendum. I would just like to point out before I sit down that a dual referendum will be ineffective unless a majority of the states vote in a way different from a majority of the people. If the matter is so clearly a national one, or it is so hopeless to expect that the individual states will overrule the verdict of the nation, that neither one-third of the house of representatives, nor the representatives constituting the majorities of three states, can be got to ask for a dual referendum, there is no good reason, in such a case, for requiring the dual referendum, and it should not be taken. I am sorry that, in a matter of this sort, there seems to be such a conflict between the two cases of the national referendum and the dual referendum. I do hope that some means of getting out of the difficulty may be devised satisfactory to us all. I should not have risen unless I had thought that it was the duty of every hon. member who could make a suggestion which might, by any possibility, be of use on this occasion, to do so, and I shall indeed be glad if my observations have, in the slightest degree, contributed to such a result.

Mr. WISE (New South Wales)[5.1]:

1330
If this debate has done nothing else, it must have removed the misapprehension that was evidently current this morning, that the question before the Committee was one that divided the representatives of the larger states on the one side from the representatives of the smaller states on the other side, and perhaps no speech has contributed more to the removal of that very injurious misapprehension, than the speech of the right hon. member, Mr. Kingston. His suggestion has been before the Convention two or three days, and I venture to think that it possibly contains within itself the germs of a sound solution of this question, which is rendered difficult, not because it presents any intrinsic difficulties of fact which have to be faced, but because we are grappling with an unreality-something which in our hearts we all know to be an unreality-and which we are endeavouring to grapple with only in order to remove popular misapprehension and popular alarm.

An Hon. MEMBER: We dispute that!

Mr. WISE: I recognise as fully as any one the necessity of devising some method that, in the last resort, should the two houses fail to agree, will enable some decision to be arrived at. But I see clearly, what I do not think any one of us has much doubt about—that the occasions when these difficulties can arise are so rare, so unimaginable, that for all practicable purposes we may regard them as negligible. There is only one form of constitution of which I know under which a deadlock cannot occur, that is, a personal despotism. Wherever you have a constitution of checks and balances, you must run the risk that, at some period or other in the movement of the machine it will stop. I have always understood that deadlocks are the price which constitutional nations pay for the benefits of constitutional freedom, and when we are putting together a federation composed, as ours will be, of a union of independent states, the price which we will pay for federation is the possibility that those states may at times think their interests are so interfered with that they will prefer to cry "halt," and leave things as they are. None the less, it is clear that that power of stopping progress, in remote but conceivable contingencies, may act as a check on the national development of large portions of the continent; and, therefore, that some means should be devised to give effect to the national will, when the national will is involved, appears to me to be highly desirable. I do not know that any scheme has been presented which would have that effect, except the
scheme of the right hon. the Prime Minister of South Australia, which by clearly separating national interests from state interests, and by leaving the national will to take effect in all ordinary matters, and imposing on the representatives of the states the responsibility of declaring what matters are, in their opinion, matters vitally affecting the states as states, draws that line of demarcation which we cannot draw now because we cannot see how the powers given in this bill will affect on the one hand the states, or on the other hand the commonwealth-and which, while it draws that line, draws it with a hand that is responsible to the people of Australia and to the people of the states. I admit that even under that scheme there may be cases in which what is called finality will not be obtained. But there is finality of two kinds. There is that sort of finality which was illustrated when the giant went out hunting with the dwarf, agreeing to share the spoil on equal terms, and when there arose a difficulty about sharing the venison the giant pointing out that there was not enough for him, and the dwarf insisting that if their appetites were kept within bounds there was enough for both, and each voting and not getting finality-the giant swallowed the dwarf first and the venison afterwards. That is the sort of finality which might be brought about-the larger states putting an end to the national aspirations of the smaller states by the exercise of their voting power. This sort of finality does not appear to me to be just, and we, by our votes, have declared that it is not the sort of finality intended under this commonwealth.

Mr. HIGGINS:

The small Jack killed the big giant, and so the minor states might be able to kill the bigger states!

Mr. WISE:

That is a reason why I, for one, think that the larger states will not exercise their power any more than the smaller states will exercise theirs. We have been going into an agreement about which alarms have been excited, and it is our duty to allay those alarms. We may think that they are ill-founded; but possibly we are wrong, because a majority of hon. members are against us; but still, alarm existing, we must devise some means of saying it without endangering the fundamental compact which lies at the basis of this constitution. I would not have risen to take part in this debate, after the masterly constitutional address of the hon. and learned member, Mr. Deakin, were it not that I have been compelled somewhat to change the position I occupied at Adelaide on this question. The amendment that was carried by the hon. and learned member, Mr. Symon, the other day, and against which I voted, was the same amendment I myself proposed at Adelaide, and on that occasion the hon. and learned
member, Mr. Symon, was one of my most vigorous opponents. Times have changed since then.

Mr. SYMON:
The hon. and learned member convinced me!

Mr. WISE:
Having convinced the hon. and learned gentleman by the arguments I used then, I hope that I shall convince him by the arguments I use now.

Mr. SYMON:
They are not so good!

Mr. WISE:
What has convinced me are the arguments used by you, sir, in your speech in opening the debate at Adelaide, and which suggested a matter upon which all of us have been reflecting ever since, in dealing with this question, when you pointed out to us that the riddle to be solved was how to reconcile responsible government with the federal system. It appears to me that the only solution of that riddle is to place in the hands of the executive, which is the driving power, the whole control of both parts of the parliamentary machine; for to allow one part of the machine to exercise control over the other is to tie the hands and weaken the power of that body on whose vigorous initiative the whole success of responsible government must depend. I quite agree that the hon. and learned member, Mr. Symon, was right from his point of view, when, in answer to me, he said that, under our present system of responsible government, it was sufficient for the government to have power to dissolve the assembly, and that, then, after the dissolution of the first chamber, the second chamber would give way. My hon. and learned friend, from his point of view, made a great concession in allowing the second chamber to be dissolved; but, there is this difference between the constitution which we are creating, and the constitutions to which we are accustomed: under the new commonwealth constitution we shall know no such thing as constitutional conventions. All those devices, those traditions of elasticity which soften the conflict between the two houses—which act as buffers between them—will be non-existent. Each house under the Commonwealth Bill will act within clearly well-defined lines laid down by the constitution, and will not only be justified in acting, but will be bound to act, up to the extreme limits of those lines. Further than that, each house will, as has been many times pointed out, appeal to different constituencies whose authority is final. Therefore, we cannot rely upon any of the old considerations for overcoming the differences between the two houses if we have to see whether some new device cannot be invented to give to the executive the same authority over the parliamentary machine under the new system as it
possesses under the present system. I fail to see that there is any possibility
of giving this power unless you impose upon the representatives in the
second chamber that full sense of individual responsibility for every vote
they give under which every member of the house of representatives must
lie. I recognise that unless the power of dissolving the senate is possessed
by the executive, you may have votes given in the second chamber from
personal ill-will, from a desire to obtain popularity in a particular
constituency, or from any motive other than that which pays regard to the
broad interests of Australia as a whole. It is to prevent that, and to secure
that every senator when he gives his vote does so at the risk of being called
upon to answer for it to his constituents, not only in the future, but
immediately, that it is necessary that the executive should have power to
dissolve the senate. I am not going to repeat the arguments which have
been used; and, indeed, I almost owe an apology to this Convention for
putting forward my own views when they so much resemble the views
which have been expressed by others. But it seemed to me that I should be
lacking in candour if,

holding such a different view upon this matter from that which I took in
Adelaide, I did not explain the reasons which had brought about the
change, in the hope that what had weighed with me would weigh with
others. When the dissolution of the senate has been agreed to, I am
prepared to accept any proposal, whether the dual referendum or the
meeting of the two houses, to secure finality. I believe there are many who
share my view that we should accept any proposal that would commend
itself to the majority. The danger which we are trying to meet does not
appear to me a real danger; but still it is necessary to provide some means
to meet it in the remote possibility of its arising. Therefore any means to
preserve state interests, when the interests of states are affected, will be
cordially supported by me. The Right Hon. Sir George Turner proposes to
omit the word "if." If that word is omitted, the first result will be to create a
blank, in which he proposes to insert the following words:-

Provided that in lieu of dissolving the house of representatives, the
proposed law may be referred to the direct determination of the people as
hereinafter provided.

If that amendment is put, I shall propose to amend it by inserting after the
word "representatives" the following words:-

Alone in the first instance, both houses of parliament may be dissolved
simultaneously: Provided that the senate shall not be dissolved within a
period of six months immediately preceding the date of the expiry by
effluxion of time of the duration of the house of representatives. And if
after such dissolution the proposed law fails to pass with or without amendment.

If my proposal is carried it will give an alternative to that already carried by the hon. and learned member, Mr. Symon, the alternative being that in lieu of the course confirmed by the carrying of the hon. and learned member's amendment both houses may be dissolved, provided and here is the safeguard for the security of the senate—that the dissolution of the senate shall not take effect within six months of the period at which the house of representatives would expire by effluxion of time. That is to say, to guard against the danger, suggested by one of the representatives of South Australia, of the power of dissolution being recklessly used when the house of representatives is just about to go to the country, in order to punish the senate and involving no punishment of the house of representatives, I propose that the senate shall not be dissolved at any time within six months before the natural expiry of the life of the house of representatives. That is a safeguard against the abuse of the power, while the possession of the power would be a weapon to insure, and the only weapon which will insure, to the executive the proper control of the parliamentary machine. If the amendment be carried, we can afterwards discuss what should take place in the event of the dissolution not giving satisfactory results—whether the referendum should be adopted, or whether we should provide for a meeting of the two houses. At the present moment, I do not see my way to support a proposal for the meeting of the two houses before any dissolution takes place, or before the power of dissolution has been given to the executive, because, as the right hon. member, Sir George Turner, pointed out, the result might be that the majority of the senate might conspire with the minority of the house of representatives to put out a ministry which was responsible to the house of representatives, and which had a majority there. If that ministry went out of office, what could the incoming ministry do, because it would have a minority in the house of representatives? Representative government could not be carried out under these conditions. Therefore, as this device of the meeting of the two houses is only to be employed as a last resource, I shall be prepared to trust to the old, well-known methods of giving to the executive government full control of parliament, and to trust them to prevent its abuse, and, if possible, its exercise.

The Right Hon. Sir G. TURNER (Victoria):[5.18]

This matter having been so fully discussed, and I having spoken on a previous occasion with regard to it, I do not intend to detain the Convention at any length now. I rise more to speak with regard to the new
proposals which have been lately placed before us, and also to endeavour to remove some misapprehension which appears to exist in the minds of some representatives with reference to the position of my hon. colleagues and myself in regard to the referendum. We asked in the first instance that where the houses could not agree there should be a referendum. We did not ask for a double dissolution, and we did not desire to have a double dissolution. We were perfectly satisfied that where the two houses could not agree the people should be allowed to decide the matter upon a direct, vote. But it was pointed out that there would be a larger inducement to the government of the day to use the referendum, because it would require them to take little, if any, responsibility, and therefore to follow out the constitutional principle, the government should first of all be compelled, by means of a dissolution, to consult the constitution. Seeing that there was some force in that argument, and being satisfied that having got the double dissolution we should also have the referendum-

An Hon. MEMBER:

The dual referendum!
The Right Hon. Sir G. TURNER:

The dual referendum. That we considered would be a satisfactory settlement of the difficulty. I was prepared to accept the referendum with the dissolution, and I am also prepared to accept what I asked for in the first instance-the referendum without the dissolution. There seems some misapprehension that we are anxious to get this double dissolution; but we are not. We merely accepted it because we thought that it would be an inducement to others who felt that there was some strong argument in favour of it to agree to our proposal that the ultimate resort should be to the people. Another proposal has been submitted by the Right Hon. G.H. Reid, and, by the hon. member, Mr. Carruthers, that is, that these difficulties should be settled after the double dissolution by the two houses meeting together, and if a majority cannot be obtained there is to be a national or mass referendum. Of course I am prepared to accept his scheme as far as the double dissolution is concerned; but then he asks that the two houses meeting together, we should have a two-thirds majority. That neutralises the whole effect of his proposal. If he proposed that the two houses should meet together, and that those present, and voting, should decide the matter, I could understand that there was some reasonable foundation for the proposal. But that is not the case and we should simply, by this proposal, be unquestionably handing over the larger states absolutely to the smaller states. I do not agree, and never have agreed, to the two houses meeting together, and I have spoken strongly against it. I do not think that is a
reasonable or proper mode of settling these disputes. Even if the hon. member proposed or suggested that an ordinary majority should decide the question on the two houses meeting together, my objections would not be removed, and I should be bound to vote against the proposal. We have endeavoured, by giving the best attention to this problem, to solve it, and I think the Right Hon. C.C. Kingston has hit upon the true and proper solution. When speaking origin-
aly, I said there were certain questions which ought to be settled by the national referendum, and there were other questions which, in fairness to the smaller states, should only be settled by the dual referendum. My difficulty was how to place words in this bill which would divide those two classes by a sharp line of demarcation. I failed to see any mode whatever of doing that. If I could have seen a mode, I should have been very glad. Therefore, knowing that it was utterly impossible to induce the representatives of the smaller states to agree to the national referendum, and being anxious to provide some mode of settling these difficulties when they do arise, I was prepared to accept the dual referendum, although I admit quite freely that that would not give finality in all cases, but it would unquestionably settle the vast majority of cases that are ever likely to arise. The Right Hon. G.H. Reid saw the same difficulty, and he desired to throw on the smaller states the onus of preparing a list of matters which they considered should be decided by the dual referendum. They might fairly retort and say, "No, you prepare a list of the matters which you desire to be settled by the national referendum." So we see that that mode of settling this difficult problem is impossible.

The Right Hon. Sir E. BRADDO:
Nobody can prepare a list!

The Right Hon. Sir G. TURNER:
Nobody can prepare a list now to meet all the difficulties that may hereafter arise. The Premier of South Australia has, to my mind, suggested a mode which we can all fairly accept. He said, "Let us lay down the principle that the referendum is to be made as a national one. If, however, a fair minority of the house of representatives say that state interests will be affected, let them have the right to

Mr. SYMON:
That would cause a great deal of agitation and deadlock in the house of representatives. You would be asking them to decide a judicial question!

The Right Hon. Sir G. TURNER:
It is as much a constitutional question as any other matter that could come before them. The small states need have no fear of that. My hon.
friend told us it would require, twenty-six votes. If we take Queensland, South Australia, and Western Australia, they will have the twenty-six votes, even if they could not get any of the representatives of the larger states to combine with them to demand the referendum. I cannot realise that, in any dispute we may have, we are going to have state against state. I never can conceive it. It seems to me utterly absurd to say that, when men meet in a federal parliament, representing the whole continent, and with our states practically effaced, so far as their deliberations are concerned, the disputes which may arise, and, probably, will arise, will be only those in which states will be pitted against states. I fail to realise that, or to see the slightest foundation for it.

Mr. HIGGINS:

Does not that show the absurdity of asking for the consent of the states, as well as of the people?

The Right Hon. Sir G. TURNER:

I am not going to deny that it is absurd, but we have to deal with matters as they are. What is the use of endeavouring to get what we know a two to one majority of this Convention will not give us? If we take the views of hon. members who have spoken we know perfectly well that if a mass referendum is forced to a vote, the majority against it will be two to one. Insisting upon that, and saving we will take nothing else, is simply wasting our time, and, will lead us into a position where we shall have bad feeling, and shall not be able to retrace our steps. That is what induced me, when I could not see, in my own mind, any means of dividing the two classes of disputes, so that they might be separately dealt with, to say that I was prepared to take the dual referendum, trusting that it would very rarely have to be put into operation, that nearly all the disputes would undoubtedly be settled by the double dissolution, and that it would only be in one or two extraordinary cases that we should possibly have to resort to the other steps. However, I think the Premier of South Australia has devised a means that I shall be perfectly prepared to accept. I think the larger states can accept it, and trust that when the matter is being debated in a federal parliament it will be fairly dealt with. I think the smaller states will be amply protected, and should be satisfied. I, for one, and I believe a majority of my colleagues, will be willing to fall in with the suggestion of the Premier of South Australia. But we certainly cannot accept the proposal for a meeting of the two houses with a two-thirds majority, or with a bare majority.

The Hon. R.E. O'CONNOR (New South Wales)[5.29]:

I think we all recognise now that a vote of the members of the
Convention upon any of these questions is really of very small moment, except in view of the probability of its representing the opinion of the colonies which are represented here, because we are really here, each one of us, representing the people of the different colonies, and the proposals which we make are not to be settled by the question of majorities or minorities here, but by the question of the majorities or minorities of the people of Australia, who will have the final dealing with this question, and I think that one of the most satisfactory elements of this discussion is that there has been a general recognition of the responsibility under which we act—that is to say, not a responsibility to the members of this Convention, but a responsibility to those who sent us here. At the same time, I would be the last to advocate any slavish following of the cry in any colony for a particular form of constitution. The only extent to which it appears to me we are bound to bow to public opinion outside is, in so far as we believe it expresses the real settled convictions of the people who sent us here. As I stated in my remarks when this question first arose, I am, and always have been, opposed to the referendum in any form. I approve of the application of it only for the reason that I believe in that mode alone respecting the settlement of the serious deadlocks which might, under certain circumstances, arise between the two houses. I admit to the fullest extent everything which my hon. and learned friend, Mr. Deakin, said so well this morning, as to the extreme unlikelihood of these difficulties between the two houses terminating in what are called deadlocks. But I do recognise that, infrequent as these disputes are likely to be, as infrequently as they are likely to prove insoluble, when they do prove insoluble they will present infinitely more dangers than the deadlocks we are acquainted with; and it is to meet cases of that kind that I think, not only in deference to public opinion outside, but in deference to what we must know are the dangers of this constitution, we should arrive at some means of finality.

The Hon. A. DEAKIN:

We have to make a workable machine!

The Hon. R.E. O'CONNOR:

We have to make a workable machine, and we have to see that in all possible circumstances it will be workable. If a selection were to be made of the kind of questions upon which a deadlock is likely to arise—that is to say, a disagreement which will bring the operation of the constitution itself to a standstill for a moment, I should select at once a class of questions on which these difficulties are likely to arise, and they are the very class of questions which this constitution has removed from the control—except so far as veto is concerned—of the senate itself. If you regard the
operation of this constitution in regard to any question of taxation, and any question of appropriating the ordinary supplies for the services of government, you have the two points, and the two points only, on which a disagreement between the two houses is likely to prove disastrous. In all other questions there is time for public opinion to adjust the difference. In regard to these questions there is not time, and I quite agree with the observation of my right hon. friend, the Premier of New South Wales, when he pointed out that in the very inception of this constitution, in dealing with the very first question which we will have to face, the framing of a uniform tariff, we may very well be met with differences of opinion which will divide the people, not according to party, but possibly according to states, and it is in regard, therefore, to a question of that kind, which embraces finance or taxation, or any questions of appropriation, which embraces financial and other points of view—it is in regard to these questions, and these questions only, we are likely to have these difficulties. If we had to vote on some system of referendum, I should be quite willing to modify my former view as to the adoption of the referendum, in the general settlement of questions of that kind. If there is to be a general referendum, it will be quite sufficient if that referendum is confined to cases in which an appropriation for the ordinary services of the year was sought, or in regard to which a proposal of taxation was made, and if the referendum was restricted to those questions, then you would be following  out by analogy the very same restriction which you place on the powers of the senate itself in dealing with money bills. Why is that restriction placed on the senate in dealing with money bills? Because it is recognised that in the working of responsible government, of which the life and soul is finance, you cannot have a responsibility to the two houses, one house must rule. Following the same principle, it is because one house must rule, the house which supports the executive, that a difference on a question of that kind will bring you into a deadlock. And it is for the same reason, if it is to be a mass referendum, that these questions, and these questions only, should be referred to, the general consideration of the people for their arbitrament.

The Hon. Sir W.A. ZEAL:

But suppose there is a tack to the appropriation bill?

The Hon. R.E. O'CONNOR:

The hon. member will remember that there is a provision under the head of money bills which prevents a tack.

The Hon. Sir W.A. ZEAL:

The government might do it, all the same!
The government could not do it. The hon. member will see under these circumstances that the government would be acting illegally if they did anything of the kind, and their measure, if passed into law, would not be worth the paper it was written on, and there will be a tribunal under the constitution to decide that point.

Mr. HIGGINS:

Suppose that 2,000,000 people want a navigation act and 600,000 people say no?

The Hon. R.E. O'CONNOR:

The 2,000,000 people by the force of their public opinion, their power in the commonwealth, their power in the house of representatives, their power over the executive government, will in time assert their own way, and if with all these powers at their back they cannot assert their way, there must be some very good reason inherent in the thing itself why they should not. The difficulty which I foresee, and which I wish to prevent in the working of this constitution, is some block in the working of the machine itself which we cannot wait to be adjusted by the ordinary forces which adjust deadlocks in unified communities. The case my hon. friend refers to is an illustration of one of those matters which will adjust themselves, which can afford to wait but these matters of finance and appropriation which are connected with the daily life of government, with the life of the administration itself, are matters which cannot wait, matters in which the house representing the majority must prevail if we are to have responsible government, and matters in which in the last resort if you are to have an arbitrament which will settle matters finally, the only arbitrament can be the majority of the voters—the taxpayers of the community.

Mr. HIGGINS:

That is a true deadlock, of course!

The Hon. R.E. O'CONNOR:

A true deadlock, and the only deadlock which is a dangerous one. I so far agree with those hon. members who have spoken in protest of any provision for dealing with a deadlock that I recognise that every mode for settling a deadlock is, to a certain extent, a stifling of discussion on a public question, and any stifling of discussion on any public question at any stage of it is, in a certain sense, the brute force of the majority, and is also a loss to the community in the loss of that reason and consideration which should be at the bottom of all legislation. But there are circumstances in which you throw these considerations over for the highest consideration of the safety of the commonwealth. It is only where I see that
the safety of the commonwealth is involved in a conflict between the two houses that I would apply this process of the referendum to the people generally, and if it came to the question of applying the referendum, I would be quite willing that it should be applied with that limit which it, seems to me would not only be logical in regard to the frame of this constitution, but would be consonant with fact. But then, sir, we are met with this difficulty. I cannot shut my eyes, nor can any hon. member who has sat here listening day after day to the discussions, shut his eyes to the fact that it would be impossible to carry the mass referendum in any form in this Convention, and if I thought that, even though it was impossible to carry it in this Convention, there was a probability of public opinion in the smaller states supporting at any future time a proposal for a mass referendum, I still would be inclined to persevere in my view. I say that any man who regards the question from an impartial point of view and not from the point of view of a doctrinaire or a member of a debating society, any one who regards the question from a practical point of view, must be convinced of this: that the very arguments which we are obliged to use to enforce the necessity to the large states of the use of the referendum will be, in the hands of the opponents of the bill in the smaller communities, the strongest reasons against the adoption of the mass referendum; and, having regard to the principle to which I before adverted, that we have to decide matters, not by vote here but by the probability of our vote being ratified by the communities that sent us here, I say that circumstance is a practical consideration that we cannot lose light of. Therefore, I am driven to the conclusion that as far as the mass referendum is concerned, although if it does come to a vote in this Convention I shall vote for it, I can see at once that as regards carrying it in the country as an adjunct to federation it is a forlorn hope.

Mr. LYNE:
You can carry it in this colony right enough!

The Hon. R.E. O'CONNOR:
I do not know that we should; but the hon. mem-
[P.883] starts here
ber will recognise this, that you cannot view the matter from the point of view of any one colony, that Victoria's difficulties in this respect are our difficulties, and the difficulties of Victoria and New South Wales are the difficulties of South Australia. If we are to have - as I hope we all believe we shall have - the whole continent in this federation, then any insuperable difficulty to the carrying of the bill in any one of the colonies is worthy of serious consideration by us. We may be safe in our view; but, unless it is safe in the other colonies, our labours will be to a large extent of no avail. I
have pointed out that we must, if we wish to come to a practical conclusion, endeavour to find some way out of this difficulty. Various proposals have been made. We have been referred to different schemes for the dissolution of the house of representatives and the senate.

[The Chairman left the chair at 5.45 p.m. The Convention resumed at 7.30 p.m.]

**The Hon. R.E. O'CONNOR:**

I was pointing out when we adjourned that dissolutions had been suggested as a way out of this difficulty. I have always been opposed to a dissolution of the senate, except under pressure of absolute necessity, and for this reason: that it appears to me that one of the merits of the constitution of the senate under this bill is that it is not liable to a sudden dissolution at the hands of the majority of the other house, and that it possesses that stability of policy and conduct which a continuity of existence produces. It is not altogether removed from the people. Every three years it is brought, as to part of its members, in touch with the people. That, it appears to me, gives a sufficient contact with popular opinion, whilst continuity and stability of the senate is preserved. But I was willing even that the senate should be dissolved with the view of getting finality of decision. Much as I dislike a referendum, it appeared to me that the referendum to the people was the only way of settling the difficulty; but I felt so strongly that the referendum, without previous discussion which a dissolution would bring about, without the previous education of the people on the question at issue, without the feeling of responsibility which a dissolution would compel members of both houses to observe—that the working of a referendum in itself would be disastrous to representative institutions. I still hold that view. I still hold the view that any referendum, without a previous dissolution would be sapping the very basis of representative institutions, would place ministers in the position of acting in any way they thought fit, without a sense of responsibility, and would enable public questions to be decided, not after discussion, ample and full, and the interchange of opinion in the places where opinion in the first instance ought to be interchanged, but from considerations, possibly, of quite another character, and with an imperfect knowledge of circumstances and conditions under which inevitably the opinion of the people might be obtained. But, still, there appeared no other way out of the difficulty. Even now, if I saw any other way out of the difficulty I should be in favour of a dissolution with a view to insure that the referendum should, in some sense, obtain, and carry out the views of the people under circumstances which would enable those views to be given intelligibly. But if we are to have a dissolution, then I say the dissolution should be concurrent. If we
are to have a dissolution, both houses should be sent to the country together. It appears to me that whether you make your dissolution concurrent, or whether you do not, whether you give a power only to dissolve the senate after the other house has been dissolved, you will find that any ministry working responsible government in the ordinary way, will take very good care that the dissolution of the senate and the house of representatives are as nearly, as possible simultaneous. You will find that the minister in charge of affairs will not plunge the country into confusion, and run the risk of breaking up his party, by submitting an important public question until he is on the eve of a dissolution by effluxion of time. You will very likely find, therefore, that in the working out of the thing practically, whether the power to dissolve the senate is given concurrently or after the dissolution of the other house, it will come to the same thing. But if there is one thing to be observed more than another in the consideration of all this machinery for getting rid of deadlocks, it is this: that every dissolution, every disturbance of the ordinary current political action, is a distinct injury to the country, a disturbance of business, a stopping of administration, and a great expense to the whole community. It means a dislocation of the whole machinery of government, and of the constitution, which ought to be avoided in every way that is possible. For that reason, amongst others, there can be no question that if we are to have a dissolution at all, that dissolution ought to be concurrent, so that the question may be submitted to the electors at one time. A number of reasons have been submitted in support of that view by other hon. members, which I do not wish to repeat. But, going beyond that, what is to result from this dissolution? I have already spoken of a mass referendum. But it appears that a number of hon. members are in favour of what is called a dual referendum-a referendum to the people and to the states. At first I was rather captivated by this idea; but it appears to me that to place a provision of that kind in the constitution with the notion that it will secure finality, is to adopt delusion and a snare to ourselves and to the people. It cannot result in finality. It will lead to further discussion, and if the difficulty is of such a nature that it separates the people from the states in the way in which we contemplate that these serious questions of difference will separate the people, then you will have the same senate and the same house of representatives returned, and you will have the same answer back from states and people. If the difficulty is great, when the senate and the house of representatives are not in agreement, how much greater will the difficulty be when you are face to face with a position in which the people
and states are in irreconcilable conflict, and when there is no step behind by which you can solve the difficulty? Unless your referendum is to bring finality, better have no referendum at all, better trust public opinion, better trust to the operation of institutions worked by men who are used to self-government, than to trust to a referendum which is only a delusion and a snare, which will plunge the country into confusion and insure no finality. Now, is there any remedy beyond that? I say at once that rather than have a dual referendum I would have no referendum at all. But my right hon. friend, Mr. Kingston, has suggested, it appears to me, a way out of that difficulty, which seems more scientific than most of the proposals, and is to a certain extent satisfactory. My right hon. friend suggests that inasmuch as it is just that you should have finality, and that a national referendum in cases in which state rights are not involved would not be fair to the states, we should put it in the power of the house of representatives to veto a national referendum and demand a state referendum.

The Right Hon. C.C. KINGSTON:

By a representative minority!

The Hon. R.E. O’CONNOR:

By a representative minority. Now, the difficulty I see, looking more particularly to the interests of the larger states in the carrying out of this proposal is this: My hon. friend says that a third of the house of representatives will be sufficient to bring about that process which will prevent the operation of a national referendum, and make the referendum one for the states. Now, as I think the Right Hon. Sir George Turner pointed out, taking the states as constituted by ourselves, with the admission of Queensland, you will find that with the six states represented in the senate, and taking the number according to the 50,000 quota, the smaller states if they combined would have twenty-six representatives. Now, twenty-six is exactly the one-third required to protest, so that in any case where the smaller states chose to combine they could always do so with the effect of turning the national referendum into a States referendum.

The Hon. I.A. ISAACS:

Into a dual referendum!

The Hon. R.E. O’CONNOR:

I am speaking of a states referendum as distinguished from a national referendum. It follows that you leave it entirely in the hands of the smaller states at any time to insure the carrying out of the dual referendum.

An Hon. MEMBER:

They must be unanimous to do that!
The Hon. R.E. O'CONNOR:
No doubt they must be unanimous, but if they were unanimous at any time, no matter what the question might be, they could ensure the carrying out of a dual referendum.

The Right Hon. C.C. KINGSTON:
They must affirm the proposition that states rights are concerned

The Hon. R.E. O'CONNOR:
I know that the hon. member has added that precaution, but it is quite evident that that would be done. It does not require any great stretch of the imagination to suppose that in almost any important question—any question in which this difficulty arose—state rights would be involved.

The Hon. I.A. ISAACS:

The Hon. R.E. O'CONNOR:
I do not know that the hon. and learned member can say that. The hon. and learned member and myself are in agreement upon one point—we want finality.

The Right Hon. Sir G. TURNER:
As nearly as you can get it!

The Right Hon. C.C. KINGSTON:
As nearly as you can properly get it!

The Hon. R.E. O'CONNOR:
As nearly as you can properly get it. The difficulty I see about the right hon. member's amendment is this: that it carries you no further on in your difficulty. My objection to the dual referendum is that it does not give you finality. On the other hand, you put it in the power of the smaller states at any time to bring about a dual referendum instead of a national referendum. I admit that it is very much better than the proposal of a dual referendum. I admit that it is an attempt in a scientific and practical way to solve this difficulty, but it does not satisfy me. In the first place, it appears to me that it almost ensures this: that in any case where you get a combination of states, the referendum will be to the states as a nation instead of to the nation alone.

The Right Hon. Sir G. TURNER:
But that is after a double dissolution, which is a considerable safeguard!

The Hon. R.E. O'CONNOR:
That is unquestionably the case. I admit that it is one of those solutions which come very near to what we require.

The Right Hon. C.C. KINGSTON:
You would only get that combination where state interests were involved!
The Hon. R.E. O'CONNOR:

I quite see that you will get that when state interests are involved; but as the hon. member is probably aware, the question of state interests, like every other question in politics, will not necessarily be decided upon the purest possible grounds. Irrelevant matters of all kinds will probably creep into the discussion. There may be party considerations and personal considerations. Other questions will no doubt operate in the matter. My only fear is, that the referendum will be used in such a way that it will tend to become a states referendum instead of a national referendum. I come now to the other proposal, which appears to me to offer, perhaps, a better solution of the difficulty than any yet proposed. I do not pretend for a moment, in expressing this opinion, that I have come to a conclusion very strongly in my own mind as between the proposal of the right hon. member, Mr. Kingston, and the proposal of the right hon. member, Mr. Reid. But it appears to me that the latter proposal does give more finality—that it lessens the expense, and brings about finality with less convulsion and disturbance of the machinery of government and the business of the country. For that reason, I am very much more inclined to support the proposal of the right hon. member, Mr. Reid.

An Hon. MEMBER:

Is that the proposal of the hon. member, Mr. Carruthers?

The Hon. R.E. O'CONNOR:

It is the same thing in reality. It is a proposal which, I think, I originally made or gave notice of in Adelaide, though in a more restricted form—that is, that the two houses should: sit together.

The Right Hon. Sir G. TURNER:

That means that the quota already fixed shall stand good!

Mr. MCMILLAN:

It depends upon that!

The Hon. R.E. O'CONNOR:

So far as I am concerned, that would very likely be so; but, in deference

The Right Hon. Sir G. TURNER:

See what would happen. The senate would veto it, and, according to this proposal, the two houses would meet together to settle it!

The Hon. R.E. O'CONNOR:

Not necessarily. But, supposing that were so, I will point out to the right hon. gentleman by-and-by how that would put him in no better position. I was led a little bit away from what I was saying by my right hon. friend's reference to the quota.
The Right Hon. Sir G. TURNER:

One hangs on the other, so far as I am concerned!

The Hon. R.E. O'CONNOR:

No doubt. I would be willing to make that concession in regard to the quota, that is to say, not to make it an irrevocable part of the constitution, but to make it a beginning in the working of the relations between the two houses. Some objections are made as to the working of my right hon. friend, Mr. Reid's, proposal, and it is said that the system would be objectionable, because it would place the power entirely in the hands of a combination of smaller states. The amendment, as it is proposed, giving power to a two-thirds majority, it seems to me, would have that effect, and I should be altogether opposed to placing the power of finality in such a case in the hands of a two-thirds majority. But I think that a three-fifths majority might very well be allowed both in fairness to the smaller states, and in fairness to the larger states.

The Hon. Sir W.A. ZEAL:

It is not three-fifths of the house, but three-fifths of the members present!

The Hon. R.E. O'CONNOR:

I do not care very much whether it is three-fifths of the house, or three-fifths of the members present.

The Hon. J.H. GORDON:

If you make the quota a shifting quantity the whole thing becomes a sham. You can then make it anything you like!

The Hon. R.E. O'CONNOR:

I do not wish to make the quota a shifting quantity.

The Hon. J.H. GORDON:

The hon. and learned member implied as much!

The Hon. R.E. O'CONNOR:

In that case I have been misunderstood. The only concession I made was this: that in regard to the quota proposals I would make them subject, like a great many other parts of the constitution, to the determination of parliament; that is to say, I would not embody the quota proposals in the constitution itself.

The Hon. J.H. GORDON:

Then the whole thing becomes a sham!

The Hon. R.E. O'CONNOR:

I think the hon. member is using too strong an expression. The hon. member will find that a system which initiates legislation between the two houses and establishes it with a power in one house to make its objection to any removal of it is something much more than a sham. My reason for
suggesting that the matter might be left to the consideration of the federal parliament is that it seems to me that there are some strong reasons why this principle which is a very good one indeed, and one which should be carried out—should not be placed beyond amendment in the body of the constitution. The objection has been made that this proposal to have the two houses voting together would place the whole power in the hands of the smaller states. If there was a three-fifths majority that would not be so. Suppose six states form the union, there will be 112 members in the senate and house of representatives combined. Sixty-seven is three-fifths of that number. Of the total number of members, giving New South Wales and Victoria the number of representatives which they would have with their present population, the total representation of the larger states would be sixty-two, so that to carry a proposal by a three-fifths majority it would be necessary to win over five members from the smaller states.

The Hon. J.H. GORDON:

It would be very easy to get five radicals to alter the quota, and then where are we?

The Hon. R.E. O'CONNOR:

The hon. member might apply exactly the same principle to very many portions of the constitution, and it might be applied equally well the other way. Sixty-seven members will be required to make the requisite majority. Therefore, to make up this majority the larger states would have to vote in a solid body, and to win over five representatives of the smaller states. If the smaller states voted in a solid body the three-fifths majority could not be obtained. On the other hand, upon certain occasions, the representatives of the smaller states might win over some of the representatives of the larger states. There is an equal chance either way.

The Right Hon. Sir G. TURNER:

Do hon. members suppose that all the representatives of the larger states will ever vote together?

The Hon. R.E. O'CONNOR:

I was about to point that out. The whole of the objections to the working of this system are founded upon the supposition that you will have all the smaller states upon one side and the larger states upon the other. The thing is impossible and almost absurd, when it is remembered that one of the smaller states—if Queensland is included in that category—will be separated by New South Wales and Victoria from the other small states, with which, according to the supposition, she is to be in league against her larger neighbours. When you apply what are the probabilities to criticism of that
kind, it seems to me that it appears very unsound.

The Right Hon. Sir G. TURNER:
The same criticism applies to the proposal of the right hon. member, Mr. Kingston!

The Hon. R.E. O'CONNOR:
I am aware of that; but the difference is this, that there is some chance of finality in this proposal which I make, however it is brought about. The finality sometimes may be possible against the larger states; it may be against the smaller states; but the finality comes after full discussion, after a representation of the views on both sides, and in a way which insures more discussion and a better chance of a result which will be satisfactory to the people. It is for that reason, objections being, perhaps, equal in many ways to both of those proposals—that I am inclined to support strongly the proposal of the Right Hon. G.H. Reid, because it insures finality, and in a way which will operate fairly and with less friction than any of those other proposals, in the interests both of the state and the people.

The Right Hon. Sir G. TURNER:
If a majority is not obtained you don't go any further!

The Hon. R.E. O'CONNOR:
If a majority is not obtained the proposal drops. That reminds me now of a remark made by the hon. member, Mr. Wise.

Mr. CLARKE:
Where is your finality?

Mr. MCMILLAN:
The deadlock continues!

The Hon. R.E. O'CONNOR:
No; the matter comes to an end exactly in the same way-

Mr. CLARKE:
What do you mean by "finality"?

The Hon. R.E. O'CONNOR:
A decision; an agreement is come to pass or not to pass the measure.

Mr. CLARKE:
It has to wait!

The Hon. R.E. O'CONNOR:
Yes, The same thing happens whatever proposal you adopt. It will happen with a national referendum, which is the most final method you can adopt. Even then, if a proposal is not carried, the matter drops in the same way. You have the same kind of finality that prevails in this Convention, or a house of parliament, when a bill is brought forward and rejected. I now come to the objection raised by the hon. member, Mr. Isaacs, and repeated by the hon. member, Mr. Wise—that is, that you throw the whole theory of
responsible government into confusion by a proposal of this kind, and that it would give powers to the senate which they otherwise would not have in dealing with money bills. That is a matter of detail, with regard to which I am open to argument and reason. I, think there may be a very great deal to be said in favour of simply leaving the proposal of the bill in the form in which it is finally sent up by the house that sends it, to be decided "yes" or "no" by the legislature; or it might be that, on the other hand, discussion might be allowed. It appears to me, following out logically the principles we have already embedded in the constitution, that having deprived the senate of the power of amending money bills in the first instance, it would be rather an extraordinary stretch of principle to allow them the same power when the houses are sitting together. But that is not necessarily a part of the proposal. My hon. friend only outlined it in fact it would be reasonably within the proposal itself that when the houses sit together there should only be a definite "yea" or "nay" as to whether the bill is to pass. The hon. member, Mr. Isaacs, and the hon. member, Mr. Wise, have both suggested that the theory and meaning of responsible government would be very largely trenched upon by this proposal, that if a minister who had a majority in the house of representatives found that that majority was turned into a minority when both houses were sitting together, what would be his position? It would be this: that as long as he held the confidence of the house of representatives, to which his executive government is responsible principally, in which he carries out all his financial proposals, it would matter very little if, on a special vote and under special circumstances, a proposal were carried against him. It would mean no more than, in the case of a referendum, a decision of the same kind would mean.

The Right Hon. Sir G. TURNER:
There will be no means to carry on!

The Hon. R.E. O'CONNOR:
The hon. member is brought up against that wall whichever way he turns. He says there will be no means to carry on. Exactly in the same way, if the referendum were carried against him, there would be no means to carry on. These are difficulties which I quite agree with my hon. friend, Mr. Deakin, may not arise once in twenty, thirty, or fifty years. We only want to be ready for them, and the probabilities are that when we do arrive at any difficulties of that sort, instead of being as we are now the representatives of different states trying to imagine how we will work when we are one nation, national aspirations and instincts will develop in the whole body of the people, so that what appears to us to be difficulties will, from the nature of things, turn out to be no more than trifles.
of our relations, absolutely disappear. I do not wish to detain the Committee at any great length, but I should like to say finally, if we are to arrive at a decision on this matter, it appears to me that it would be very much better if we could arrive at some decision, not based upon votes given here, upon our own absolute opinions on these different propositions which are put forward, not a vote which is the vote absolutely of the majority according to their different opinions, but that we should endeavour, if possible, to arrive at some way out of these difficulties—that we should give it the stamp of our approval, t

Mr. HIGGINS (Victoria)[8.2]:

I think at last we are beginning to see some light in this dark and entangled wood. I have been listening all day, and for several days, to this question of deadlocks, and with a good deal of interest; but I did not understand this morning why the debate proceeded. We all know that if we introduce ten more men from Queensland at the adjournment of the Convention, the whole question may have to be re-discussed and settled again. Not only is it that which gives unreality to the debate, but I feel also that we have had no assurance that the amendment which was carried the other day, is to be rescinded.

Mr. SYMON:

Certainly not; it is not going to be rescinded! Mr. HIGGINS: Here, then, we have been all day talking on the assumption that my hon. friend, who is not a man generally to change his views for a very light motive, or a light current of air we are talking on the assumption that we can get a double dissolution if we like.

Mr. SYMON:

The proposals are to add some alternative!

Mr. HIGGINS:

Quite so. We have been talking to the general question, forgetting that we have carried by a majority, and there stands against us, or in favour of us, the provision that there is to be a dissolution, first of the house of representatives and then of the senate. As to what is at present the vote under that amendment it is very peculiar. At the Convention in Adelaide the hon. and learned member, Mr. Wise, proposed that, the hon. and learned member, Mr. Symon, opposed it, and I proposed a double dissolution. Now, we seem to be like playing baseball, we have all moved on one peg. It seems that the hon. and learned member, Mr. Wise, has come now to move for a double dissolution, and the hon. and learned member, Mr. Symon, is going to move the resolution which the hon. and
learned member, Mr. Wise, discarded.

An Hon. MEMBER:

Where is the hon. member?

Mr. HIGGINS:

I am just where I was, and I intend to keep in the van. I think we ought by some means before we part come to a consent to have a simultaneous dissolution of the two houses. There is only a small difference between us in the numbers, and it is not a difference in principle unless we are to assume that the house has more of original sin than the senate.

The Hon. J.H. GORDON:

Which house will the hon. member be in?

Mr. HIGGINS:

In the house of representatives, of course, if I am in any; and I expect the hon. member to be in the House of Lords. What I do think is this: that there is no difference in the principle, it is merely a difference of expediency; and you have two houses elected upon manhood suffrage, both relying on the people. Of one thing I am certain, and I think I shall have the support of members of the larger colonies in this-I have not ventured to prophesy hitherto-but I feel that if you are going to treat the senate as not to be dissolved at the same time as the house of representatives, you have no chance of getting the constitution accepted by the larger colonies. As to a dissolution, the advantage of that is this: that we shall be proceeding largely upon those constitutional lines that we have been used to in these colonies-you appeal to the people at an election. We have as yet no referendum. But I think the advantage of the system of dissolution is that we are going on well-known constitutional lines.

The Hon. I.A. ISAACS:

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Mr. HIGGINS:

Still we know what a dissolution is. In no colony have we a house like the senate. I can see no reason why there should not be a dissolution of any house which is elective. The only reason for not having a house dissoluble is that they have no electorate. That is the reason why the House of Lords is not dissoluble; that is the reason why all the nominee houses are indissoluble. But there are one or two colonies where we have the houses quasi-elective, or partially elective, and where we have still kept up the vicious system of not making them dissoluble. I take it that if you have an elective upper house it ought to be dissoluble just as you have the other elective house. There really is no ground for dissolving one and not the other. If they both rest upon the people, why not both appeal to the people?
Mr. SYMON:
Then the hon. member supports my amendment!

Mr. HIGGINS:
I have indicated before that I regard the hon. member's amendment as imperfect in this respect, that it penalises or punishes the house of representatives. It sends them to the country before the senate instead of both together. I must not labour this matter too much. There is this defect in a dissolution, that it does not solve the difficulty, because you may still have the same members, or substantially the same members, returned, and you may still have the same difference of opinion between the senate and the lower house. That difficulty is not got over by a dissolution. Then comes the next proposal—the national referendum. In a speech the other day I spoke in favour of a national referendum; and hon. members who have been so good as to lend me their ears at all during the debates, will recognise that, to be consistent with my principles, I treat the whole of the subjects which you relegate to a federal parliament as being national subjects to be treated on a national basis; but I feel sorry to say, notwithstanding the hopes that were held out to us, from the speeches of the hon. members, Mr. McMillan and Mr. Holder—and I must speak frankly at this stage, that in consequence of the speech of the right hon. the Premier of my own colony, Victoria, this hope of having a national referendum was rudely shattered. I confess that I was exceedingly chagrined and very angry, because there was every possibility of our coming to a reasonable conclusion regarding a national referendum. To surrender that principle which the right hon. gentleman, and the hon. the Attorney-General, have indicated so clearly in their speeches, that this ought to be in the commonwealth—to abandon that principle without at least having a test vote, is a proceeding which I do not understand.

The Right Hon. Sir G. TURNER:
It never had the ghost or a shadow of show!

Mr. HIGGINS:
The right hon. gentleman says that it never had a show. I have an equal right to say that, without leaning upon the national voice, the general voice of the people at least in the final resort, you will never have a shadow of a ghost of a show in the larger colonies of carrying this bill. I have only said that because I was provoked by the interjection. I speak on that matter with as much knowledge as does the right hon. member. I feel deeply disappointed at the attitude taken on the matter by one whose government I support, and have supported with great zest. At all events, there is no doubt
now that in this Convention there appears to be given up the national referendum. Now there is a proposal for what is called the dual referendum. I have already indicated that I shall vote against that proposal. I shall vote against it for the very same reason that the hon. member, Sir John Downer, will vote for it. The hon. member has said he will vote for it because it is a farce. I will vote against it because it is a farce. He knows that a dual referendum will have no effect whatever in settling deadlocks- that the dual referendum will have no effect whatever in giving effect finally to the will of the people. Far that very same reason I shall vote against it. I do not know how it could be seriously proposed in any assembly. The more you look into it the more impossible it becomes. I indicated the other day, by some figures that you might have 236,000 voters in favour of a measure, and 49,000 voters against, and still the voice of the 49,000 voters could easily overrule that of the 236,000 voters. I will not go into the figures again, but I may indicate this: that the very fact of putting those two sets of figures opposite to one another in the public papers, and before the public mind, enabling electors in Australia to see that although they may have 236,000 for, and 49,000 against, they still cannot carry their way, will lead to grievous dissatisfaction with the constitution, and may lead to disturbances which would never occur if they felt they had a reasonable hope of carrying their way. If they have five votes to one, practically, they still cannot carry a measure. I hold that that accentuates the position that the minority is ruling the majority. There is nothing so dangerous in a commonwealth, or in a state which is ruled upon professedly representative institutions as to feel that a huge majority can be overruled and overridden by a minority. Now, the analogy to this dual referendum is in Switzerland. The difference there is this: I was not aware until this afternoon, when the Attorney-General of Victoria was good enough to speak, that in 1891 a bill was carried which allowed even federal laws to be put under a referendum-that is, the referendum to the cantons and to the people. But if we look into it, we shall find that that referendum is not used for the purpose of settling deadlocks between the one house and the other. It is not used for the purpose of settling a difference between the senate and the other house; but it is used after both houses have conceded the law; and by way of veto 30,000 electors, or eight cantons, can come in and say, "Notwithstanding that both houses have passed the law, let us see if the people will approve of it."

The Hon. I.A. ISAACS:

That is not correct!
Mr. HIGGINS:

In 1891 the same referendum was applied to federal laws as to laws amending the constitution.

The Hon. I.A. ISAACS:

The hon. and learned member is wrong!

Mr. HIGGINS:

I have refreshed my memory during the last two or three hours. I find on page 77 of the "Swiss Confederation," by Adams and Cunningham, written in the year 1889, two years before the amendment—these words:

But, as we have seen, the latter—the revised constitution of 1874—also contains an article extending the exercise of the popular vote when demanded by 30,000 citizens, or eight cantons, to all federal laws and all resolutions of a general nature which have been passed by the chambers.

But the point is that they must have been first passed by the chambers. In addition to that, the referendum in Switzerland for ordinary federal laws has only been in operation for six years. Are we to base our legislation upon the experience of six years? During this debate, the imperfections of this system of referendum have been shown clearly—that it is not final, that it does not settle things, or, if it settles them at all, it settles them on the side of the house which says "No." The Attorney-General of Victoria, after having shown so clearly in his speeches that this system of looking for the consent of the states as distinct from the people is absolutely wrong, I am sorry to find the hon. and learned gentleman buttressing up that system in all the votes and speeches he has made since. In mere loyalty to the growing population of the colonies, it is our duty to try to prevent the evils which must result from leaving questions of this kind to the arbitrament of the smaller states. I am dealing with these proposals on the assumption that the parts of the constitution we have already passed will abide. They do not express my views, but I will assume that they will be accepted. I am dealing with this matter hypothetically, on the assumption that the other parts of the constitution will be accepted. The proposal of my right hon. friend, Mr. Kingston, appeared to me to strike a true note, and I was at first attracted by it. His idea is, that we cannot decide at present what the subjects are upon which the states are to be allowed to give their votes apart from the votes of the people, and that we should leave it to the federal parliament, so that the house of representatives would be able to say, "This is a state subject, and it ought to be left to the states as distinct from the people." That proposal was at first attractive; but there is one difficulty which I cannot see that the right hon. member has got over. If you make the proportion one-third or one-fourth of the members of the house of rep-
resentatives who must declare that the matter is a states matter, and, therefore, needs the assent by referendum of the states as well as of the people, then, I take it, the vote upon the resolution in the house of representatives would be a party vote. In most of the lower houses in the colonies, you will find about a third of the members in opposition—except, I believe, in Western Australia, where there are practically none in opposition. It would be very easy to get one third in opposition to embarrass the government. They would be certain to find some reason for saying that the subject.

The Hon. J.H. GORDON:

The hon. member will soon be all feathers!

Mr. HIGGINS:

As the hon. member says, I shall soon be all feathers. I find, with regard to this matter of a joint sitting of the two houses, that I first proposed it in this debate. I discover now that a large number of members are coming round to that idea. I am getting really to feel that I must have some prevision into the seeds of time, and am able to say what seed will grow and what seed will not grow. Perhaps I shall find hon. members coming round to my other views, which are thought to be extreme at present, with regard to equal representation. Time is on our side, and we shall see what happens. I find that on Thursday last I said I was surprised that the proposal for a joint sitting of the two houses had not been more pressed. Now I think that if you have two houses, and if those two houses are based upon proportional representation, and also upon an equally liberal franchise, nothing is more natural, nothing is more desirable, than that you should bring your two houses together, and by their sitting together inexpensively determine which is to rule.

The Right Hon. Sir G. TURNER:

The hon. member supposes that one-third of the house of representatives would be in opposition!

Mr. HIGGINS:

Quite so. The right hon. member has in view possibly the difficulty which a joint sitting of the two houses might occasion in the colony of Victoria. I quite admit that if there were a difference of opinion between the upper and lower houses in Victoria, one-third of the members of the lower house being in opposition, and the whole council being regarded as one party, the members of the upper house coming in would give a majority to the opposition, and their combined votes would be bound to defeat the ministry. I quite agree with the right hon. member upon that point, but the distinction is that we should be dealing with a liberal house,
based upon liberal principles on the one side, and on the other with a house based upon the old and obsolete principle of a property vote. To mix those two houses would not be fair, and I should decline, as strongly as any one, to have those gentlemen who were elected on a restricted qualification treated as having equal voting power, at any joint sitting, with those who were elected by the people as a whole-I should decline to treat their votes as of equivalent value. But I do not wish to raise any controversy.

The CHAIRMAN:
Does the hon. and learned member think that that has anything to do with the question before the Chair?

Mr. HIGGINS:
With all respect I do. I say that a majority of the two houses-

The CHAIRMAN:
Does the hon. member see that no property qualification is provided for?

Mr. HIGGINS:
But I was saying that the joint sitting is a proposal to be considered carefully. I was interrupted by the right hon. the Premier of Victoria, who indicated that he had in his mind a difficulty in regard to a majority in Victoria. I was, therefore, trying to clear up that position, and it is hard to keep within strict rules in dealing with any matter of the sort. But I do feel that this joint sitting proposal is to be considered very carefully, especially when in the senate you will have men elected upon no property qualification, but upon the principle of one man one vote. So I say that two houses there are more on an equality than the two houses in any of our present constitutions. I quite admit the criticism that has been directed against it by the Attorney-General of Victoria. He says that, as to finance, that would never do. I perfectly agree with him. If you do not give the senate, with regard to money bills, equal power with the lower house, it obviously stands to reason that you cannot pass paragraph 5 of the proposal of the hon. member, Mr. Carruthers, in its present form. It says that in such full conference a majority of two-thirds of those present, and voting, shall be necessary to pass the proposed law with any amendment therein. Of course that would enable the upper house to refuse to pass a money bill, and then to call for a conference, and at that conference to put any amendment in a money bill, and thus defeat the scope of the constitution. I admit that that criticism is quite right; but I think that the hon. member can see that that paragraph of the proposed amendment could be qualified without any difficulty-that we can except from the amendment money bills, and show that it is not to apply to them-that is to say, that hon. members at
the joint sitting would not be able to pass a money bill with any amendment therein.

The Hon. F.W. HOLDER:

That would be providing no method of dealing with deadlocks on money bills!

Mr. HIGGINS:

Supposing that you have a money bill which is vetoed by the senate, it is possible to have a joint conference on the mere question: shall that bill, or shall it not, be passed without amendment? Supposing that the decision is that it shall not be passed, then of course another bill must be brought in by the ministry, or the ministry must retire; and all I say is that there must be a modification of paragraph 5 of the proposal of the hon. member, Mr. Carruthers, by making it clear that you cannot in the joint sitting pass a money bill with amendments—that you can only say "yes" or "no" to the money bill as a whole. That is a view to which I should adhere. I am glad that proposal of the hon. member, Mr. Carruthers, has been brought forward, and supposing that he says that if a majority—but not a two-thirds majority—are in favour of the bill which has been proposed, then the majority can say, "Well, let us have the referendum for the whole people," I have no objection to that.

The Right Hon. Sir G. TURNER:

Does the hon. member agree to a two-thirds majority?

Mr. HIGGINS:

No; I am going to refer to that. But if on the other hand there is a considerable minority, say one-fourth, who are against the bill which has been passed, that minority can also call for a vote of the whole people. I am asked whether I am in favour of a two thirds majority? I am not. I think that under paragraph 5 a simple majority ought to be sufficient—a simple majority of those present, and voting. Of course there can be no doubt that it will be a time of extreme tension when you have two houses sitting together, and in that time of extreme tension nearly all the members would roll up, and I take it that they might secure finality, and quickly, by so simple a device as saying "We will count heads and see who has the greater number." I would suggest, not two-thirds or three-fifths, but a simple majority. In this connection, the matter of a quota becomes very material. I quite agree that if the bill is left with the rigid quota of two to one in the house of representatives, this proposal will not do. I feel with my hon. friends here that the quota proposal is one of the most dangerous proposals for us to put before the electors. I feel that to fix the number of the house of representatives, which is supposed to represent the population
of the colonies by the disconnected number of states, would be a most improper thing. What has the representation of the population of Australia to do with the number of states. What connection can there be between the two? Is the house of representatives to wait until the states subdivide before its number of members can be increased? I know that attempts that have been made to qualify the provisions in detail; but they do not qualify it altogether. The quota provision is a most dangerous principle to embody in the bill, if it is to be put before the people of the large colonies; and I shall oppose as strongly as I can even the proposal of the hon. member, Mr. Carruthers, for a joint sitting, if the quota principle is retained. It would give undue weight to what I call the minority house—that is, the senate. In conclusion, I would say that the great argument used throughout against these proposals for solving deadlocks is, "Let the matter alone; questions will settle themselves." That is the old story, the old cant, the old declaration with which we are always met when we propose anything in connection with this matter.

The Hon. J.H. Howe:

There is a good deal of truth in it!

Mr. Higgins:

Quite so. Questions settle themselves; but how do they settle themselves? By the party which says "No" having its way.

The Hon. N.J. Brown:

No!

Mr. Higgins:

Questions continually arise, and the force of the electors is for the time being concentrated with the intention of having a measure carried. To that end members are returned to the houses of assembly who are earnestly desirous of having the measure passed into law. It is sent to the other house, and the other house says "No." In the meantime some other question arises which is more urgent, and the first measure is put aside for the time being. It is settled for the time being by the party which has said "No" having its way. I do not think that that is fair. It is a device which I have watched in operation in these colonies for years past—a device by which, as I think, the reactionary party has for years past obstructed efficient legislation in Australia, I hope that in framing the constitution we shall see that we have some efficient mode of securing finality. After all, it simply comes to the old principle that no man can serve two masters. You cannot have as your final master in this commonwealth both the states and the people. You must have the sovereignty in one or the other. The sovereignty in England—that is, the real
power of government-is ultimately placed in the House of Commons. You must have the ultimate power of saying "yea" or "nay" placed somewhere; and if we frame the constitution with something which purports to be a settlement of the question but which is not, we shall be in a sea of difficulties at once. What I feel keenly and bitterly is, that from my own colony there should come a proposal for the dual referendum, which of all things is the most misleading, which will not secure finality, which will be simply a will o'the wisp. People will say, "There is the word 'I referendum,'" just the same as the word "federation." "We follow federation," say the parrots; "We follow referendum," say the parrots. It is a mere word. I decline to be a party to voting for the referendum, which is simply a snare to the people.

The Right Hon. G.H. REID:

The hon. member believes in a referendum which will be a snare to the states!

Mr. HIGGINS:

I sincerely hope that we will for the present accept the proposal of the hon. member, Mr. Carruthers, which is consistent with the rest of the bill in this respect, that if we cannot decide whether the states or the people are to have the ultimate decision, we may, by a combination of the states' house and the people's house, get some solution of the difficulty which may arise.

The Hon. N.J. BROWN (Tasmania):

We have had during this debate a great many appeals for some mode of arriving at finality. I am about to make an appeal to hon. members to arrive at some sort of finality on the question now before us. There has been a very long and interesting discussion to-day, a continuation, in many rest all events, to-morrow evening, it is about time that we came to a decision on the question before us. Amongst other very pleasant entertainments and reminiscences which we will carry away from Sydney, we have heard the chiming every quarter of an hour of those beautiful bells at the Post Office. We have also had chimes today which have been very pleasant to listen to. I might say that the hon. member, Mr. McMillan, sounded the first quarter of an hour's chime. Then we had the hon. member, Mr. Deakin, and the hon. member, Mr. O'Connor, sounding the half-hour chime. Now, I think we might come to the conclusion that our eminent legal friend, Mr. Higgins, has sounded the last quarter of an hour, so that it is about time that the hour struck.

Mr. HIGGINS:

The hour and the man have both come!

The Hon. N.J. BROWN:
Without going into the subject minutely, which would be very improper for me to do, seeing the position I take up, that we have discussed the matter sufficiently, I may say that I listened with very great pleasure, indeed, to the admirable speech of the hon. member, Mr. Deakin, this morning, and also to many other speeches which have been delivered. It seems to me the matter has been sufficiently discussed. Most of us have pretty well made up our minds as to how we shall vote when the question is put. After the first question is decided there are several others which require discussion, and I appeal to hon. members to arrive at a decision within a very short time on the first question before us that is, as to whether the first word of the amendment proposed by the hon. member, Mr. Lyne, shall remain part of the question. After that we can discuss seriatim the several proposals which have been submitted—that is, as to whether we are or are not prepared to add to the amendment of the hon. and learned member, Mr. Symon, certain alternative provisions, and as to which I shall say at once I am perfectly prepared to vote for one or other of them. It would clear the way if it were possible to put the question in some such form that we could arrive at a decision as to whether we will or will not consent to what is generally recognised as a mass referendum. I think there is a clear cleavage of opinion in the Committee on that point, and if it were possible to at once clear that on one side, I should think that we would get on very much better. Unless you, sir, see some mode of putting that before the Committee in a definite form, I am not prepared to suggest any way in which it can be faced. At the present moment we have to decide whether we will or will not accept the amendment proposed by the hon. member, Mr. Lyne, and which embodies the mass referendum. I would ask hon. members to take my warning seriously that they have to be very careful as to what they are about, because if the do not deal in the manner in which I think they intend to deal with the intervening amendments they may find themselves landed in a very awkward position with regard to the proposal made by the hon. member, Mr. Lyne, and to which I believe a very large majority of the Committee are opposed. With these few observations, only desiring to expedite business, riot desiring to interrupt useful discussion, but believing that we have had all the debate that is necessary to enable us to make up our minds, I would appeal to hon. members to come to a decision on the first point, at all events, as soon as possible.

The Hon. F.W. HOLDER (South Australia)[8.43]:

I sympathise very much with the opening remarks of the hon. member, Mr. Brown. I feel that with four days debate on the question of deadlocks we seem to be making little progress. Today the lawyers have discussed the subject at length, but I feel some diffidence, not being a lawyer, in taking
part in this debate, which has progressed so long and so far. However, there are a few things I want to say, and perhaps I may as well say them just now. In the first place, I, fancy that many of those who are in the galleries of this house must think that we are contemplating, not a federation of friends, not a federation of those who are of one blood, one nationality, but a union of some kind or other among those who are only waiting a chance to fly at each others' throats. The kind of language we hear suggests the idea that the large colonies seem afraid that the small colonies want to take some advantage of them, and that the small colonies seem to think that the large colonies want to take some advantage of them; in fact, it looks very much as if we were trying to create some huge monster, and that the large colonies, afraid lest its hands should scratch them, want promptly to tie its hands, and that the small colonies, afraid lest its feet should scratch them, want to tie its feet. I do not think that is the spirit in which we should view this question. I think, if we look at the divisions which have taken place here during the last few days, we will find a reason to abandon that point of view altogether. The cleavage in the Convention has not been between the greater and the smaller states. The divisions clearly show that the difference has not been between state and state, but the difference has been almost wholly between those in favour of giving the freest and fullest effect to the public will and those who want to put on brakes, interpose delays, and provide checks. That is the kind of thing we hear about. On the one hand, we are asked to give effect to the popular will, and there is a pretty solid vote here in favour of giving effect to the popular will as soon as it can be ascertained.

The Hon. Sir W.A. ZEAL:
Going back from the original proposal?

The Hon. J.H. HOWE:
The hon. member is trying to justify his action!

The Hon. F.W. HOLDER:
I am not trying to justify my action I am dealing with the remarks which have been made since the resolution to which the hon. member refers was passed, remarks which seem to suggest that if, was desirable to maintain a second chamber. What for? We heard it to-day from the Right Hon. Sir John Forrest, and from several others, that the purpose that this senate is to perform is to be a check on hasty legislation, to be a brake to prevent too rapid progress, to provide for delays here, delays there, and delays yonder.

The Hon. S. FRASER:
Not a permanent check!

The Hon. F.W. HOLDER:
Not a permanent check; but to cause delay until the agitation has died out. Has not the hon. member heard that "hope deferred maketh the heart sick"? That is the kind of thing that some hon. members seem to desire—to provide checks and delays until those who have started any movement, who have undertaken any task of reform, are so weary and sick of the matter that they would give it up. That is the way they want to kill it.

The Right Hon. Sir JOHN FORREST:
The hon. member does not want an upper house?

The Hon. F.W. HOLDER:
I want an upper house, not to interpose checks and delays, but to be the guardian of state interests; and I want an upper house for no other reason. If an upper house be asked for anything else, I am not amongst those who so ask. It is, perfectly clear, if hon. members mean what they say, that a large number of hon. members desire to so interpose checks and delays. Even the right hon. member, Sir John Forrest, I believe, if he spoke his mind clearly, which he generally does, would tell us candidly that he desires to see a strong senate, not chiefly to protect state interests—that is a very small part of it—but so that these checks, brakes, and delays might be interposed. In regard to that, I am not with the hon. member at all.

The Right Hon. Sir JOHN FORREST:
What does the hon. member have an upper house in his own colony for?

The Hon. F.W. HOLDER:
I should be sorry to see a repetition of any errors made in the past. I say we should take the good and leave out the bad. As far as that is concerned, the cleavage in the Convention is not between the small and the larger colonies, but between those who wish to interpose checks and those who do not. I would take the division on the motion of the hon. and learned member, Mr. Symon. I think I am absolutely correct when I say, though it is a little difficult to classify hon. members, that those who voted for that hon. member's motion were, with one exception, conservatives, and those who voted against him were all those who are in favour of progress and obedience to the public will.

Hon. MEMBERS:
Oh, oh!

The Hon. Sir W.A. ZEAL:
What is progress?

Mr. WISE:
Upper house reform!
The Hon. F.W. HOLDER:
I expected a storm. I am not going to undertake to answer all questions at once. I will deal with one or two, and with others if they come in later. The hon. member, Sir William Zeal, asked what is progress. I should have thought he would have known.

An Hon. MEMBER:
Upper house reform!
The Hon. F.W. HOLDER:
Of course if the hon. member desires to be among the number of those who wish to hinder the popular purpose, and to delay the attainment of what the popular mind has been set upon, I can understand that he does not know what progress is.
The Hon. Sir W.A. ZEAL:
I do not if the hon. member is opposing the motion of the hon. member, Mr. Symon, which has been dealt with. In doing so he is acting in an irregular way.
The Hon. F.W. HOLDER:
If I am acting in an irregular way, I am at least in remarkably good company. I think I am in the company of nearly all the lawyers, and of a very large number of other members of the Convention. In fact, by a majority, the Convention has given an express permission for this debate to take place, and for the very action to be taken which I am now taking. Therefore, if I am irregular, I have for my companions a majority of the Convention, and I am content to be irregular in such company. The remark I made just now as to liberals and conservatives met with a storm of approval and disapproval mixed; but if liberalism and conservatism be classified upon the lines with which I began, I think my remarks will be found to be very near the truth—that those who vote with the hon. member, Mr. Symon, sympathise with his views in desiring these checks and delays.
Mr. SYMON:
And those views are liberal!
Mr. HIGGINS:
They are liberal in their checks on delays!
The Hon. F.W. HOLDER:
Very, but not liberal in granting the people the right to do as they want to do—the right of the majority to do as they desire.
Mr. SYMON:
The hon. member does not want the smaller states to be subordinate to the larger populations?
The Hon. F.W. HOLDER:
It is not a question of large or small states. Does the hon. member want further proof of that? If so, I will give it to him. In the division to which I refer, when the hon. member's motion was dealt with, there were four representatives from South Australia, one of the smaller states, opposed to the hon. member, and only five with him. That looks as if there were no cleavage of states. There were two representatives of the colony of Victoria with the hon. member, and eight against him. That does not look like a cleavage of states. It looks like a cleavage of policy, and when we think whom those hon. gentlemen were, we know well that the cleavage was one of policy, and not one of states. Now, we come to the mother colony of New South Wales, and do we not find precisely the same thing—that the colony does not vote, solid, but that there are two

on one side—two tinctured with less liberal views— and that on the other there are eight who are tinctured with more liberal views. Thus, I think I have demonstrated again, in greater detail than I did just now, that the

Mr. MCMILLAN:

The hon. member is becoming the historian of the Convention!

The Right Hon. Sir JOHN FORREST:

Give us a turn!

The Hon. F.W. HOLDER:

Perhaps the hon. member wants me to say something about Western Australia. The youngest amongst all the Australian colonies is perhaps, for the present, the most conservative, or if the hon. member likes it better, I will put it the other way, and say that the youngest of them all is, for the present, the least liberal. It is coming along very nicely, and if the right hon. gentleman, Sir John Forrest, remains at the head of affairs a few years longer, as we hope he will, I have no doubt that in some future Convention we shall be able to welcome the Western Australians here and find them not in the rearguard but in the very vanguard of the progress of these colonies.

The Right Hon. Sir JOHN FORREST:

They are that already!

The Hon. F.W. HOLDER:

For the present we have to take things as they are, and we recognise precisely what they are. I go a little further, and I ask what is before us just now? It seems to me that we have to discuss two or three questions, and the first and foremost is the one of whether we can clear the way—remove the rubbish, so that we may begin to build afresh. At our feet is this very question which was carried the other day by a small majority—which I think will be very soon rescinded when we get to the vote, the question of the
simultaneous or consecutive dissolution of the two houses. The hon. and learned member, Mr. Symon, put it this morning that it really did not matter—that it would not prevent a proper measure of public opinion if the dissolution were consecutive. He put it, "Why should not, to-day, the house of representatives appeal to its constituents and put one side of the question, and then, after some months, it may be years, the senate should go to its constituents and put the other side of the question?" The hon. and learned member wished us to believe that the public mind could be tested, the public opinion ascertained, as well in that way as if the two houses went to their constituents together. Why, sir, the thing is absurd. The hon. and learned member is an able advocate, a most clever advocate. I should like to know whether he would be content to deal with any case he might have in court on these lines: would he be content to go before the court to-day with his side of the question, present his case to the court, and obtain what verdict he could, knowing full well that, some months later, the other party to the case, who had not the right to appear in the court when he did, and who had no right to answer his arguments and deal with the other side of the question when he presented his side—that this other party to the cause should come in some months later, when he was unable to present his view of the case-

An Hon. MEMBER:
There is no analogy!

Mr. SYMON:
It is preposterous!

The Hon. F.W. HOLDER:
It is preposterous. My hon. and learned friend has correctly characterised the proposal he made this morning. It is absolutely preposterous.

Mr. SYMON:
The hon. member's proposal, I said!

The Hon. F.W. HOLDER:
The proposal I have put is analogous to the one the hon. and learned member put to us this morning. However, I do not want to do the hon. and learned member any injustice, and I will explain-

The Hon. Sir J.W. DOWNER:
Yes, explain it a little more. I do not understand the hon. member!

The Hon. F.W. HOLDER:
I am not surprised. The hon. and learned member seems utterly unable to understand speeches. While he professes his inability to understand
speeches, yet he criticises them. Well, an hon. member who, without understanding a speech, will criticise it-I think I had better leave that hon. member alone.

The Hon. Sir J.W. DOWNER:
Would the hon. member mind explaining, nevertheless, what he did mean; because I do not think any one understood him?

The Hon. F.W. HOLDER:
I will not begin all over again. It is a little too bad that, for the sake of one hon. member, I should take up the time of the Convention for any lengthened period. But as the hon. and learned member, Mr. Symon, put it this morning, that the public opinion would be gauged just its well by one side of the case being put to-day, without the other, and then the other side of the case being put to-morrow-

Mr. SYMON:
Not without the other!

The Hon. F.W. HOLDER:
Yes, without the other.

Mr. SYMON:
No; the electors would vote!

The Hon. F.W. HOLDER:
The hon. member's whole contention was that if you let both vote together you would have a condition of heated feeling. Was not that the very essence of the hon. and learned member's argument? He said, "Send the two houses to their constituents together, present the two views of the question at the same time, and you have personal feeling aroused, and political feeling aroused." So, in order to avoid these difficulties, he said, "Put the one case to-day, and put the other case in the future." I was showing that that was an utter absurdity, and I claim that the interjection of the hon. and learned member just now fairly described the proposal he made-it is absolutely preposterous.

The Hon. S. FRASER:
Does not the hon. member believe in time for reflection?

The Hon. F.W. HOLDER:
Yes, I do; but I believe in putting both sides of the case, and not hearing one side first and then the other side later on. The plan proposed by the hon. and learned member, Mr. Symon, is one which I am quite sure will not be assented to at the final meeting of this Convention, if it be agreed to tentatively on this occasion. That it has not been finally agreed to on this occasion is clear from the fact that we have the permission of the majority of the Convention to reconsider and rescind the motion. Now I come to the next scheme before us, and that is the proposal to give an-alternative
dissolution-to enable the executive of the day, in place of doing what the
hon. member, Mr. Symon, would permit it to do, to order a simultaneous
dissolution. I ask those who are on the other side of the question to myself
what they think of that? Is it not absolutely certain, will not all those of us
who have had any experience of government believe, that with such an
alternative, the administration would on every occasion dissolve both
houses together? Is it at all likely, is it within the bounds of possibility, that
a ministry, dependent for its existence upon members of the house of
representatives, would send that house and not the other house to the
country at any time? It seems to me that we are simply trying to rescind our
resolution without appearing to rescind it, playing fast and loose with
ourselves in considering any such proposition. If we accepted the proposal
at all, it would be accepted for the appearance of things; and not at all on
its merits. The question of a dual referendum has been debated at such
length that I do not feel justified in going over the arguments again. I can
only sum up the question in these words: It has been admitted by even its
advocates that a dual referendum settles nothing, but leaves the question
where it was at the beginning.

Mr. LYNE:
Worse! The Hon. F.W. HOLDER: If possible in a worse state, because
public feeling will have been inflamed, public excitement will have been
intensified, and the whole difficulty will have become accentuated. I do no
think that those who desire to see a dual referendum themselves believe
that it would be a satisfactory way out of the difficulty with which we are
face to face. The Right Hon. the Premier of South Australia has made a
proposal which appears to be a very proper one, indeed, and the more we
consider it, the better we shall like it. I should like, at the same time, to put
this view before the Convention: The scheme is a somewhat complicated
one, and I do not know if any of us at present are prepared to Pass our final
judgment upon it. The first impression of most of us is favourable; but,
personally, I feel that I should like to reserve my final judgment, especially
upon some of the details, until a few calculations have been made, and
until some consideration has been given to the possible results, of the
working of such a scheme. Is there any necessity to deal finally with the
question now? Is it of any use? We have put aside another question-the
question of finance, a question not more difficult than is this question, not
involving more radically the existence of the federation than does this
scheme, and if we are obliged to put aside that question for further
consideration, would it not be wiser to deal similarly with this question. I
regret exceedingly that we cannot finish our work now. I had hoped when
we came here that we should be able to conclude our work this session, and that we should be able to appeal for the popular verdict upon that work at an early period, but it seems absolutely necessary now that we should consent to an adjournment. When we next meet we shall have not fifty members but ten others, sixty in all. Whatever we do now if we adopt that which seems in the light of our present knowledge and experience, and with the information now before us the most perfect scheme, the question will have to be debated over again in another session.

The Right Hon. Sir G. TURNER:

Surely we are not going to drop all our discussion on the off-chance of Queensland coming in?

The Hon. F.W. HOLDER:

I will allow there is great weight in what the right hon. gentleman says; but, even if we leave that out of consideration—I do not like to do so, because I hope to see Queensland in—but, if we leave her out of consideration for the time-being, we shall all have had time for second thoughts upon the various matters we have been discussing here. Would it not be folly, knowing that we have three or four months to come before we lock the door behind us, to settle anything now definitely and irreversibly?

Mr. LYNE:

We cannot settle the question definitely. We shall have to reopen it!

The Hon. F.W. HOLDER:

I know that nothing we do will be done irreversibly. We are all anxious to make the best use of the very precious hours which remain to us to deal with the various matters before us, and the question is whether it is of any advantage to do anything tonight which would be admittedly and avowedly tentative, inviting public criticism and provoking debate upon the platform and the press, so that when we come together again we may have not only the advantage of our own second thoughts, but also the advantage of the second thoughts and review of very many people outside. I am quite sure that whether we do or do not deliberately wait for that criticism we shall have it, and we might just as well wait for it, and instead of spending more time now, in considering this subject, it does seem to me that the wise course for this Convention to follow will be to determine that, as with the finance question, so with this, we will put in pro forma, to fill the gap, avowedly tentatively, some provision which shows that we mean to deal in some way or other with this question of deadlocks, and that we should wait before finalising what we do until we meet again with the additional wisdom which time and experience will bring us, and we settle it, as we shall have to settle it then,
once and for all.

The Hon. E. BARTON (New South Wales):[9.6]:

I do not think that the proposition of my hon. friend who last spoke would be a wise one for this Convention to adopt. My right hon. friend, the Prime Minister of Victoria, has stayed here at very great inconvenience, under circumstances which loudly call for him in his own colony, in order that he may assist in arriving at some settlement of this question. I believe that the settlement to which we should come on this occasion is one which speaks our honest voice. I do not think that it is right that we should adopt some proposal on the mere ground that it is only a tentative proposal I think that there are dangers surrounding a course of that kind which only used to be stated to convince my hon. friend who has just spoken that it would be unwise to adopt it. When we consider the extreme activity, the extreme animosity, of some of the criticism which the enemies of federation bestow upon every stage, every act, and every word in the furtherance of the project, we cannot be too anxious in seeing that whatever we do at this meeting we should do it up to the time which is limited to us, in the spirit that expresses the opinions that we have - that we put it there, because up to this stage it is the best that we can arrive at. Everybody knows that, if we adjourn, our conclusions at this moment are not final. Those who are friends of this movement will be sufficiently active to explain that where we have decided a question, the very nature of the case deprives that decision of entire finality, if it is a fact that we are at some time to adjourn in order to enable Queensland to join in our deliberations. But it will never do for us to come to a decision on a matter and say "We have only put that into the bill pro forma - we have put that there only in such a form and under such circumstances as deprive you, the public, of the right of criticism." It was intended from the beginning that every stage of our work should be open to public criticism and we cannot get away from the necessity of our work being open to public criticism by simply saying, "This is pro forma," or "That is tentative." We must, within the time limited to us, do whatever we are able to do, and I intend to ask the Convention to sit during all the time that is available to it-to sit up to such a time that the clauses of this bill will, in we way or other, be dealt with, and in the dealing with them hon. members will express that which we up to then consider it is right and just for us to do. We have no right to play with the public. Whatever opinions are held about some of us-as to whether one is a little more democratic or a little more conservative than another-we knew very well that, being elected by the people, our charge is from the people, and that we must
determine our work up to that time at which we have for the time being to separate, in such a way as to show that we are earnest in our work, and doing nothing formal and nothing tentative.

Mr. HIGGINS:

I think that the hon. member, Mr. Holder, has expressed the same views!

The Hon. E. BARTON:

I was going to say that I think my hon. friend is really not separated very much from me in opinion, and that when he used the words "Pro forma" and "tentative" he simply meant that we should exercise the best of our judgment as to those matters with which we can deal in the time which remains to us, and that nevertheless we should allow them to go to the country as up to the time the best provisions that had occurred to us. If the country is in favour of federation-as I believe it is, and I think that when I speak of the country I am entitled to speak of the continent-if the continent is in favour of federation, there need be no fear that the work we do will be understood not to be final, because it cannot be final when we are waiting the advent of Queensland, and it is in its essence not final. But it does not follow that we are entitled to put anything in the bill which is merely a pro forma expression of some view which someone else has expressed, and not the honest view of the majority. I do not wish to make any speech to-night. I think we have had a very full and long discussion on this matter. Let it be recollected that this is the fourth day during which these proposals for deadlocks have been discussed. I think it is time we came to a division. It is always to be recollected that the decision is subject to review, and subject to review on our own part, but it must, nevertheless, be regarded as the decision which animates us upon such information as we have up to the present time, and such argument as has pressed upon and convinced our minds. We have had a number of propositions-in fact the whole question is entangled with propositions-

An Hon. MEMBER:

How many of them are there?

The Hon. E. BARTON:

I am not a good arithmetician.

An Hon. MEMBER:

Five!

The Hon. E. BARTON:

I know that a number of propositions have been put before us, and I think
it would have been better if the suggestion I made this morning that the decision come to on Friday should be rescinded had been adopted, not because it was necessary in passing the vote of rescission that the Convention should express its opinion that everything in the amendment was bad, but because it would have been a good way to open up the ground afresh, and to arrive at some decision which, after all the arguments and opinions expressed, could have had some chance of expressing with that new knowledge our then opinion upon the question at issue. Unfortunately that course has not been followed. What is the position now?

The Hon. Sir J.W. DOWNER:

It is one of entanglement!

The Hon. E. BARTON:

We have carried a proposal for a consecutive dissolution, a proposal which in itself is entirely novel, and which, if I may characterise it, means that where there are two houses resting upon the same suffrage and deriving authority practically from the same people, and if there is a difference between them, because one of them is called a house of representatives and the other the senate, that difference is to remain. The arguments of those who think that there should be a difference between them contradict the position which they set up when they say that the senate is not constituted as an ordinary upper house but as a house to represent the states. If this were a case of mere upper and lower houses, there might be some reason for the arguments advanced that one of them should be dissolved before the other. But being constituted in the way they will be constituted when they are established, both of them springing from the same source and from the same suffrage, and differentiated only in that the members of one represents districts

and the other states; the only difference between them is that they are so constituted that one of them represents the general and national interests and the other, not the local, but the provincial and state interests. That has been the argument of most of our friends who uphold the position of the senate, and I am very strongly influenced by the desire to maintain a strong senate in the commonwealth. But they must not fall away from that argument, and when we seek to apply to two popular houses the remedies—if you like to call them remedies, or the appliances or instruments if you like—which are properly applicable to houses resting on the same basis, they must not go away from that and say, "Oh, we make a difference here, because who ever heard of an upper house being dissolved?" It is not a question of an upper house according to their form of reasoning. Neither is it with me a question of an upper house. I agree with them that it is not an
ordinary upper house. It may have to perform some of the functions of an upper house, because this is a question of bi-cameral legislation. But those functions of an upper house are intrusted to it simply because it has been already called into existence as a house to represent the states, and having that reason for its existence, it is also called upon to exercise the other function of a second chamber. If that were not so, you would have the peculiar anomaly of a constitution involving a third house of legislature.

An Hon. MEMBER:

Is not the continuity of the senate a very material difference?

The Hon. E. BARTON:

Yes; but I was not touching a upon that point. I was saying that unless you have three chambers of legislature you must have a chamber representing the people according to districts, another chamber representing states as states, and that chamber discharging the ordinary functions of an upper house. If you want to make a logical distinction between all these things you will want three chambers; but we have already resolved that we shall only have two chambers. It is for that reason that the functions of an ordinary upper house have been cast into the hands of the senate, which primarily represents the states. Two houses being called into existence in that way, the primary functions of the senate not being those of an upper house, it seems to me that a great deal of the argument is wasted as to the position of an upper house. A great deal of argument which would be tenable and right in order to prevent an upper house from being dissolved or from sharing the same fate as its congener which is based on the same foundation, seems to perish with a statement of that distinction. I was always, therefore, in favour, from the moment this proposal of a double dissolution came forward, of the proposal that there should not be a consecutive dissolution; but if it became a question of taking the whole sense of the country in some such way as would tell the two chambers what the country desired, the dissolution should be a dissolution of both chambers. Now we have arrived at a difference. I have already announced, as far as I am personally concerned, that the proposal made by the Right Hon. Sir George Turner is to my mind a superior proposal to that which the hon. member, Mr. Lyne, has put forward. I have already announced that, although I might see it as an ultimate resort in a state which was not federal, I cannot see in a federal state the justice of applying the general referendum.

Mr. LYNE:

Does not the Right Hon. Sir George Turner's proposal depend upon adhering to the proposal already carried, that of the hon. member, Mr.
Symon?
The Hon. E. BARTON:
I do not know that, because the proposal of the Right Hon. Sir George Turner starts as an alter-
native, But I was going to make an explanation which I think will satisfy my hon. friend. I said that as between the two proposals put forward I have always been of opinion that there should be a resort to the principle underlying constitutional government: the principle of responsibility of members and ministers before resort is made to any such instrument as the referendum. I think I explained that at such length that it is not necessary to state it again, except very briefly, because I thought, and I still think, that a direct application of the referendum is an abandonment of that feeling of responsibility, and because I think that after we have taken all this trouble to convince our neighbours of the small states that you can only govern this federation according to the ways we know as Britishers, that you can only govern according to the principles of responsible government if you once convince them, either by your arguments or by that very potent argument of a vote, that you are going to apply that principle of responsible government; having said that that heritage of ages which we possess as constitutional government, as responsible government, is a thing we must all stick to in this constitution, I have always been of opinion that we are not very consistent, that we are not very true to the arguments we put forward, if, having once enunciated that principle, we turn to an expedient which is calculated to sap and undermine responsible government, and that is the referendum. Well, having felt that, I consider that we have now, in the discussion which has proceeded to such lengths, dropped into a most unfortunate position. I believe we would have done well perhaps, had we agreed to a double dissolution, and I believe we should do more perhaps now, if, as the first step in what we are going to do on this head, we do agree to a double dissolution.

An Hon. MEMBER:

The Hon. E. BARTON:
It is not only possible to do it, but I think perhaps that the common-sense of the country will be satisfied if we agree to a double dissolution without first resorting to the expedient of my hon. friend Mr. Symon's alternative, because I do feel rather strongly that if there is to be this dissolution on account of a deadlock, while you may wire draw and hammer a theory, and wire draw and hammer it again, you still get back to this position, that a
dissolution is the constitutional method of ascertaining the opinions of the people with regard to elected houses; and having once grasped that principle it would seem a curious thing to abandon it with regard to one house, and to maintain it with regard to the other; so that if I had to choose, if we had nothing before us but this question whether we should have a consecutive dissolution or a simultaneous dissolution, I should be in favour of the latter. But we seem to have got beyond that stage. We have a lot of other proposals. My hon. friend, Mr. Lyne, wants to tack on to a consecutive dissolution, against which I voted, a further proposal that there should be a general referendum in case of need; and my right hon. friend, Sir George Turner, wants to tack on to the consecutive dissolution a power for a double dissolution and then for a dual referendum.

The Right Hon. Sir G. TURNER:
I want it in lieu of the other!

The Hon. E. BARTON:
My right hon. friend wants to tack on to a consecutive dissolution an alternative power for a double dissolution and then for a dual referendum in case of need. I omitted the word "alternative."

The Hon. I.A. ISAACS:
Not to tack it on, but to substitute it!

The Hon. E. BARTON:
He wants to add to it. He wants to give that additional power, that the governor shall have two powers in his hands—that is to say, he can either give a consecutive dissolution or he may give in place of that a simultaneous dissolution of both houses, and then in case of need there shall be a dual referendum.

Mr. SYMON:
I understand that, he has given way—that he only wants the dual referendum

The hon. E. BARTON:
I am told by my hon. and learned friend, Mr. Symon, that his understanding is that my right hon. friend, Sir George Turner, is ready to give way about a double dissolution and to tack on the power of the dual referendum only to the consecutive dissolution. I should like to know if that is so?

The Right Hon. Sir G. TURNER:
Not to tack it on; I do not like that word!

The Hon. E. BARTON:
I will use any other form of words my hon. friend prefers.

The Right Hon. Sir G. TURNER:
I am quite willing to accept the double referendum in lieu of the proposal of my hon. friend. It is only the strong arguments of the leader of the Convention that induced me to agree to the double dissolution.

The Hon. E. Barton:

I am very much obliged to my right hon. friend. He, therefore, comes back to his original proposal, that the dual referendum shall be an alternative to a consecutive dissolution. I have already stated that, as far as I am personally concerned, I do not accept a referendum as an alternative to a dissolution, and for this particular reason: that I cannot accept any alternative to the proper responsibility of ministers and members to the country which brought them into their places. It is all very well to tell us that the dissolution does not settle the question in specie—that it does not settle the particular-question, and that the referendum does. That is not necessary to my argument. And the main argument is this: that we have forced, I will say by our arguments, the other states to agree to a form of constitutional government. We are not consistent if we add to the method of constitutional government something which looks very pleasant and very innocuous, but which will be the first instrument resorted to by a minister in order to save the skins and necks of his colleagues and his supporters. We do not want that. I have said already that in the last resort I would support some form of referendum, but I must be tireless in saying that I support any such thing as a last resort, as a proposal which I have to accept in deference to some public opinion with which I do not agree, because I cannot conceive of a man being true to the cause of federation yet saying that he will withstand that demand until he gets exactly what he wants. We can never get federation on those terms. Therefore, much as I am against this principle of the referendum, I will submit to that under certain limitations, and those limitations are these: that the responsibilities of ministers and members must first be recognised. Their responsibility is only to be conserved and accentuated by a dissolution. Now we come to a different set of principles. My hon. friend, Mr. Lyne, accepts that proposal, and he proposes to add on to it a general referendum.

Mr. Lyne:

I should prefer the dissolution of both houses at once!

The Hon. E. Barton:

My hon. friend accepts the proposal with regard to a dissolution whether consecutive or simultaneous, and proposes to add on a general referendum. There I am at issue with him, because I have said already that I think that a general referendum cannot really be a just method of determining a dispute in which the interests of the states are inherently and thoroughly embedded. I hold that opinion still, and whilst I might under certain
circumstances see the justice of the referendum in a
state constituted like New South Wales, or any one of these colonies, which do not rest upon the federal principle, I cannot reconcile my mind to what is called the justness of the proposition, when it is committed to one of the parties to a dispute to settle the dispute with the other party. Then in what position are we left? There is the dual referendum. As I ventured to say in a speech last week my difficulty about the dual referendum is this: that whilst I concede that some of the most important proposals which may emanate from the government in this commonwealth may be called national in their application, from the fact that they apply to every citizen in the nation; yet if they are, such proposals as finance, military matters, the regulation of trade and customs, immigration and emigration, and so on, they are so wrapped up in themselves with matters which are vital to the state that it is impossible to disentangle these things, and the result is that if you try to say, "That matter is a state matter," you are met with the answer, "Yes, but it is also a national matter." You can say on the other hand, as some hon. members say "This is a national matter," but you are met again with the answer, "yes, but it is also a state matter." And it is a state matter in most cases; and I put the illustration as I put it before, that if you wish to make a federal tariff a question whether you are going to leave a surplus over and above the requirements of the commonwealth of £1,500,000 or £4,500,000, that is a question of what the financial policy of every state is to be. I, of course, wait for instruction in the matter; but I cannot conceive the reason or truth of any assertion that that is not a matter in which the very existence of every state as such is involved, and the well-being of the commonwealth is involved. Therefore, if a general referendum is to be resorted to in those matters which belong to the nation apart from provincial entanglements, and the dual referendum is to be resorted to for matters which belong to the people of the provinces, and subject to those entanglements, that will bring us to the conclusion that these matters should be subject to a dual referendum and not the general referendum. But then I fall back upon this, that much as I am in favour of adopting some proposal for the settlement of deadlocks, I find that if we have to resort to a general referendum we refer to one party in the dispute as to a a method which is effective and not just, whilst by the other course we revert to a method which all the representatives of the small states seem to regard as just. But the argument is used that it is not effective; but there is no man who believes that disputes will go to the length of reaching referendums who can come to the conclusion that the dual referendum does not run into some danger of being ineffective-that it may be perfectly just, but that it
may be ineffective. Then, if I may put my position, I should like to place it in this way: I was perfectly prepared to adopt the double dissolution. I was not prepared to adopt a consecutive dissolution. I was prepared to adopt some method of dissolution which would be at the same time effective and just. I have not been able to find a combination of justice and effectiveness in the general referendum. I have not been able to find a combination of justice and effectiveness in the dual referendum, because where one preponderates in favour of justice it is ineffective, and where the other preponderates in favour of effectiveness it is unjust. Therefore, if we can find a means for the solution of difficulties which avoids the referendum I, for one, so long as it is a means which conserves the ordinary principles of responsibility, and is a fair means for the settlement of disputes between a free people, am willing to welcome a proposal at least to that end. I think that is where we are now.

Mr. LYNE:

Then what will we do?

The Hon. E. BARTON:

My hon. friend asks me what then we shall do. The first thing we ought not to do is to admit my hon. friend's proposition. We find ourselves then in this position: that we are all in favour of some solution of deadlocks.

The Hon. Sir W.A. ZEAL:

I am not!

The Hon. E. BARTON:

I beg my hon. friend's pardon. I quite omitted him; more than that, I was very unfair. When I said we were all in favour of it I meant that we had carried a vote by 30 to 15. I did not mean to disparage the 15 in any way.

The Hon. Sir W.A. ZEAL:

I have satisfied myself since that a number of the fifteen are dissatisfied!

The Hon. E. BARTON:

I think there are a number of us who are dissatisfied about nearly all the propositions which come before us, and that is the natural result of trying to tinker up a constitution with artificial and paper experiments. But I have never faltered in saying this: that I consider this constitution as it stands, would have been sufficient without any of these experiments. But if public opinion demands the adoption of some experiment, let us try to arrive at one which will combine effectiveness with justice. A proposal has been brought forward that if a deadlock exists, and is not solved by a dissolution—and I should prefer that proposal to saying that if a deadlock exists, and is not solved by a double dissolution—then the two houses shall sit and vote together, and by a majority of two-thirds or three-fifths,
whichever it is to be, that majority can carry a bill.

An Hon. MEMBER:

Two-thirds would be better than three-fifths!

The Hon. E. BARTON:

I am not quite sure about that, because after all, if we once think of a proposition of this kind, we are debating then about what is the proper majority to secure the reasonable independence of the house of representatives on the one hand, and of the senate on the other; and I was inclined to think that a majority of three-fifths would be sufficient to show that. That would mean, in two conjoined houses of 112 members, 67 3/5, and, as you cannot cut a man into five pieces and take three, it would mean 68. Are we continually, as I put it a little while ago, to wire-draw and hammer, and hammer and wire-draw again, about the ultimate effect of constitutional propositions? Are we not to try to adopt something which will be the most convenient, the least expensive, the most effective, and the least unjust of the proposals we can get adopted for making a constitution workable? When I say making a constitution workable I mean this: this constitution would be entirely workable without any of these proposals. But when I say workable, in the second sense of the word, I mean workable according to the beliefs and ideas of the people; and I believe that the people of the states, and the people of the commonwealth that is to be, would welcome any solution of the difficulty which did not necessarily lead to an accumulation of that terrible process of voting which some of our politicians here so much deprecate. I heard a gentleman in one of the houses of our legislature say that under this federal constitution a man would never be done voting—that a man would not be able to swallow his breakfast before he would have to go to a municipal election to cast his vote, and before he got to his lunch he would probably have cast his vote in a provincial election, a local government election, and a federal election, and then somebody might say to him, "Come along here, you have not finished yet; come and vote at a referendum." Is it not rather a serious thing to contemplate, that we are multiplying these occasions of voting, that we are asking our people to vote, vote, vote about this and that, until they will become so tired of voting that they will say, "A plague o' both your houses?" If, then, we can arrive at a reasonable solution of this difficulty, which may not be according to the theories of economists and philosophers, but which may give its proper weight to the decisions of the two houses in such a way that it will be an ultimate solution, which in the
majority of cases will not cause an irritation in the state or jar and confusion in the commonwealth; if we can do that, without necessarily rushing out into the country and making speeches in favour of the adoption of some proposal as to a dissolution or a referendum, my belief is that our fellow countrymen will not be angry with us but will thank us. I said a little while ago that I was not bound down at this stage of our proceedings absolutely to the adoption of any proposal; but I cannot help thinking that there is a great deal of good sense in the suggestion made by the Prime Minister of this colony. I should prefer myself that the proposal for the two houses to sit together should follow a dissolution of both houses, so that the one house should not have it in its power to penalise the other, and that whatever good was to be got out of a general election should, at the same expense to the country, be got out of both houses as well as out of one.

Mr. HIGGINS:
That is what Mr. Carruthers wants!

The Hon. E. BARTON:
Yes, I understand so. I say I prefer that. But I think we shall be unwise if we go with our political guns trying to shoot every political hare of theory that we can possibly find in the country. We are not here for the purpose of devoting ourselves to dissolutions or referendums or anything else. We are here for the purpose of making a machine which will be the vehicle of the intentions, and the will of the people of the country; and if we succeed in any way in applying some method which, in the case of a difference between the two houses, will lead to a settlement of that difference without inordinate expense and without inordinate delay, then, after all, does it not seem a good thing that we should make an effort to apply that instrument instead of running hair-brained into our theories? My belief is that there is a great deal to be said in favour of the proposal that there should be a sitting together of the two houses. I have postponed saying what I am about to say until this moment. I think it will be remembered that, in discussing this proposal about deadlocks at Adelaide, I said if you were going to plaster something on to your engine to be called a safety-valve - and I do not think there is much of the safety-valve in any of these things - then the best thing you could do was to put on to it the least ostentatious and least expensive thing. I am not in favour of, nor do I care about, the enormous expense of a lot of dissolutions and referendums, knowing as I do that the federal election must have cost the five colonies between them something like £40,000 or £50,000, or at any rate £30,000. I am not in favour of expedients of this kind unless I see that the actual necessities of the people, the preservation of their liberties, require such things, in which case I should think no expense too much, unless I saw that there was some other
means of conserving the liberties of the people without unduly saddling and burdening them. I think we may avoid the undue saddling and burdening of the people by adopting the suggestion of the right hon. the Premier of New South Wales. Every one knows that the hon. gentleman and myself do not camp in the same place politically. Every one knows that we have been very much at loggerheads in provincial politics; but I think the hon. member will give Mr. Reid and myself credit for this, that we are anxious to adopt some reasonable method of getting out of this difficulty without much expense, and, at the same time, preserving every attribute of liberty to the people. To this end we ought to leave off hair-splitting, and take to what is in accordance with commonsense and reason. Now, I do put it to this Convention, that while as between the proposition of the right hon. the Premier of Victoria and the proposition of Mr. Lyne, I must vote with the right hon. the Premier of Victoria, since these two proposals were put before the Convention, we have had brought forward another proposal which is eminently deserving of the consideration of every man among us who favours the preservation of the popular liberties, and their salvation from undue, unnecessary, and burdensome expense.

The Hon. I.A. ISAACS:

It will necessarily mean that the ratio between the two houses will be preserved!

The Hon. E. BARTON:

The hon. and learned member is right there. I suppose that the less populous states will be disinclined to support this proposal unless they found there was to be some reasonable proportion maintained between the number of members in the senate and the number of members in the house of representatives. Upon that supposition, which I ought in fairness to make, I can quite see the objection urged by my hon. friends on the other side from Victoria to the quota; yet, having considered and weighed them, I have not been able to come to the conclusion that Victoria will, any more than will any other colony, suffer from the application of the quota principle, nor do I see any inherent injustice in maintaining the ratio of one house at the low ratio of one-half of the other. The only argument that has been urged with any consequence and effect against it is that in some places, such as the United States, there has been a steady and regular number of the members of the senate—that that house, has not been increased, although the number of the house of representatives has been increased; but I find that that argument comes from a number of gentlemen who have frequently told us that we ought not to rely upon the example of
the United States or of any other federation. That does seem to me to be an application of a maxim with which we are acquainted in law, "The argument from inconvenience matters much." When gentlemen who have told me that we ought not to apply certain theories and practices in our constitution, because if we do so we shall be copying them from some other constitution, turn round and tell us that we ought to apply certain arguments and theories at this stage because we shall be copying them from another constitution, I do not see any consistency in their position. In reply to the interjection of the hon. and learned gentleman, I must say that I have not yet seen the injury to his colony—the injury to any colony—that will follow from the application of the quota system, and I do not believe that the maintaining of a certain proportion between the two houses will do anything which will take away from the prestige, the influence, or the command of the house of representatives which, though I believe that there will be a strong senate, I believe will be a stronger house than the senate. I do not wish to detain the Committee any longer, I only thought it was right that I should make this explanation in regard to my own views, because, as between the two amendments, I wish to restate that I prefer that of my right hon. friend Sir George Turner, to that of my hon. friend, Mr. Lyne; but, since the now amendment has been suggested, which has been spoken by the right hon. member, Mr. Reid, and the hon. member, Mr. Carruthers, I cannot help thinking that both those amendments throw a great deal of added light on the situation, and it may be that it would be a wise thing if the Convention were to adopt some proposal such as that, and avoid all the difficulties, all the dangers, not to the provinces, but to the commonwealth itself that is to be—all the dangers that would arise from the constant practice of making fresh occasions for votes, and the great expense that would accompany that—and I think that, on the whole, I shall think it my duty to vote with my right hon. friend, Sir George Turner, as I announced I would, against the proposal of the hon. member, Mr. Lyne; but I will still hold myself free in relation to the amendment suggested by my right hon. friend, Mr. Reid.

The Right Hon. C.C. KINGSTON:

What does the hon. and learned gentleman propose to do as regards the provision that has already been carried—a successive dissolution?

Mr. SYMON:

The proposal of the right hon. member, Mr. Reid, could follow upon that!

The Hon. E. BARTON:

The proposal of my right hon. friend, Mr. Reid, could follow upon that; but I am not going to conceal my opinion—I think I have expressed it earlier.
in the remarks that I have made—that I do not think that a proposition like that, standing in the way it does, is one that it would be advisable to adopt; but that a proposal providing for a dissolution of one or both houses, if followed by the proposal that my right hon. friend, Mr. Reid, has made, would be deprived of a great many of its objections, and I would take that rather than I would take nothing—I would add it on to the proposal of my hon. and learned friend, Mr. Symon, rather than I would take nothing. But the more—I put it in this way—you conform yourselves to the ordinary methods in British constitutions of settling disputes by way of dissolution, and the less you complicate all your proposals by unnecessary dissolutions, referendums, votes, or anything else—the simpler and shorter you make your business in this regard—then the more I shall be likely to support the proposition.

The CHAIRMAN:

Before I put the question I think I should intimate to the Committee that inasmuch as we have now discussed this question for four days, the time for general discussion will pass when this amendment is disposed of, and I shall ask hon. members afterwards to confine themselves to the particular amendment under discussion. I will first of all—

Mr. GLYNN (South Australia)[9.49]:

Before you put the amendment, sir, I should like to address a few words to the Committee. As the division that is likely to be taken is a critical one, I ask the attention of hon. members for a few minutes whilst I try and support some of the arguments advanced in favour of the position that I intend to assume on this occasion. We have several methods proposed for the settlement of deadlocks. We have also had the suggestion made that whether any such provisions are or are not adopted, the ship of state will not be in danger. I stand by the position which I originally took up that if, in this constitution, no provision be made for deadlocks very little harm will result. I agree with the hon. and learned member, Mr. Deakin, in the remarks which he made at the beginning of the debate today, that in dealing with this question we have laid rather too much stress upon the necessity of making these provisions, and we are raising in the public mind a fear that, if a particular method of solving these difficulties is not adopted, the federation, from the point of view of one state or of another, will become a dangerous experiment. I do not share these feelings, because I think that we have been dealing with exceedingly remote possibilities, and not with probabilities, of difficulty. But we have to face the fact that there is prejudice in regard to the
establishment of a provision against deadlocks, and that I desire to respect it is the apology which I offer for departing from opinions which I would otherwise stick to tenaciously. I say this because I do not believe in a referendum of any kind. I think that as a matter of general policy it is very strongly to be condemned. It would be a mistake under consolidation, and therefore in accepting it, or rejecting it, my idea is to assist the federal cause. I do not accept it because I think it would be in all respects efficacious, or that it is the remedy required. Hon. members who suggest the referendum to cure these imaginary disorders have not the courage of their convictions, because not a single exercise of the referendum which affirms the desirability of a particular law will make that proposed law legislation. We have had suggestions for a referendum from New South Wales and from Victoria; but, with the exception of the solution suggested by the hon. member, Mr. Carruthers, there has not been one proposal which would be final in its operation.

The Hon. I.A. Isaacs:

The suggestion of the hon. member, Mr. Carruthers, is not necessarily final!

Mr. Lyne:

It is not final in the way the hon. member proposed it!

Mr. Glynn:

I understood that the hon. member, Mr. Carruthers, proposes that if, after the dissolution, two-thirds of the joint houses decide upon a certain course, that course will become law, upon being recommended on address to the governor. If that is so, it is final. If it is not, we are continuing this academic discussion to absolutely no purpose, and the result will lead to harm. By making provisions for deadlocks which are not final, you will be keeping up ferment and turmoil in the state. There are two methods of solving these difficulties, either of which I shall be prepared, if obliged to do so, to adopt. I believe that the suggestion of the hon. member, Mr. Carruthers, is one which the Convention, consistently with what ought to be conserved by the representatives of the smaller and of the larger states, might affirm, of course, upon the understanding that the numerical proportion of representation will be preserved. It has been objected by the hon. and learned member, Mr. Isaacs, that this principle, as applied to constitutional amendment in France, has been condemned by Mr. Burgess, and according to his testimony has broken down. I would like to show by two instances only, how it has really operated in France. I believe that, in the French Constitution, it is provided that if the senate, by an absolute majority, decides that a constitutional revision is to take place, and the Chamber of Deputies, by a similar majority does the same, the two must
come together and form the National Assembly, and the revision is made upon the voting of an absolute majority of that body. Hon. members are told, in effect, that if we amalgamate the two houses here, we shall have the numerical disparity which exists between them individually existing under the amalgamation. But what are the facts in France? The figures which I will give to hon. members on the point are striking. In 1884, about seven or eight years after the adoption of the constitution, in one of the most crucial divisions in the National Assembly, the point which had to be decided was one that vitally affected the strength of the Senate. If we find the voting going on as it would under consolidation, it is a very strong argument in favour of the amendment of the hon. member, Mr. Carruthers, because it will show that the members of the two houses vote, not according to their respective numbers—I think the proportion between the Senate and the Chamber of Deputies in France is three to five—but largely according to their personal views of the subject under consideration.

The Hon. I.A. ISAACS:

They do not vote as representing separate states!

Mr. GLYNN:

No, but at the same time they represent constituencies infinitely stronger in prejudice; they represent classes. Besides it is a case of one house against the other. In a federation you find state divided on matters of consolidation and not on state interests. In a division taken in 1875, the voting was 526 against 249, and in 1884, in a division in the National Assembly as the result, of a prolonged agitation upon the point in dispute, the division was 509 against 172. I, therefore

The Right Hon. Sir JOHN FORREST:

I was not laughing at that. I did not hear it!

Mr. GLYNN:

Whatever may be the cause of the hon. member's cachinnation I know that he has strong opinions as to state rights which might lead him to suspect a proposal from a large state. I would ask the representatives of the small states what more could they ask than this proposal made by the Victorian representatives, that is, that even after the mandate of the people is given by the referendum it is not to be final even as regards the action of the senate? Even after the referendum they say, "we will leave you in the position in which you were originally, trusting that the voice of the states and of the people will ultimately lead to a moderation of the views of the senate, and that the legislation desired will be passed." I exceedingly regret that my friends did not at the very beginning accept the olive branch that
was offered by Victoria. If it had been accepted it would have saved us a
great deal of trouble. Then we have the suggestion made by the Right Hon.
C.C. Kingston; but an objection which is exceedingly strong against that is
this: that for the sake of getting a referendum upon a state question you
make provision for a referendum in all unitarian matters. That is to take
place simply because you are, driven to the necessity of making a
referendum on a state or federal question.

Mr. SYMON:

Mr. GLYNN:

Certainly, after the double dissolution. But on a matter of abstract policy
which is applicable to a federation, the hon. member says you must
introduce the general referendum, because there is a necessity for
introducing the referendum to settle the clashing of interests between state
and state, I object to it, because I think that the referendum as a matter of
policy ought not to be adopted. The principal matter we have
to discuss, and the one upon which all the argument really has turned, has
been what is suggested by my hon. and learned friend, Mr. Symon. As a
matter of fairness to the large states, I cannot see how the representatives
of the smaller states should support that. It certainly destroys the power of
initiation in the lower house.

The Hon. N.J. BROWN:

How can that be?

Mr. GLYNN:

Undoubtedly, it does that.

Several Hon. MEMBERS: No!

Mr. GLYNN:

If the lower house is to be dissolved on a matter of legislation which is
blocked by the upper house, and you have to wait for six months and again
dissolve that house, the house of representatives never will introduce very
radical measures, because they will know that it will, or fear that it may,
mean the extinction of some of their number. The suggestion of my hon.
and learned friend, Mr. Symon, is first dissolve the house of
representatives, wait for a time, and then dissolve the two houses. To do
that would be absolutely to impose a penalty on the introduction of radical
legislation. The distinction here will be between the senate as the
conservative house and the house of representatives as the radical house,
and I think hon. members should bear that in mind in considering what the
are likely to do on this question.
Mr. GLYNN:

It maybe the present practice in all the states; but the position is altogether different in a unitarian system, because there is not the same apology for the action of the Legislative Council as there will be for the action of the states house; its full strength is embedded in the constitution itself, and the position is altogether different. I will not detain the Committee any longer. I trust, whatever decision is arrived at, it will be one that will lead to moderation and temperance on the part of hon. members. I believe we have reached a very critical stage in our deliberations, a moment which really will test the mettle of which men are made, which will make a very large draft on the temperance and judgment of the members of the Convention, and I hope that in our voting our patriotism will be shown to have risen to the level of the emergency.

Mr. LYNE (New South Wales)[10.3]:

Before I say a few words

The Hon. Sir W.A. ZEAL:

Mr. LYNE:

I will be just as long as I like. The hon. member cannot "sit" on me as he "sits" on the members of the Legislative Council of Victoria. I have remained here very quiet all day, and I should not have risen to say a word now had it not been for the speech of the hon. and learned member, Mr. Barton. After he decided, first one thing, and then another thing, and then nothing at all, I think it is about time for me to say something. I desire, first, to know in what position we are regarding the proposal before the Committee. I understand that the actual question before the Committee is the omission of the word "if." That is the first word of the amendment I moved in connection with the mass referendum. What I want to know particularly is whether, in voting on that question, it is intended to be a vote for or against the mass referendum? I am prepared to submit to the will of the majority of this Convention; but I am determined, if possible, to have a straight out vote on the question of a mass referendum or no mass referendum.

An Hon. MEMBER:

Mr. LYNE:

I will tell the hon. member the reason why I am determined to have a straight out vote on this question. It is that I will use it hereafter. I would be
much obliged to you, sir, if you could, tell me at the present stage whether it is to be understood that in voting on the question to omit the word "if," it is to be it vote for or against a general or national referendum, or whether, in view of that word being expunged, the amendment of the Right Hon. Sir George Turner, then comes in, and is voted upon; and if the word "if" is rejected, the amendment that I have given notice of will be voted upon?

The CHAIRMAN:

I think that a test vote will have to be taken upon the word "if," because if the word is struck out, and if the amendment of the right hon. member is amended by the hon. and learned member Mr. Wise's amendment to insert certain words, they would be inconsistent with the remainder of the clause as proposed by the hon. member, Mr. Lyne.

The Right Hon. Sir G. TURNER:

The last words of the amendment are "as hereafter mentioned." It seems to me that it is quite competent to submit a proposal for a dual referendum on which an amendment might be moved for a mass referendum, or it is quite competent to submit a proposal for a mass referendum on which an amendment can be moved for a dual referendum. Then we shall get a straight out vote.

The CHAIRMAN:

Of course it is a question for the Committee to decide, not for me, as to whether it will take a test vote upon any particular word. All I want to point out is that if certain words are struck out, and certain other words inserted-and I cannot know what words will be inserted, I do not know what will be proposed, and we have already six or seven amendments-if words inconsistent with the mass referendum are inserted, a question with regard to the mass referendum cannot be put.

Mr. LYNE:

Then I wish to point out that I may be left in this position: that I may get no straight out vote on the motion of which I have given notice.

The CHAIRMAN:

It all depends upon the words that are inserted in lieu of the word "if."

Mr. LYNE:

I shall not consider that I have been treated fairly if I do not get a vote. All I ask is that I may be allowed to get an opportunity for a straight-out vote on my amendment.
Mr. WISE:
The hon. member will get it!

Mr. LYNE:
I quite understand that, as the Chairman said, if the word "if" is knocked out, and the words proposed by the Right Hon. Sir George Turner are put in, and the words proposed by the hon. and learned member, Mr. Wise, come after them, they will be inconsistent with my amendment, which cannot then be put.

Mr. WISE:
That is not so. If they are all carried, it will still be open to the hon. member to move his amendment!

The CHAIRMAN:
The hon. member can move his amendment on Mr. Wise's amendment.

Mr. WISE:
I should like to ask if the word "if" is omitted and a blank is created, and then there is a proposal by Sir George Turner to fill up the blank, and if my amendment is rejected, and Sir George Turner's is carried, whether it will not be still open to the hon. member, Mr. Lyne, to deal with the question of the referendum as a distinct question?

The CHAIRMAN:
That is so; but other hon. members may move other amendments. Mr. SYMON: I might suggest that it would be better if the Right Hon. Sir George Turner would withdraw his amendment to strike out the word "if," and allow the hon. member, Mr. Lyne, to take a straight-out vote.

Hon. MEMBERS:
No!

The Right Hon. Sir G. TURNER:
The hon. member, Mr. Lyne, might withdraw his amendment for the present.

Mr. LYNE:
No!

Mr. SYMON:
I do not suggest that with, a view to bringing about the result that my hon. friend, Mr. Peacock, is alarmed at. Either what I have suggested should be done, or else the hon. member, Mr. Lyne, should withdraw his amendment,
Turner's amendment, it will be competent to move an amendment in favour of either a mass referendum or a dual referendum.

Mr. LYNE:
I am afraid that we are no nearer to an answer to the question which I put.

The CHAIRMAN:
The only answer that I can give is this: that the hon. member's amendment will be put, unless in lieu of the word "if," if it is struck out, some words are inserted inconsistent with his amendment.

The Right Hon. C.C. KINGSTON:
I desire to point out that really the amendment of my hon. friend, Mr. Lyne, will not follow in its proper place if put now, because it provides for what is to happen after a dissolution of both houses of the federal parliament. No such dissolution is yet provided for.

Mr. LYNE:
Yes!

The Right Hon. C.C. KINGSTON:
Of both houses.

Mr. LYNE:
Yes.

The CHAIRMAN:
I would point out that the amendment of the hon. member, Mr. Symon, dealing with the dissolution of both houses has been carried. The proposal of the hon. member, Mr. Lyne, is to add words to that amendment.

The Hon. I.A. ISAACS:
I should like to say that I hope the question will be put so that we may first have a vote on the question of a double dissolution. Then we may have a vote on the question of the dual referendum.

Mr. LYNE:
No thank you!

The Hon. I.A. ISAACS:
And in case that is lost we may have an opportunity of voting straight out on the question of a national referendum. We have taken up the position all through that we wish loyally to abide by the question of equal representation. We do not want to be forced into the position of having to go to the national referendum which will mean a reconsideration of the whole position of equal representation. But we do want, in case our proposals are rejected, to be perfectly free to consider the question of the national referendum.
Mr. LYNE (New South Wales)[10.12]:

The hon. member, Mr. Isaacs, has just put the position as I do not want it put, and I am not going to allow it to be put in that way if my amendment will prevent it. When I gave notice of my amendment, I said that the reason I gave notice of it then was because, if we did not take a vote on the national referendum first, I should be precluded from voting for any of the other provisions. I look upon the national referendum as coming first, and I shall vote against every other provision until I get an opportunity of voting for it. If the proposals come in the manner suggested by the hon. gentleman, I shall be precluded from voting for the amendment of the Premier of Victoria, for the amendment of the hon. member, Mr. Carruthers, for the amendment of the Premier of South Australia, and for other amendments, until I come to my own. I think there are a number of others who are in exactly the same position. I should like to meet the leader of the Convention in every possible way; but at this particular time I do not want anything to be carried if I can avoid it. I recognise that the chances are that I shall be beaten; but I recognise also that I am not going to be placed in the position, if I can avoid it, of having to vote against every other proposal, because I affirm that the proposal I have made is the one in which the people of the colonies believe. Therefore, I have no right to vote, nor would a number of other hon. members have a right to be called upon to vote, for other propositions which may exclude a vote on the national referendum.

The Hon. A. DEAKIN:

They cannot exclude it!

Mr. LYNE:

Yes. Supposing the amendment of the hon. member, Mr. Carruthers, which seems to be in favour at the present time, is carried, what becomes of mine?

The Hon. A. DEAKIN:

The hon. member can move it in addition!

Mr. LYNE:

No, I cannot, because it is antagonistic.

An Hon. MEMBER:

No, it is not!

The Hon. E. BARTON:

Cannot the hon. member, if we fail on the two-thirds or three-fifths majority, move later on there shall be a national referendum?
Mr. LYNE:

I might go on filtering for years before I got to that. I shall have to be in parliament as long as the hon. member, Mr. Douglas, has been, in order to get a referendum. I want, if I possibly can, to take a decisive vote on the word "if." That is the, proper position. It is unfair to me, having offered the first amendment, that I should be precluded from having a vote on that amendment by other words being brought in which puts it on one side and prevents any definite decision being arrived at. Depend upon it the people of this community, are watching us at the present moment with very great interest, and watching the politicians very keenly on this particular point, and I do, not wish any shirking: of it I have not shirked the question from the time, we entered the Convention at Adelaide. I have taken up a certain, position from that time until the present, I have never varied in my mind or in my expressions one iota from the position I took up then. I do not desire at this last moment to be foisted out of that: position by amendments brought in by other gentlemen after the amendment of which I gave notice. I ask you to rule, sir, that those who vote for the exclusion of the word. "if" vote against the national referendum.

Hon. MEMBERS:

No!

Mr. LYNE:

That is the proper course to take. I hope I will not be forced into an unfair and unjustifiable position, and be obliged to wait until you have got half a dozen proposals, or, at any rate, one or two, which will take the sting, or take the virtue, out of the proposal I am making at the present time, so that it will fall flat upon hon. members, who will be able to turn round and say to their constituents and others, "We could not vote for the proposal for a national referendum, because we had got something in the constitution before it." I shall be as brief as possible in the few remarks I am going to make. In the first instance, it seems to me that we commenced this Convention on a wrong basis. For this we have only our own parliaments to blame. In the initiation of the Convention we should not, by allowing ten representatives to each colony, have gone to that extent in equal representation of the states. Were it not that the present time we have in the Convention ten representatives from each of the smaller colonies, and only the same number from each of the larger colonies, we should not have been brought to the position in which we find ourselves at the present moment.

An Hon. MEMBER:

We should not have been here!
Mr. LYNE:

Yes, we should have been here. I regret exceedingly that some of the members of the larger colonies gave way, and offered and held out to the smaller colonies what was not asked for in the first instance. We should not have been placed in the position we find ourselves in to-night, had it not been that a great deal was offered to the smaller colonies before it was ever asked for. Had not an undue proportion of representatives from a minority of the people, but from a majority of the small states, been here in this Convention, we should have had men proportionate representation in the first instance, and we should have been in a position now to have dealt with this question without undue-

[p.919] starts here

heat, and without disproportionate votes. What chance has a colony like the one I represent, when she is surrounded on three sides with thirty votes to ten, in framing a constitution which should be equitable to that colony, which is twice as large in population as the other three colonies put together?

An Hon. MEMBER:

No!

Mr. LYNE:

Yes, twice as large, and even larger. I am coming back to first principles in this question. Hon. members who know they have that majority here can afford to laugh at what I am saying now; but the people of this colony cannot afford to laugh. The people of this community have to look forward to what may take place in the federation if the Commonwealth Bill should ever become law. What have we seen since last Friday, since that vote was taken last Friday, in reference to which vote my right hon. friend, Sir George Turner, said that it was a combination of small states against the larger ones?

An Hon. MEMBER:

He has withdrawn it!

Mr. LYNE:

That is in his mind now, and I was glad to hear him saying what he did. I say it now. The hon. member said in effect that there was practically a combination of the smaller states against the larger states. That was to all intents and purposes correct. Now it is proposed to take the unusual course of asking hon. members, like the right hon. the Premier of Western Australia, to come down within forty-eight hours after giving a vote for Mr. Symon's amendment, to rescind their vote. This is done for what
reason? It is done for the purpose of inducing New South Wales to enter a federation; but if a vote of this kind took place in such a federation I should like to know whether there would be such a proposal made as that which is now before us? When New South Wales had the rope round her neck, when Victoria had the rope round her neck, should we have a proposition within forty-eight hours to rescind a vote founded upon a combination of small states against large states? We have had a lesson dealt out to us in this respect, and I feel that I am called upon to express my views in no unmeasured terms. I did express my view of another proposition in no unmeasured terms in South Australia. And I say now that if those hon. members who voted for equal state rights in South Australia had commenced at the foundation of the trouble, and had not allowed the matter to go over until the present stage of our proceedings, we should have a more equitable, a more just, and better proposition submitted in this Convention in the shape of proportional state representation with a minimum, and, if you like, with a maximum, than you have in the proposal for a referendum. I feel that the trouble to which we are brought at the present time is, to a large extent, due to the interim proposal of my right hon. friend, Sir George Turner, a proposal which, to my mind, is worse than no referendum at all; it mixes the whole thing up from the start, and I was more than surprised to find the representatives of the sister colony of Victoria coming down with a proposal for a dual referendum which is to be applied only after it is impossible to arrive at a decision between the house of representatives and the senate, between the people's house and the states' house. What do you propose by means of a dual referendum to do? To refer the question, whatever it may be, to the states, to return, probably, the same men with the same opinions, if it be truly a state question, to come back doubly supported and emphasised in the position they took up against the representatives of the people in the first instance, not reducing or getting away from your deadlock at all, but emphasising it and making the possibilities of serious trouble greater than they were in the first instance.

The Hon. I.A. ISAACS:

But the referendum does not return men at all!

Mr. LYNE:

The hon. and learned member is trying to catch me.

The Hon. I.A. ISAACS:

No!

Mr. LYNE:

Yes, he is. He knows what I mean perfectly well. The hon. and learned
member knows perfectly well that his proposal and the proposal of the other representatives of Victoria was for a dissolution, and that the dissolution of the senate was to send those people back, and when those people returned again, then the referendum was to come as a referendum to states which would support those people as they were returned on the dissolution of the two houses. The hon. and learned member knew perfectly well that that was what I meant, and every word what I have said applies in that case, and it emphasised the trouble which would, in the first instance, be created by the differences between the states of the people and the country. Hon. members can bring forward as many proposals as they like; they cannot get away from the one bedrock of the people of the country; that is the one bedrock from which they cannot get away. There are five proposals before us at the present time. We have the proposal which I have made for a national referendum, which is the voice of the people, and, by the way, let me say again, even with the fear of repeating what I said the other night, that the referendum I do not prefer, and I was only forced into that position by the vote the other afternoon which provided for a dissolution of the house of representatives, and, I think, afterwards a dissolution of the senate, but not a simultaneous dissolution. I was then compelled to take some further course, as far as I could then see my way, the only course, and as far as I can see my way now, the only course, to try and arrive at an absolute solution of any difficulty that might arise; but wh

The Hon. E. BARTON:

I did not say that!

Mr. LYNE:

The hon. and learned gentleman took exception to the word "tentative"; but he says that it is a proposition which we have to reopen and rediscuss again in the future; and, with Queensland coming into this Convention, I take it that there is not one provision, that there is not one clause, with which we have dealt during our meeting at Adelaide and during our meeting here, which we

will not have to rediscuss over and over again; and that being so, I think the words that fell from the hon. member, Mr. Holder, are particularly applicable at the present time-that it would be wise to wait and see how far we can harmonise our views before we are forced into the position of voting on this question. We have five proposals submitted to us. We have the proposition of the hon. member, Mr. Carruthers, which, as submitted in print, means, first of all, a certain filtering process, but that the groundwork of everything is to be a national referendum. Now I understand that the
hon. gentleman is proposing to strike out the provision for a national referendum—and we shall then have only a vote by a two-thirds' majority of the houses sitting together. I do not say that probably it is not one of the best proposals, if not the best proposal, that has been made; but I have had placed in my hand within the last few minutes a proposition by the right hon. member, Mr. Kingston, wherein he makes another proposal which, if it can be worked out on the figures, I think is also a good proposal. We are now called upon to vote upon these propositions at a moment's notice. I mention this to show that we are being called upon to vote upon questions about which we should have had some time to deliberate.

The Hon. E. BARTON:

Has not the hon. member already had four days?

Mr. LYNE:

No; I have had only four minutes to consider the last proposal, and I have had only two hours to consider the proposal of the hon. member, Mr. Carruthers. I think it would be very much better, if, instead of giving a vote upon the question now, we fairly and fully considered it. This is an all-important matter to the whole of Australasia. It is an easy thing for any of the states to join in the federation; but it will be impossible for them to withdraw if they find that they are not bound together upon the principles and lines upon which they desire to be bound together. Let me adduce one argument to show that public opinion is travelling fast. In 1891, the ideas which have been put before this Convention would have been flouted. Though an important proposition was then proposed by the hon. member, Mr. Deakin, it was, practically, not considered by the Convention of 1891. At Adelaide, the proposals now made were put on one side. Since then we have had the criticism of the press and of the public upon these proposals, indefinite as they were when before us in Adelaide. We find them being treated very differently by the Convention now. What are we to expect when minds and principles are travelling so rapidly? What are we to expect to find when we meet in Tasmania or Victoria, or one of the other colonies three or four months' hence? I think that we shall have the concurrence of Queensland, and that if we cannot get proportional representation in the senate, the national referendum will be accepted.

Mr. WALKER:

Queensland wants equal representation!

Mr. LYNE:

The hon. member does not live in Queensland, and I presume that he does not know much more than I know about what Queensland wants. It will depend entirely upon the manner in which the elections there are conducted as to what will be desired by the representatives of Queensland.
If the elections are conducted as they were conducted in New South Wales and Victoria, the whole colony being treated as one electorate, we shall have a set of men sent here favouring proportional representation in the senate; but if Queensland is split up into various electorates, we will have men sent here who will support the principle of equal state rights. I wish to emphasise the opinion that it would be wise and proper for the Convention to wait until we are joined by Queensland, instead of rushing this matter to a vote nearly in the middle of the night. The whole question has been debated during the last three or four days, but we have not had the particular proposals to which I have referred before us. It seems to me that a great deal of the trouble has been caused by the vacillation of the representatives of Victoria, who have not stood straight upon the principal of the referendum. If they had stood fast we should have had a different state of things. All I can say, is that I wish to emphasise my statement that we must and should be compelled when Queensland comes in to reconsider the whole of these principles. Therefore the vote which is to be given now is an absolutely false vote that will not stand when we re-assemble. Therefore we should not be called upon to give that false vote; but, of course, all I can do is to protest against the action now being taken. When an opportunity comes, as far as I am personally concerned, I will not swerve from the course I have adopted. Whenever the opportunity offers to submit to the people or the Convention the principle of proportional representation, I shall do my best to carry out what I advocated in the first instance.

The CHAIRMAN:

I will put first the proposition in the ordinary technical parliamentary language—that is, that the word "if" proposed to be left out in the proposed addition to the words inserted in the proposed paragraph of the proposed new clause stand part of the proposed addition to the proposed new paragraph-

The Right Hon. G.H. REID:

May I just say that it will be a very great pity that the really serious issue which my hon. friend, Mr. Lyne, is submitting to this Convention should be put before us in such a form-

The CHAIRMAN:

As I stated, I put the question first in the technical parliamentary language. I now put the question in this way-That the word "if" be left out in Mr. Lyne's amendment.
Mr. LYNE:
That is to be the test of my amendment!

Hon. MEMBERS:
No!
The Hon. F.W. HOLDER:
As a point of order, I protest against its being taken as a test.

The CHAIRMAN:
That is not a point of order. It is not for the Chairman to say that a particular word is to be a test or not. I cannot decide that.
The Hon. E. BARTON:
The decision that the word "if" shall or shall not stand part of the question is not a final determination of the question of a general referendum. It is not and it cannot be. The meaning of it is that if the decision is adverse to the proposal of the hon. member, Mr. Lyne, the Committee does not adopt a general referendum as following a consecutive dissolution. It does not mean that the Committee does not adopt the general referendum with reference to any other possible position that can be imagined. It simply says that a general referendum as following upon the consecutive dissolution is not adopted by the House. It means no more than that. It is not a decision against the general referendum in any other feature.
Mr. LYNE:
I direct your attention, sir, to this fact: that on a previous occasion on a very important matter the question of the word "if" was taken as a test.

An Hon. MEMBER:
We refuse to do so to night!
Mr. LYNE:
The other night, when a motion was moved for the purpose of deciding whether or not there should be provision made for deadlocks, the vote was taken on the word "if."

An Hon. MEMBER:
It was a matter of agreement!
Mr. LYNE:
I think it is very unfair that I should be met in this way when I want a straight out vote, by a number of mem-
[P.923]ers who wish to vote on other questions first. It seems to me, in fairness to the proposition I have made, especially with the precedent we have already
established when the word "if" was taken as a test of a most important question, that the Chairman should reverse the decision at the present time for the purpose of getting in something else which will take away the sting or power from the amendment which I have moved.

The CHAIRMAN:
I would point out to the hon. member that it is not within the province of the Chairman to dictate to the Committee whether they shall or shall not take a test vote on the question to omit a particular word. The Chairman can make a suggestion, and that is all. If no further amendments are moved, except the amendment of the Right Hon. Sir George Turner, and that of, Mr. Wise, after these words are inserted, if they are inserted, I will put the question "that the remainder of the clause stand," and then the hon. member can take a straight-out vote on that.

Mr. LYNE:
Then I would ask my hon. friend, Mr. Carruthers, not to move his amendment until that vote is taken!

The Hon. J.H. CARRUTHERS:
I am willing not to move my amendment until a division is taken on my hon. friend's proposal!

Mr. HIGGINS (Victoria)[10.41]:
I intend to move an amendment to the proposal of my right hon. friend, Sir George Turner; if it is put, to leave out the words "hereinafter provided," and to insert the words "by having a referendum." The proposal of the Right Hon. Sir George Turner is, in lieu of dissolving, to refer the question to the people by a dual referendum, I will not be in a position to vote for other than a national referendum.

Question-That the word "if" stand part of the amendment-resolved in the negative.

Question proposed:
To insert "Provided that in lieu of dissolving the house of representatives the proposed law may be referred to the direct determination of the people as hereinafter provided."

Upon which Mr. Wise had moved:
That after the words "house of representatives," line 2, the following words be inserted: "alone in the first instance, both houses of parliament may be dissolved simultaneously: Provided that the senate shall not be dissolved within a period of six months immediately preceding the date of the expiry by effluxion of time of the duration of the house of representatives. And if after such dissolution the proposed law fails to pass with or without amendment."
Mr. WISE (New South Wales)[10.43]:

I only want to say one word on this to make it clear to the Committee what we are voting upon. This question affirms that, before any question arises as to the application of a referendum, whether dual or national, or before any question arises as to the meeting of the two houses as one house, there shall be a simultaneous dissolution of both the house of representatives and the senate, and it further provides to meet the objections which were raised principally by my hon. friend, Mr. Holder, that there can be no dissolution of the senate during the last six months of the life

The Right Hon. Sir G. TURNER (Victoria)[10.44]:

I would point out to my hon. and learned friend, Mr. Wise; that he used the expression "there shall be a dissolution." That is not so, because the government of the day will have the option of selecting one or the other.

Mr. WISE:

Quite so. I am much obliged to my hon. friend?

The Hon. Dr. COCKBURN (South Australia)[10.45]:

I opposed the concurrent dissolution as first proposed, because it would be the means of constantly penalising the senate without inflicting any penalty whatever on the house of representatives. The amendment moved by the hon. and learned member, Mr. Wise, removes this objection to a great degree, and, therefore, I will vote for it.

Question-That the words (of Mr. Wise's amendment) proposed to be inserted (in Sir George Turner's amendment) be so inserted-put. The Committee divided:

Ayes, 25; noes, 20; majority, 5.

AYES
Abbott, Sir Joseph Isaacs, I.A.
Barton, E. Kingston, C.C.
Berry, Sir G. Lewis, N.E.
Brunker, J.N. Lyne, W.J.
Carruthers, J.H. O'Connor, R.E.
Clarke, M.J. Peacock, A.J.
Cockburn, Dr. J.A. Quick, Dr. J.
Deakin, A. Reid, G.H.
Fysh, Sir P.O. Solomon, V.L.
Gordon, J.H. Turner, Sir G.
Hackett, J.W. Walker, J.T.
Higgins, H.B. Teller,
The CHAIRMAN:

I shall now put the question:

That the following words be inserted in lieu of the word "if":- "Provided that, in lieu of dissolving the house of representatives alone in the first instance, both houses of parliament may be dissolved simultaneously: Provided that the senate shall not be dissolved within a period of six months immediately preceding the date of the expiry by effluxion of time of the duration of the house of representatives. And if after such dissolution the proposed law fails to pass with or without amendment the proposed law may be referred to the direct determination of the people as hereinafter provided.

The proposition now consists of the amendment of the Premier of Victoria as amended by the hon. member, Mr. Wise.

The Hon. E. BARTON:

I take it that the adoption of the proposal of the Premier of New South Wales would come to this: that, after the words "the proposed law," we should insert, in place of the remaining words in the question the following words:

shall forthwith be submitted to the members of the two houses deliberating and voting together thereon, and shall be adopted or rejected according to the decision of a majority of three-fifths of those present and voting on the question.

That would embody the proposal of the Premier of New South Wales.

Mr. LYNE:

It was understood that that should not come in before I moved the motion in reference to the national referendum!
The Hon. E. BARTON:

I want to save the Committee from any complications. I am not at the present moment anxious to move this amendment; but, if we leave the words "may be referred to the direct determination of the people, as hereinafter provided," we declare for some sort of referendum. If, on the other hand, as the clause is now, we reject those words, we reject the whole clause. The hon. member, Mr. Lyne, wishes to insert the word "national," so that it will read "May be referred to a national referendum as hereinafter provided."

Mr. LYNE:

I desire to strike out the words "hereinafter provided" with the view of inserting "by a national referendum!"

The Hon. E. BARTON:

The difficulty is this: If we get down to those last three words, "as hereinafter provided," and there is an attempt to substitute the words "by a national referendum," and those words are negatived, then the words "as hereinafter provided" remain part of the question, and there is a decision not for a national referendum, but for some form of referendum. If the intention of the Committee is to adopt the proposal of the Premier of New South Wales—that is to say, that there should be a reference to the two houses sitting and voting together—it will be impossible to put that proposal at that stage, because the stage applicable to it will have been passed. I only wish to save the Committee from any complication that may arise.

An Hon. MEMBER:

But if Mr. Lyne's amendment is inserted?

The Hon. E. BARTON:

Then the national referendum will be carried. But if it be rejected, the difficulty will be that we shall have got passed the words "referred to the direct determination of the people," and we shall not be able to put in the words, "referred to a determination on the part of both houses."

The CHAIRMAN:

I would suggest as a way out of the difficulty that the hon. member, Mr. Lyne, should move an amendment to insert after the word "referred" the words "by a national referendum."

Mr. LYNE:

I shall be quite willing to do that!

Mr. SYMON (South Australia)[10.58]:

Before my hon. friend does that, I should like to direct attention to what
the position is. The amendment which was carried on my motion on Friday is still existing. The proposal of my right hon. friend, Sir George Turner, is now before the Committee in the shape in which it was amended by Mr. Wise.

The CHAIRMAN:
The hon. and learned member must recollect that these words have not yet been inserted.

Mr. SYMON:
That is what I understand, and that is all I wish to call attention to. The Right Hon. Sir George Turner's amendment has not been inserted. It will be competent to raise the issue of a national referendum in the way the Chairman proposed—that is, by inserting after the word "referred" the words "by a national referendum." That is a convenient way of doing it. It does not at all follow, as the hon. and learned member, Mr. Barton, suggests, that we should then, if Mr. Lyne's amendment is negatived, deal with the amendment proposed by Mr. Carruthers. That amendment can be proposed as an alternative, or added to my amendment for a successive dissolution. There are many hon. members, amongst others myself, who will not vote for the amendment of Mr. Carruthers, if it is attached to the simultaneous dissolution embodied in the Right Hon. Sir George Turner's amendment. I only want to make that quite clear so that there shall be no misapprehension.

Mr. LYNE:
Is not the simultaneous dissolution included in Mr. Wise's amendment already inserted?

Mr. SYMON:
Yes, but so that there should be no misunderstanding, Mr. Carruthers' amendment may be put as an Addendum to my amendment already carried, and the Right Hon. Sir George Turner's amendment ought to be negatived. It is not essential that we should engraft Mr. Carruthers' amendment, as explained to us by Mr. Reid, upon Sir George Turner's amendment, but we can ingraft it upon my amendment which has been carried. I only say this so that there shall be no misunderstanding.

Mr. WISE:
There will not be any!

Mr. SYMON:
There certainly will not be any on my part. Although if it is attached to the successive dissolution of the two houses, I shall vote for Mr. Carruthers' amendment in preference to the dual dissolution, I shall vote against it if it is tacked on to a simultaneous dissolution of the two houses.
Amendment (by Mr. LYNE) proposed:
That the words "by a national referendum to" be inserted after the word "referred," line 12.

The Right Hon. Sir G. TURNER (Victoria)[11.1]:
As I have pointed out on several occasions, I am not prepared to vote for a national referendum if I can possibly avoid it, although I am prepared to vote for a dual referendum. Now the object and effect of taking the motion in this form is that we shall be compelled to vote against the insertion of the word "national." If we reject that we can afterwards reject a proposal to insert the word "dual," in which case there will be no referendum at all.

The Right Hon. G.H. REID:
That is exactly what will come about!

The Hon. Sir J.W. DOWNER:
It is what ought to come about!

The Right Hon. Sir G. TURNER:
It will not come about, if we can avoid it. We want a straight out division upon the question, whether there is to be a "dual" referendum or a "national" referendum.

The Right Hon. G.H. REID:
The test will be upon Mr. Lyne's amendment.

The Right Hon. Sir G. TURNER:
No, the test will be upon the word "dual." I move:
That the word "dual" be inserted before the word "national" in the proposed amendment.

Those who are in favour of the dual referendum can vote for it. If we fail to insert the word "dual" it will be still open to those of us who desire a referendum of some sort to vote for the word "national." I cannot vote in the first instance for a "national" referendum.

Mr. LYNE:
The right

The Right Hon. Sir G. TURNER:
I am not prepared to reject both kinds of referendum.

Mr. LYNE:
The right hon. gentleman has been playing tricks with me all through.

The Right Hon. Sir G. TURNER:
I am in favour of a dual referendum, but if I cannot get a dual referendum-

Mr. LYNE:
If you get the word "dual" put in I will vote against my own proposition.
The Right Hon. G.H. REID:
Had we not better go to a vote?

The Right Hon. Sir G. TURNER:
I think I have sufficiently explained to the Convention that my desire is to have a dual referendum. If I fail to get that I shall support a national referendum, and to test the question I move the amendment which I have already submitted.

Mr. LYNE (New South Wales)[11.3]:
In good faith, Mr. Chairman, I accepted your suggestion; but if my proposal is to be manipulated in this way by the right hon. gentleman, who did precisely the same thing when I moved a direct referendum before-

The Right Hon. G.H. REID:
Hear, hear. He blanketed you every time!

Mr. LYNE:
I do not think it is a dignified position for the right hon. gentleman to take up in this Convention. I certainly think it is fairer to decide the larger question, before you decide the smaller one. I feel very sorry for the action of the hon. gentleman in trying to shirk a straight-out vote upon the question of a national referendum. It is precisely what he did before. He intercepted an amendment upon my former proposition, and he has now intercepted another amendment to shirk a straight out vote. I accepted the Chairman's proposal in all confidence.

The Right Hon. Sir G. TURNER:
Since the hon. member thinks that I am endeavouring to put him in a false position, I will withdraw my amendment altogether, and will vote against a national referendum!

The Hon. Dr. COCKBURN (South Australia)[11.5]:
I am sorry that this course has been taken. I think that the hon. member, Mr. Lyne, has made a mistake.

Amendment (by the Right Hon. Sir G. TURNER) by leave withdrawn.

Mr. GLYNN:
By way of personal explanation, I wish to state that the right hon. member, Sir Edward Braddon, feeling unwell, asked me to pair with him on any motion that would have the effect of rescinding the motion proposed by the hon. member, Mr. Symon. I considered that if the right hon. member, Sir Edward Braddon, had been here he would have voted against the adoption of the addition proposed to the clause by the hon. and learned members Mr. Wise; consequently, I considered myself under an obligation to pair on that, which, if I had been present, I would have voted
for, while the right hon. member, Sir Edward Braddon, would have voted against it.

The Right Hon. Sir G. TURNER (Victoria)[11.6]:
If hon. members reject the words "by a national referendum" I will not be able to move my amendment to insert the word "dual."

The Right Hon. G.H. REID:
Oh, yes, the right hon. gentleman will; we all understand that!

The Hon. I.A. ISAACS (Victoria)[11.7]:
I should like to make my position clear. On the present occasion I think that the course proposed to be taken by the right hon. member, Sir George Turner, would have been the best way to get a distinct vote on both questions. The right hon. gentleman has felt himself compelled, by the observations made by the hon. member, Mr. Lyne, to allow that hon. gentleman to proceed with his amendment. I want it distinctly understood we all want it distinctly understood, that although we are not prepared to support the national referendum at the present moment, we maintain the position we put before, that if the dual referendum is not carried, we are bound to support the national referendum.

The Hon. Sir J.W. DOWNER (South Australia)[11.8]:
Supposing it is carried? I do not quite understand now what the position of the Victorian representatives is. We heard the views of the Premier of Victoria interpreted by the Attorney-General, and we had a threat from the Attorney-General.

The Hon. I.A. ISAACS:
Not at all!

The Hon. Sir J.W. DOWNER:
Undoubtedly there is no possible way out of it. The Attorney-General of Victoria told us that if the dual referendum were not carried he held himself bound to vote for the national referendum.

The Hon. I.A. ISAACS:
Certainly; I said that days ago!

The Hon. Sir J.W. DOWNER:
But the Attorney-General of Victoria did not tell us whether, if the dual referendum were carried, he would feel himself bound to support that right through the Convention, at all times, in all places.

The Hon. I.A. ISAACS:
Most certainly!

The Hon. Sir J.W. DOWNER:
At the adjournment-right through?

The Hon. I.A. ISAACS:
Most certainly!
The Hon. Sir J.W. DOWNER:
That is the position in which the hon. and learned gentleman undoubtedly stands.

The Hon. I.A. ISAACS:
Yes; that, has been my position all through?

Question-That the words, "by a national referendum," proposed (by Mr. Lyne) to be inserted be so inserted-put. The Committee divided:
Ayes, 10; noes, 36; majority, 26.

AYES.
Berry, Sir G. James, W.H.
Brunker, J.N. O'Connor, R.E.
Carruthers, J.H. Reid, G.H.
Deakin, A.
Higgins, H.B. Teller,
Holder, F.W. Lyne, W.J.

NOES
Abbott, Sir Joseph Isaacs, I.A.
Barton, E. Kingston, C.C.
Briggs, R. Leake G.
Brown, N.J. Lee-Steere, Sir J.G.
Clarke, M.J. Lewis, N.E.
Cockburn, Dr. J.A. McMillan, W.
Crowder, F.T. Moore, W.
Dobson, H. Peacock, A.J.
Douglas, A. Quick, Dr. J.
Downer, Sir J.W. Solomon, V.L.
Forrest, Sir J. Symon, J.H.
Fraser, S. Turner, Sir G.
Fysh, Sir P.O. Venn, H.W.
Glynn, P.M. Walker, J.T.
Grant, C.H. Wise, B.R.
Hackett J.W. Zeal, Sir W.A.
Henning, A.H.
Henry, J. Teller,
Howe, J.H. Gordon, J.H.

Question so resolved in the negative.

The Right Hon. Sir G. TURNER:
I now desire to insert the words "by a dual referendum." I propose this amendment simply to test the feeling of the Convention as to whether we
are to have a dual referendum. I move:

That the words "by a dual referendum" be inserted after the word "referred," line 12,

Mr. HIGGINS (Victoria)[11.13]:

I handed the words "for a national referendum" to the hon. member, Mr. Lyne, because I understood that he desired to deal with the question himself; but with regard to the proposal for a dual referendum, I altogether dissent from the view which was expressed just now that, if this amendment is carried, we can go back to the proposal for the establishment of the national referendum. I do not want members to be fed into voting for the dual referendum under the belief that otherwise we shall be face to face with the national referendum.

The Right Hon. G.H. REID (New South Wales) [11.14]:

I think we are by these divisions gradually coming to the mind of the Convention. I am not going to make any observations upon the matter, because I think that hon. members are fully possessed of the whole question. I am going to oppose the insertion of this provision for a dual referendum, which will make the proceeding, as I understand it, a dissolution of both houses and a dual referendum. I intend to vote against the insertion of the words "by a dual referendum" upon the lines which I have laid down, that, as far as I can see, the best solution of this difficulty will be that if, after a dissolution of one house, the house of representatives, there is no agreement, that then the two houses should sit together, and that a three-fifths majority, should decide. I wish it to be understood that, in voting against the dual referendum, I am prepared, if a majority of hon. members are prepared, to accept the solution I have indicated as upon the whole, perhaps, the most satisfactory to the whole of the interests concerned.

Mr. WISE:

My vote will be given on exactly the same lines!

The Hon. I.A. ISAACS:

I wish to say a very few words. The Right Hon. G.H. Reid need not have any doubt as far as Victoria is concerned. So far as the small states are concerned I am sure they will not accept his proposal unless the present ratio between the two houses now in the bill is adhered to. As far as Victoria is concerned I am sure that that will never be agreed to.

The Right Hon. Sir JOHN FORREST (Western Australia)[11.17]:

Supposing that the house of representatives should be dissolved, and if, after the election, the disagreement still continues, according to the proposal of the Right Hon. G.H. Reid, the matter is to be referred to both houses sitting together, a certain majority, I presume to decide. I think that
is the best solution of the difficulty.

The Hon. J.H. GORDON:
The present quota to remain?

The Right Hon. Sir JOHN FORREST:
Yes. I want to know how that proposal
will agree with the amendment of the hon. member, Mr. Wise, which was
adopted a few minutes ago?

An Hon. MEMBER:
That involves the dissolution of both houses!

Mr. WISE:
-

The Right Hon. Sir JOHN FORREST:
The Right Hon. G.H. Reid just informed us that it was a dissolution of
one house.

An Hon. MEMBER:
No; two houses!

The Right Hon. Sir JOHN FORREST:
I know exactly what he said!

The Right Hon. G.H. REID:
I can only speak for myself. I have studied the views of hon. members of
the Convention in this matter, and I find that it is absolutely impossible to
get a dissolution of the two houses. I would have infinitely preferred it
myself, but that is not the issue at all.

The CHAIRMAN:
The only question at issue is the dual referendum.

The Hon. E. BARTON (New South Wales)[11.18]:
Hon. members have been endeavouring to make their position clear. Lest
my position should be mistaken, and people are sometimes apt to mistake
one's position, I wish to state that I never have been in favour, if I could
avoid it, of any system of referendum. I prefer the dual referendum to a
national referendum in cases in which state rights are involved. But if I can
get a better way out of the difficulty which provides for the settlement on
constitutional grounds of those questions, and that I find in the proposal put
forward by my hon. friend, Mr. Carruthers, then I think it is most
constitutional and right to follow that course. Therefore, I shall record my
vote for the amendment of the hon. member, Mr. Carruthers.

Mr. LYNE:
I should like to know whether the amendment moved by the hon. member, Mr. Wise, is not already passed, providing that in lieu of dissolving the house of representatives alone in the first instance, both houses of parliament may be dissolved simultaneously? I understand that has been already passed. If that is already passed it is useless to say that we have not agreed to a dissolution of both houses. I voted for it, and I did so because it was to bring about a dissolution of both houses simultaneously.

The CHAIRMAN:
I would point out to the hon. member that nothing has really been passed yet.

Mr. SYMON (South Australia)[11.20]:
Whilst I will support the amendment referred to by the right hon. gentleman, Mr. Reid, whether it applies after the successive dissolution of both houses or whether it applies after the dissolution of one house, still it seems to me that it will be necessary to negative the amendment of the right hon. member, Sir George Turner, as amended by the amendment of the hon. and learned member, Mr. Wise.

The Right Hon. G.H. REID:
It will come to that!

Mr. SYMON:
I only wish to make clear my position that in voting against the insertion of the word "dual," I do so intending to vote against the proviso altogether, with the view to failing in with the suggestion of my hon. friend.

Mr. WISE (New South Wales)[11.22]:
I would point out that it is open to every hon. member to vote against every proposal which is put with the view of destroying the effect of the amendment of the Right Hon. Sir George Turner to dissolve both houses. But those who desire to work in the spirit of the determination come to by the Committee will hold to the amendment which we have carried and which involves the dissolution of both houses.

The CHAIRMAN:
I must ask the hon. member to confine himself to the question at present before the Committee-to the dual referendum.

Mr. WISE:
I am pointing out that whatever we may ingraft upon that is a matter for subsequent consideration. I am prepared to go with my right hon. and learned friend, Mr. Reid, in supporting the proposal that the two houses
should meet together; but I only desire that to take place after the
dissolution of both houses, and if my right hon. friend intends to vote
against the amendment now before the Committee in favour of a dual
referendum, in order to introduce his proposal for the two houses to meet
together, but further proposes to limit that to the single case of a
dissolution of the house of representatives only, I shall be found voting
against that proposal.

The Hon. E. BARTON:

If this dual referendum proposal is negatived, the thing will stand in this
way: First, Mr. Symon's proposal is carried, then there is the alternative of
the dual dissolution, then if the deadlock is unsettled the result is that both
houses are to deliberate and vote together.

Mr. WISE:

That is the view I desire to see effected, but I do not understand that my
right hon. friend, Mr. Reid, took that view. I wish it to be understood that
in voting against the dual referendum, I only do so for the purpose,
afterwards, of ingrafting on the clause a provision for the two houses to
meet together which is to be subsequent to the dual dissolution.

The Right Hon. C.C. KINGSTON (South Australia)[11.24]:

I wish to state the position I take in regard to the dual referendum. If it is
proposed for all cases, I shall have to vote against it, because my
contention is that it should be confined to cases in which the state interests
are really involved, and that the national referendum should be applied to
cases where state interests are not involved. But if my right hon. friend Sir
George Turner tells me that he is prepared to accept some subsequent
provision which will differentiate between the two classes of cases, I shall
be happy indeed to support him.

The Right Hon. Sir G. TURNER:

-  

Mr. WISE:

That is another matter altogether!

Question-That the words "by dual referendum," proposed (by Right Hon.
Sir George Turner) to be inserted, be so inserted-put. The Committee
divided:

Ayes, 18; noes, 27; majority, 9.

AYES.

Abbott, Sir Joseph Isaacs, I.A.
Berry, Sir G. James, W.H.
Brown, N.J. Kingston, C.C.
Clarke, M.J. Quick, Dr. J.
Cockburn, Dr. J.A. Solomon, V.L.
Deakin, A. Turner, Sir G.
Fysh, Sir P.O. Walker, J.T.
Glynn, P.M.
Holder, F.W. Teller,
Howe, J.H. Peacock, A.J.
NOES.
Barton, E. Henry, J.
Briggs, H. Leake, G.
Brunker, J.N. Lee-Steere, Sir J.G.
Carruthers, J.H. Lyne, W.J.
Crowder, F.T. McMillan, W.
Dobson, H. Moore, W.
Douglas, A. O'Connor, R.E.
Downer, Sir J.W. Reid, G.H.
Forrest, Sir J. Symon, J.H.
Fraser, S. Venn, H.W.
Gordon, J.H. Wise, B.R.
Grant, C.H. Zeal, Sir W.A,
Hackett, J.W. Teller,
Henning, A. H. Higgins, H.B.
Question so resolved in the negative.
Amendment (by Mr. CARRUTHERS) proposed:
That the words "to the direct determination of the people as hereinafter provided" be omitted with the view to insert in lieu thereof the following words:--"the members of the two houses deliberating and voting together thereon, and shall be adopted or rejected according to the decision of three-fifths of the members present and voting on the question."

The Hon. J.H. HOWE (South Australia)[11.30]:
I desire to move as an amendment:
That the word "three-fifths" be omitted with a view to the insertion of the word "two-thirds" in lieu thereof.

Mr. LYNE:
Do I understand, if the amendment is carried, it will be added on to the amendment moved by the hon. member, Mr. Wise, to have a simultaneous dissolution of the two houses?

The CHAIRMAN:
Yes.
Mr. LYNE:
So that it will then read that there is to be a simultaneous dissolution of the two houses, and, after that, if there is no agreement, the two houses voting together will decide by a majority of three-fifths or two-thirds, as the case may be.

The CHAIRMAN:
If this amendment is carried, and the amendment is amended as proposed, the state of affairs will be as follows:-There is, first of all, the consecutive dissolution of the hon. member, Mr. Symon; then, in the alternative, there is the dual simultaneous dissolution, and after that comes the question of the two houses sitting together.

Mr. SYMON (South Australia)[11.32]:
My objection to the suggestion of the hon. member, Mr. Carruthers, is not so much to the provision—with which I entirely agree—being ingrafted on to a simultaneous dissolution, but to having it ingrafted on a simultaneous dissolution in the form of an alternative which is to be left to the executive ministry of the day to select.

An Hon. MEMBER:
We are going to stick to the simultaneous dissolution!

Mr. SYMON:
I do not say we are not. I strongly object to it, and I also object to Mr. Carruthers' amendment being ingrafted upon it; but I still more object to ingrafting the amendment on the simultaneous dissolution, as an alternative to be chosen by the ministry of the day. Therefore I shall vote against it as added on there, and for it if the hon. member Mr. Carruthers, does as he intimates he intends to do—attaches it as a condition to a consecutive dissolution.

The Right Hon. Sir G. TURNER (Victoria)[11.33]:
There is a serious difficulty with regard to this, which I wish to point out. The effect of this will be to allow the two houses, when they meet, to amend money bills.

An Hon. MEMBER:
That is a detail!

The Right Hon. Sir G. TURNER:
That is a detail which goes to the root of the whole question. I might be prepared, if I could get nothing else, to accept the meeting of the two houses; but I am not going to accept that if it is going to confer the power to amend money bills. To make it perfectly clear, I propose to add certain words, reserving to myself the right to say which way I will vote. I am not
certain which way I will vote as yet. I want this difficulty to be cleared out of the way. I want some words such as these inserted:

Provided that at such joint meeting it shall not be competent to make amendments in a bill which would be amended by the senate.

The Right Hon. G.H. REID (New South Wales) [11.34]:

That difficulty was always present to my mind, and there are other matters of detail which will have to be specified. My idea to-day was simply to get at a general preposition upon which we could all agree, and settle the details afterwards. The hon. member is perfectly right

The Hon. Sir J.W. DOWNER:

This is a matter of too serious a nature for us to hurry over, because it happens to be now twenty minutes to 12 o’clock!

An Hon. MEMBER:

We may be here till to-morrow morning!

The Hon. Sir J.W. DOWNER:

Then let us adjourn!

The Hon. E. BARTON:

It seems to me there is no intention on the part of the Convention to indulge in a very long debate to-morrow. There is not one argument on the whole question that has not been thoroughly advanced, and on the understanding that hon. members simply wish to take time to consider this matter before they vote, and that we are not to have another prolonged debate-

The Right Hon. Sir G. TURNER:

I must go away to-morrow night!

The Hon. E. BARTON:

The right hon. gentleman on that account has a special claim upon us not to prolong the debate, and under these circumstances I shall move:

That the Chairman report progress, and ask leave to sit again.

The Right Hon. Sir JOHN FORREST (Western Australia)[11.37]:

I should like to ask if what we have agreed to tonight, and what it is proposed to discuss to-morrow, will be in print in the morning?

The Hon. E. BARTON:

That will be all right!

Motion agreed to; progress reported.

RETURN.

The Hon. F.W. HOLDER laid upon the table in return to an order, on the motion of Dr. Quick, papers relating to the quarantine and postal services.
Convention adjourned at 11.38 p.m.
Tuesday 21 September, 1897

Finance Committee-Commonwealth of Australia Bill.

The PRESIDENT took the chair at 10.30 a.m.
FINANCE COMMITTEE.
The Hon. E. BARTON laid upon the table evidence of E.M.G. Eddy, Esquire, late Railway Commissioner of New South Wales; J. Matheson, Esquire, Commissioner of Railways in Victoria; and A.G. Pendleton, Esquire, Commissioner for Railways in South Australia, before the Finance Committee at its sittings in Adelaide.
Ordered: That the documents be printed.
COMMONWEALTH OF AUSTRALIA BILL.
In Committee (consideration resumed from 20th September, vide page 932):
Clause 56 (Recommendation of money votes).
Amendment suggested by the Legislative Assembly of New South Wales:
Insert new clause to follow clause 56, (vide page 807), upon which the following amendment by Mr. Symon had been agreed to:-
That after the word "If," in the proposed new clause, the following new words be inserted: "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-general should dissolve the house of representatives, and if, within six months after the said dissolution the house of representatives by an absolute majority again pass the said proposed law in the same, or substantially the same, form as before, and with substantially the same objects, 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-general may dissolve the senate.
Upon which Mr. Lyne had moved a further amendment, namely:-
To add to the words inserted "If after a dissolution of both houses of the federal parliament as above provided the subject-matter of the contention that led to such dual dissolution is again passed by the house of representatives and again rejected by the senate such measure shall be referred to the electors of the commonwealth by means of a national referendum, and if resolved in the affirmative shall become law."
Upon which amendment the following amendment (by the Right Hon. Sir George Turner and Mr. Wise) had been agreed to:
To leave out the initial word "If," with a view to insert the following: -
"Provided, that in lieu of dissolving the house of represent-
tatives alone in the first instance, both houses of parliament may be
dissolved simultaneously; Provided that the senate shall not be dissolved
within a period of six months immediately preceding the date of the expiry
by effluxion of time of the duration of the house of representatives. And if
after such dissolution, the proposed law fails to pass, with or without
amendment, the proposed law may be referred to the direct determination
of the people as hereinafter provided."

And upon which the Hon. J.H. Carruthers had moved the following
amendment:-

To leave out "the direct determination of the people as hereinafter
provided," with a view to add "the members of the two houses deliberating
and voting together thereon, and shall be adopted or rejected according to
the decision of three-fifths of the members present and voting on the
question."

Upon which the Hon. J.H. Howe had moved:
That the word "three-fifths" be om itted with a view to insert in lieu
thereof the word "two-thirds."

The Hon. J.H. GORDON (South Australia)[10.34]:
As I intimated in a few words yesterday, I intend to support the
proposition of the hon. member, Mr. Carruthers, but I desire to make my
position very clear. When the hon. and learned member, Mr. O'Connor,
was speaking to this suggestion yesterday, I interjected that unless the
quota as provided by the bill as it now stands were maintained, the
proposal meant nothing more than a sham. The hon. member seemed to
think those words rather strong. But I used them in no sense offensively. I
still say that, unless the bill as it now stands, is to be taken as the substance
upon which this proposition is based, the whole proposal is simply a sham.
Although that interjection was occasioned by what I thought some
weakening on the part of my hon. friend in his advocacy of the proposal on
that basis, and his speech did denote a little weakening on that ground, I do
hope-in fact, I am sure-that the hon. member, Mr. Carruthers, if he
intended to weaken the basis of the bill, would have said so in his motion.
We are following him loyally upon the clear faith that the proposition is
based on the bill as it now stands; otherwise, the thing has no foundation,
and in supporting the hon. member we shall simply be led into a trap. But I
rely upon the honor and faith of the right hon. the Premier of this colony,
and of one of his principal ministers, Mr. Carruthers, who makes this
proposition, and who did not indicate, having regard to the way in which it
is framed, any alteration of the basis upon which it is founded, and which we have a right to assume is to be maintained. Relying upon their honor in this matter, I have departed from the ranks of the hon. member, Mr. Isaacs, with regard to the dual referendum, which I much prefer. But seeing, as I conceived, in this proposal the more practical measure, I have left his ranks in order to join those of the right hon. the Premier of New South Wales, and those who support the proposal before the Committee. I have done so relying upon their honor in the matter, and if they do not support the basis of the bill as it now stands, and upon which this proposition is founded, I shall consider that I have been entrapped. Up to the present, however, I have no suspicions in the matter. The only indication I have had has been, as I have said, a little weakening by the hon. and learned member, Mr. O'Connor, in putting the case yesterday.

An Hon. MEMBER:

I think the hon. member will find that he has been entrapped!

The Hon. J.H. GORDON:

I should be sorry to make that discovery, and other hon. members for the same reasons would be sorry to find it so. I shall consider it nothing more nor less than a breach of faith to those who have followed the suggestion. However, no indication has been made by the hon. member, Mr. Carruthers, nor has any been made by the right hon. the Premier of New South Wales in this direction. The only indication we have had of any weakening at all of the part of any hon. member, who supports this proposition came from the hon. and learned member, Mr. O'Connor, last night. I am sure, however, that, on further reflection, the hon. member will see that any alteration of the quota would absolutely cut the ground from under this proposition, and the whole thing would be, as I said yesterday, and as I now repeat, with as much emphasis as I am capable of, nothing more nor less than a sham.

The Right Hon. Sir G. TURNER (Victoria):

As I have already indicated we will make the strongest effort we can to alter the clause. When the clause was passed, I indicated that we regarded it as so seriously affecting the interests of the general movement, at all events in our colony-and I assume it is certainly so regarded in the colony of New South Wales-that I should feel bound to ask the leader of the Convention to recommit the clause hereafter, so that we might have an opportunity of reversing the vote already taken. Hon. members who now propose to adopt this principle must not turn round afterwards and say that they had not had a fair intimation of our intention. It is my intention to do
all I can until this bill is finally settled to alter the clause fixing the quota, which, to my mind, improperly limits the representation of the colony of Victoria. I intend, also, to vote against the proposal on other grounds. We have now determined, by a fair majority, that we shall have a double dissolution. As I have pointed out on several occasions, I am willing that another step should be taken after that, but that other step will be required only under the most exceptional circumstances. In nearly all cases the double dissolution will probably settle the matter. But I desire to have some other remedy available in case of failure. Now, to my mind the remedy here proposed is the worst one which has been suggested. The sitting of the two houses together is a course of procedure of which I cannot approve. I have thought the matter over carefully since we separated last night, and I have come to the conclusion that under no circumstances could I support it. We will do our best to limit that which we regard as an evil about to be ingrafted upon the constitution, and having limited it as much as we could, as far as I am concerned I shall vote against this proposal. Of course if we are to go a step further and follow the hon. member, Mr. Carruthers, to the end if we are to follow him out to the mass referendum, and if this proposal does not give effect to the proposed law of the federal parliament, then that may be a different matter, but those who are supporting the hon. gentleman's proposal now for a joint meeting of the two houses to decide any question in conflict between them, will, I feel perfectly certain, not support him in the further step which he desires to take of having, in case it fails, the whole matter decided by the people in a national referendum. Of course if hon. members are prepared to go that length, it may to a great extent modify the objections that I have to this proposal; but, I cannot conceive that they are prepared to go that length. I am not going to stop making every effort I possibly can to alter the quota; and I hold myself perfectly free hereafter to tell the people of Victoria that, with that fixed representation, I cannot advise them to accept the bill, and, as I believe that this remedy is worse than the disease, I intend to do everything I can to prevent its being carried.

Mr. WALKER (New South Wales)[10.42]:

The right hon. gentleman who has just spoken had my support in regard to his alternative motion yesterday to have a joint dissolution. I told him my views on the matter last Friday, and I religiously adhered to what I then said; but, the Norwegian system not having been alluded to, I feel myself at perfect liberty to vote as I think best on this matter. It seems to me that the Norwegian system, or an adaptation of it, is the most admirable system to settle those matters provided that the proportion is sufficient to safeguard
the interests of the states.

The Hon. I.A. ISAACS:

Will the hon. gentleman explain the Norwegian system?

Mr. WALKER:

It is proposed that in our federation there shall be 36 members in the senate, and 76 members in the house of representatives, making altogether 112. The right hon. member, Mr. Reid, I believe, gave his adhesion to a three-fifths majority. Now three-fifths of 112 is 68. The hon. member, Mr. Howe, has suggested two-thirds; that means 75. I intend to move an amendment, that instead of three-fifths the proportion shall be three-fourths, which will be 84. I will draw hon. members' attention to the advantage of having three-fourths. As a representative of the colony of New South Wales, I think it my duty when the time comes to conserve the interests of that colony. I am not a provincialist, and I think that my votes have shown that I am not. I look upon federation as above provincialism; but I recognise the fact that there is a great question in which New South Wales is particularly interested. I take her case and apply it to all the other colonies. You will observe that 68 or 75 is less than the total number of the house of representatives, so if a conflict arose between the two houses it would be quite possible for the house of representatives to completely crush the senate. I wish that that should not take place, and therefore, I propose there shall be a three-fourths instead of a three-fifths majority. The result would be that a measure would have to be carried by 84 members of the joint house. I argue in this way: The colony of New South Wales would been titled to 26 members in the lower house, and 6 in the upper house, making altogether 32. Subtracting 32 from 112, leaves 80, and, therefore her interests in the waters of her rivers could not be sacrificed by any possible combination against her. However, irrespective of that, it seems to me that the division such as it is ought never to be so low that one house voting solidly could wipe out the other house altogether. I think that the hon. member, Mr. Holder, said yesterday that this assembly was divided into two parties, or more, on poli

That the amendment be amended by omitting "three-fifths" with a view to insert in lieu thereof "three-fourths."

The Hon. I.A. ISAACS:

(Victoria)[10.47]: I should like to state very briefly for the information of the Committee what I understand the Norwegian system to be.

Mr. WALKER:

This is only an adaptation of it!

The Hon. I.A. ISAACS:

The hon. gentleman did not accept my invitation to explain the
Norwegian system to the Committee, therefore the duty devolves upon me to do so. There is no country in the world which has the system now proposed. The Norwegian system is this: There are 114 members of parliament elected all at the same election, all on the same franchise, all in the same way, and all on proportional representation. They meet as one body, and they divide themselves into two parts, one consisting of three-fourths of the whole number as nearly as possible, the other consisting of the remaining one-fourth. The three-fourths constitute one chamber, the other one-fourth constitutes the other chamber, a chamber of revision. The first chamber, speaking generally, originates bills, and sends them to the other chamber. If the two chambers agree, the bill passes; if they do not agree the two meet as one body and a two-thirds majority carries it. What analogy has that to our constitution? I should like hon. members to ask themselves in all seriousness what basis is that for this proposition? I will show hon. gentlemen how utterly inapplicable it is to our constitution. We have a senate based on equal representation with equal representation given as a protection to the smaller colonies, to protect state rights, but up to the present we have religiously maintained proportional representation—proportional representation only in the people's house, the national house. This proposal breaks into that principle. Not only have we been asked to concede equal representation, not only have we been asked to pass a clause fixing the ratio between the two houses, linking the house of equal representation to the house of proportional representation; but we are now asked to carry the principle of equal representation into the very deliberations of the house of representatives. We are asked to allow the two houses to constitute themselves one chamber and to bring all the advantages of equal representation into the joint deliberations of the two bodies. Do hon. members really think that the larger colonies will stand that? I think that hon. members are expecting a great deal too much in thinking that.

An Hon. MEMBER:

It was proposed by a large colony!

The Hon. I.A. ISAACS:

I am sorry to say that the hon. member is right. I am sorry to say that it was a large colony that proposed it; but it was another large colony that opposed it, and will oppose it to the end. I do not presume to speak with any degree of authority, far be it from me, but I doubt very much whether the large colony from which it came will support that in the end. However, I would like to emphasise the fact that if it was difficult enough under other
circumstances to maintain that provision as to a quota, it is absolutely impossible to do so as matters now stand. I say to hon. members, as I said last night, that there is no hope of carrying these two things conjointly, because it brings into such startling relief the position in which we stand in our colony on the question of equal representation.

Mr. HIGGINS:
If you can carry equal representation you can carry this too!

The Hon. I.A. ISAACS:
My hon. friend knows that that is not correct. We have carried as large a load as we have been able to bear.

Mr. HIGGINS:
Too large a load!

The Hon. I.A. ISAACS:
I believe with this addition we shall break down. I have the greatest apprehension of the whole principle of equal representation; and I believe that when this proposal is put before the people of Victoria they will see at once, with a clearer vision than they ever had before, that there is danger in it. That fact has been brought home to me with a vividness I never experienced before. We have given the senate equal representation and the power to amend money bills, we have put limits which are more than the ordinary constitutional limits upon the house of representatives, and we have stopped their ordinary powers in regard to money bills, because it will be unlawful for them to originate certain money bills except under certain conditions; and now in spite of the loyal adhesion which Victoria has given to the smaller colonies, and in spite of our personal endeavours to meet them as far as we can, our advances are rejected, and an effort is made to force this position on us that the senate, which by a large majority of our Legislative Assembly was denied even the power of suggestion, is to combine with the house of representatives to form one house, and to have a still stronger power of suggestion.

Mr. HIGGINS:
The hon. member, Mr. Carruthers, says that he is going to knock out the power of amendment in money bills in the joint sitting!

The Hon. E. BARTON:
He will confine the functions of the combined assembly to the mere determination of the question shall a measure pass!

The Hon. I.A. ISAACS:
I quite understand that. I am assuming that there is no power to amend money bills. I am accepting that position. Who can say that the power of
the senate to meet and to debate upon these money bills, to argue that for
certain reasons they should not pass, is not a much stronger power of
suggestion than was given in the money clauses of the bill? This is carrying
things just a step too far. We are being pushed beyond all the limits of
endurance, and I say, with calmness and regret, that, in my opinion, my
hon. friend has carried this matter just a little too far.

An Hon. MEMBER:
The hon. and learned gentleman must allow us the contrary opinion!

The Hon. I.A. ISAACS:
Certainly, and I hope that one day my hon. friend will be proved to be
right; but I fear very much that he will not. We have nothing left now but
to do the best we can for our colony. We have met the smaller colonies in
as fair a manner as we could; but I see myself bound, subject to further
reflection, to further argument, and to further eventualities, to support, if it
can be moved in any way, the national referendum, either now or in the
future.

Mr. SYMON:
The hon. member should not sacrifice his convictions to do that!

The Hon. I.A. ISAACS:
I have sacrificed my convictions in support of the small colonies to a
very large extent.

An Hon. MEMBER:
We do not want favours from anyone!

The Hon. I.A. ISAACS:
I believe that if the motion is carried a blow will be given to the federal
impulse which it will be difficult to recover from. I trust that, whether the
required majority is fixed at two-thirds, or three-fifths, or anything else, the
proposal will not be carried. I believe that even if it is three-fifths, and
there are five colonies in the union-the smaller states will not accept the
proposal, because, if it came to a question of state rights, there would be
fifty-nine representatives from the larger colonies, and it would only
require fifty-seven votes to carry a measure. That will be worse even than
the mass referendum. If the required majority was two-thirds, sixty-three
votes would be needed to carry a measure, and we should then be placed in
the position stated by the right hon. and learned member, Mr. Reid. He
asked us, in language that could not be surpassed for force and emphasis,
"Are we to form a constitution in which the will of 2,500,000 people can
be prevented from becoming law by the votes of 600,000 people?"

Mr. SYMON:
Does the hon. and learned member suppose that all the representatives would vote together?

The Hon. I.A. ISAACS:
I am not arguing against the views of the hon. and learned member; I am accepting the views which he expressed yesterday. If we provided for a majority of three-fifths there would be less difficulty. It would be consistent with what he said, if five colonies joined the union; but if six colonies joined the union it would not, because it would allow the votes of 1,000,000 people to outweigh those of 2,500,000 people. If we accept the amendment suggested by the hon. member, Mr. Gordon, we shall be in exactly the same position. The wishes of 2,500,000 people may be thwarted by 600,000, and if there are six colonies in the union, it will be worse. Instead of requiring 62 members representing the larger colonies we shall require 75, that is, we shall require 13 more members to carry into effect the wishes of the larger colonies. Are the larger colonies going to endure that? I could understand it if the referendum were to be enforced.

The Hon. J.H. CARRUTHERS:
How does the hon. member make up the 62 members?

The Hon. I.A. ISAACS:
Sixty-two includes the 50 representatives of the two larger colonies in the house of representatives said the 12 in the senate.

The Hon. J.H. CARRUTHERS:
Is that with five or with six states in the union?

The Hon. I.A. ISAACS:
With six.

The Hon. J.H. CARRUTHERS:
What does the hon. member call Queensland?

The Hon. I.A. ISAACS:
Queensland comes nearer to being a small colony than to being a large colony. She will have a representation of 9 members in the house of representatives and 6 in the senate. South Australia, which is called a small colony, will have 7 representatives in the house of representatives, while Victoria will have 24, and New South Wales 26.

An Hon. MEMBER:
That is quite right!

The Hon. I.A. ISAACS:
In twenty years' time the smaller states will stand in a strange position. Whether we decide that the majority shall be three-fifths or two-thirds, they will stand in an awkward position twenty years hence if we allow the
two houses to come together in this way. I think there are circumstances in which the larger states will be overborne and circumstances in which the smaller states will be overborne, and the arrangement will be unsatisfactory to every one of us. I presume that in any of the colonies it will be difficult to obtain adhesion to this proposal.

The Hon. J.H. Gordon:
The same might be said of any scheme proposed!

The Hon. I.A. Isaacs:
No; because this is to come after a double dissolution. We will assume a question of state rights to have arisen, and that the two houses have been sent to their constituents.

The Hon. Sir W.A. Zeal:
We are not going to vote for the double dissolution!

The Hon. I.A. Isaacs:
The hon. member has voted for it.

The Hon. Sir W.A. Zeal:
No, I have not!

The Hon. I.A. Isaacs:
It has been voted for.

The Hon. Sir W.A. Zeal:
It has been voted for; but I have not voted for it!

Mr. Symon:
I might remind my hon. and learned friend that the double dissolution has not been carried!

An Hon. Member:
Not the simultaneous dissolution!

Mr. Symon:
No; the amendment of the Right Hon. Sir George Turner has been amended so as to embody that!

An Hon. Member:
It has been provisionally carried!

The Hon. I.A. Isaacs:
Technically my hon. and learned friend may be right; but I am correct substantially, because the votes that were given, 25 to 20, were, I take it, pronounced in favour of a simultaneous dissolution. Therefore, after that has taken place, even in spite of my hon. friend, Mr. Deakin, and my hon. friend, Mr. Symon's successful demurrer, I think on the facts I am correct. What I want to emphasise is that the two houses coming back after that simultaneous dissolution, members will be compelled to stand at their
posts; they will be returned by the express mandate of their respective constituencies, said they will be bound to stand firm. Then they will meet together,

and what is the result? Is there to be finality? I doubt it. Even with this proposal, if there were finality, it will only be by an abandonment of their positions by some representatives; it will only be by danger to the colonies, large and small, according to the circumstances that there will be any finality. But from that point of view I would urge my hon. friends not to take the very risky and dangerous step of endeavouring to incorporate such a provision as this in the constitution. It is an utterly foreign scheme, more foreign than any other proposal which has been submitted. The referendum has worked in Switzerland; it has been adopted by millions of English speaking people in America; but this proposal has been pitch-forked into this debate at the eleventh hour without the slightest pretence to analogy, without the slightest pretence to adaptability to our constitution, and I do sincerely hope that the Committee will reject it.

The Hon. J.H. CARRUTHERS (New South Wales)[11.2]:

The hon. member, Mr. Isaacs, no doubt finds himself in a quandary. He has supported equal state representation against his own convictions. He now says that we have gone too far and that the proper time has arrived to retrace his steps. But the hon. member must recollect that only last evening he fathered a proposal to carry equal state representation further than was ever proposed before, that was to carry it not merely into the senate but into a referendum to the people. The hon. member's consistency is most-

The Hon. I.A. ISAACS:

I never proposed to carry it into the house of representatives!

The Hon. J.H. CARRUTHERS:

The hon. member did far more than that. He proposed to have equal state representation so ingrafted on the constitution that the people themselves could never get away from it. Where is the consistency of the hon. member in coming forward to-day and saying that he acted against his convictions in granting equal state rights, and now when a proposal of this character is brought forward, which cuts away the ground from the feet of those who advocate equal state representation, he is going to oppose that proposal? He is going to retrace his steps because the advocates of equal state representation are going too far. No advocate of equal state representation has ever gone so far as have some of the representatives of Victoria. It is an unfortunate thing for the interests of federation that there is this marked difference of opinion between the representatives of the large states as to a principle which is almost universally held by the people whom they
represent. The hon. member objects to this proposal because it is a foreign institution. It is no more foreign than the system of federation itself; in fact, our constitution has largely to be built up of foreign ideas. But it does not matter whether the idea is foreign, or whether it belongs to our own country, so long as the principle underlying it is one that can be defended. Does not the hon. member know that Mr. Gladstone and the great liberal party in 1893 proposed in the Home Rule Bill exactly the same principle as we are considering now?

The Hon. I.A. ISAACS:

Was it with equal representation?

The Hon. J.H. CARRUTHERS:

As the hon. member knows, there was no federation there, so that there could be no question of equal representation, and the interjection is no answer.

The Hon. I.A. ISAACS:

Oh, yes; that is the point in bringing the two houses together!

The Hon. J.H. CARRUTHERS:

There is less ground for having a conference between homes which are elected as legislative assemblies and legislative councils than is the case where the representatives are supposed to derive their authority from the one fountain head of representation-from the people direct, from manhood suffrage. Surely there is an opportunity then of bringing the representative together, when the very source of their authority is exactly the same, although perhaps the degree is different. I must express my amazement at the opposition which this proposal is meeting from the representatives of Victoria. I tell the Right Hon. Sir George Turner, and those voting with him, that they now have these proposals in black and white before them. They know at this juncture that the proposals before the Committee are part of a series of propositions, the finality of which is arrived at when we have the mass referendum.

The Right Hon. Sir G. TURNER:

Then the hon. member is in favour of the mass referendum?

The Hon. J.H. CARRUTHERS:

I never shrink from going to the legitimate issue of the principles I hold. Since I became a member of this Convention, I have always carried to a vote and to a test all those cases which involve the principles I advocate. If the majority is against me I bow to the inevitable. But because I am defeated on this or that question, that is no reason why I should abandon my support of what I deem to be a good thing, as far as I can get it, always hoping that a time will come when those who oppose me will go one step
further with me, at any rate believing that every stage is better than standing still; that every step forward is a step in the right direction. As long as I can get hon. members to march forward with me, I am willing to march on, and when they will go no further I will not quarrel with them because they have gone as far as they could. The hon. member, Mr. Isaacs, and the Right hon. Sir George Turner, said that this proposal, unless safeguarded, would give power to the senate to amend or interfere with money bills. Now the proposal submitted from the Chair gives no power of amendment of any bill whatsoever. The proposal is that laid down in the Government of Ireland bill, the principle that the two houses shall deliberate and vote together thereon, and shall adopt or reject the bill.

The Hon. I.A. ISAACS:

What was the proposal there about a majority?

The Hon. J.H. CARRUTHERS:

There was a proposal for decision by a majority, I forget what it was exactly. If the hon. member will be consistent and will move the omission of the word "three-fifths" in my amendment with the object of inserting "a majority," I will vote within. When a man comes close to my views I am quite willing to meet him.

The Hon. I.A. ISAACS:

That proposal would be less objectionable!

The Hon. J.H. CARRUTHERS:

My hon. friend knows that I have not the slightest chance of carrying that. But if the hon. member thinks that that is the proper thing to do, let him be manly and do it and I will stand with him. This explanation ought to satisfy hon. members that there is no danger whatsoever of the senate gaining greater power than it now possesses with regard to money bills, because there is no power of amending any bill whatever in the proposal. My hon. friend suggests that we might arrive at this stage: that after a bill has been passed by the house of representatives, and rejected by the senate, a dissolution occurs, and members go to their constituents. They are not rejected, they are fortified in their views, and are more steadfastly constant to their votes. Does the hon. member want matters to remain at that stage?

The Hon. I.A. ISAACS:

No!

The Hon. J.H. CARRUTHERS:

This proposal goes much further. It provides that if a majority in the house of representatives with those in favour of it in the senate are sufficiently large to constitute a three-fifths majority, the bill passes. That is a step in the right direction, instead of a minority of
two-fifths of the whole parliament standing in the way of progress and legislation, as the hon. member would have it. You do not need one man to give up his principles. You do not need one man to change his vote. The three-fifths majority may be there, existing from the very first moment of the deadlock being created. The majority may never have been increased or diminished by one man. The hon. member asks us to let things stand as they are. That majority, under the proposal I have submitted, will be all powerful. Is it not much better to move that step forward, that where we have that manifest majority of the representatives of the country, there shall be progress in the work of legislation, rather than that we should stand still, rather than that we should adopt the attitude of children who cannot get all they want, and, therefore, will accept nothing at all, and let the country suffer? As to most of these great crises, the intensity of them will be caused by the fact that an insignificant minority, perhaps, is standing in the way of legislation against the will of the great majority, so that in those cases where parties are equally balanced, where there is only a small majority, you may be sure that public opinion will be behind parties there, and you will have a balance which will hold the people too. It is only in those cases where large majorities exist so as to take the question beyond the realms perhaps of debate that there in any necessity to have a provision to meet a deadlock. Where a three-fifths majority is secured, it will be in those cases were it in more necessary to end the deadlocks than in other cases. We have been asked by my hon. friend, Mr. Gordon, whether there is any guarantee from the Premier of New South Wales and myself whether the quota provisions are to remain. He asks whether the Convention is to accept a guarantee as to these quota provisions remaining. I do not want to mislead the hon. member at all. This proposal is made on the bill as it now stands. I take it that if there is a reconsideration of the context in any one part there must also be a reconsideration of these clauses.

The Hon. J.H. GORDON:
That is fair!

The Hon. J.H. CARRUTHERS:

The Right Hon. C.C. KINGSTON:
Vote against it!

The Hon. J.H. CARRUTHERS:
I shall always be found voting against these provisions; but I recognise in all honor and honesty that the vote now given is given by hon. members on the bill as it stands, and, therefore, if there is a reconsideration of the context in any one part there must be an equal possibility for
reconsideration of the context, and consequential amendments may be fairly considered then.

The Hon. J.H. GORDON:

That is fair!

The Hon. J.H. CARRUTHERS:

If we have six states represented in a conference, we shall have 112 members, and a three-fifths majority will be sixty-seven members. The house of representatives will consist of seventy-six members, so that if there is practically an overwhelming majority, in the house of representatives, with the assistance of the twelve representatives of the two larger states, the chances are all in favour of a settlement of the deadlock. If we have only five states, the chances are all the greater in favour of a settlement of the deadlock, when the interests of the states with the large populations, or the interests of the people themselves, are more largely concerned. I do not know whether my hon. and learned friend, Mr. Wise, will urge any objection on the ground of the possibility of the minority being converted into a majority, as he did yesterday. That argument, hon. members will see, is perfectly untenable; because, as the proposals are now before the Chair, the bill must have passed the house of representatives with a majority twice before it can be considered by this conference, so that the danger of having a minority in the people's house converted into a majority by the assistance of the senate, disappears entirely. These proposals, as they are now in the possession of the chair, provide only for the settlement of a deadlock which arises by the obstruction of the senate. I have always intimated my view that the proposal should be of a mutual character; but I have not had my way in that respect, so that the arguments which were used yesterday against these proposals, an the ground that they may possibly convert the minority of the house of representatives into a majority with the aid of the senators must disappear. My friend, Mr. Walker, has made a proposal to make the majority three-fourths. I will advise him to go further, and provide that they shall be unanimous. Then we shall have the rights of the small states guarded with a vengeance. But I do not suppose that anyone will accept a proposal of that character, which is so manifestly beyond all reason, into serious consideration. With regard to these amendments my hon. friend says they have been sprung upon him. As far as I am concerned, a few days ago the hon. and learned member, Mr. Symon, quoted a passage from a speech which I delivered in this colony.

The Hon. I.A. ISAACS:

That was all abandoned!
The Hon. J.H. CARRUTHERS:

If my hon. and learned friend had quoted a passage further on he would have seen that, in my first address as a candidate for election to this Convention, I advocated exactly this proposal which I am advocating now. In Adelaide I gave notice of a similar series of amendments, and, as the hon. member knows, my right hon. friend, Mr. Reid, and myself had to come back to this colony to conduct public business, and, therefore, I was not in my place in Adelaide to put this proposal before the Convention. But immediately we met here I gave notice again, and yesterday morning I submitted this proposal to my hon. and learned friends, Mr. Barton and Mr. O'Connor, the moment the Convention met. All points of their opposition, it appears to me, fall to the ground. We must have some finality. These proposals will reach finality. They give hon. members who are in favour of the general referendum an opportunity at a later stage to vote for or against that general referendum. They safeguard the rights of the house of representatives with regard to money bills, and they give to the people, if not absolute justices a modicum of justice, which is better than none at all. I ask those who are in favour of granting justice to the people to step forward when they can with those willing to more, and not to refuse allies because those allies will not go to the full length of the proposal which has been put forward.

The Right Hon. C.C. KINGSTON (South Australia)[11.18]:

We have heard a great deal on the subject of finality. I understand, as regards federation, particularly where state rights are concerned, that for the adoption of any legislation two majorities require to be obtained—a majority in the house of representatives, and a majority in the senate. This does not seem to suit some hon. members, who say, under these circumstances, when we cannot get these majorities we cannot deal with these questions; in short, there is no power in the house of representatives by a majority-to overrule the majority in the senate. I take it that there ought not to be, when state interests are involved. I will go further, and, adopting the argument

which has been applied at different times on the floor of this Convention, say, "If you are going to provide under any circumstances for a majority of the house of representatives overruling a majority of the senate, you may as well do it in the first instance, and not indulge in all these various provisions, which will be useless if you let the house of representatives feel that it has the ultimate power of decision." The distinction which I have endeavoured to draw is between the cases in which states rights are involved and the cases in which they are not, and I propose to take the
sense of the Committee as to whether we should or should not endeavour to proceed on these scientific lines. You create a senate for the purpose of protecting these states rights; you say to the smaller states particularly, "Do not be afraid to come in; your state rights and interests will be always well guarded by requiring the concurrence of a majority of that senate." If now you are going to say to them, "Well, they shall be guarded for a time, but it is not to be permanent; when there is considerable difference on the subject, although you may have a considerable majority in the senate, the will of the house of representatives should prevail"-I say it is not fair. It seems to me we have not come here for the purpose of discussing a project for federation on those lines. Equal representation has been held out as an inducement. That means equal power—a necessary majority in the senate; and I put it to those who have previously said that if you give the final power of decision to one or other of the houses, and dispense with the necessity of the concurrence of the two, the whole thing, as regards the protection of state interests, is a delusion and a snare. Of course there are a great many who seem to be prepared to make considerable sacrifices for federation, and so am I. At the same time, I hope I shall not depart from any grave principle unnecessarily, and I shall not depart in this Convention from the advocacy of a principle which I championed elsewhere, and which our constituents have a right to expect we will not abandon without previous consultation with them. I, therefore, put it to hon. members, "Are you prepared to give power to the house of representatives to decide this matter in the long run? If you are, you might as well give it at first; but I think it would be very much better if you tried to draw the line between the two classes of cases, and let the national will prevail in national questions, whilst at the same time retaining for the protection of the state the dual majorities when state interests are involved." For that purpose I would propose, at the proper time, to move to refer the matter to a referendum of the people of the commonwealth in the case of national questions, and to a referendum of the people of the commonwealth and a referendum of the people of the states when state interests are involved. I have already indicated the mode in which I would suggest that there might, when occasion arose, be the definition of state interests. I do not propose to trouble the Convention with that matter at this particular time, but I do ask the Convention to say that in these cases we will take logical grounds, and that where state interests are involved we will give, not only in the first instance, but always, the protection of the double majority, whilst we will dispense with it in the cases where state interests are not involved, and ought not to affect national questions. I will ask the hon. member, Mr. Howe, to temporarily withdraw his amendment in order that I may move to
strike out the word "the" in the first portion of the amendment, with a view to the insertion of the word "a," which is the first portion of mine, and which will enable us to decide as to whether or not we shall have this provision for a joint sitting, and will give up once and for all the necessity for the dual majorities which are provided for the protection of state right. I think the logical position is the one which I have indicated, and I feel, as the representative of a small state, trying at the same time to do my duty to all, that I have a right to feel strongly that the house of representatives ought not to be allowed to prevail over the senate when state rights are involved; and they also have a right to feel strongly that the will of the smaller populations represented in the senate should not prevail over the popular wish in the house of representatives when state interests are in no way involved.

Mr. LYNE:

The difficulty is to decide which is which!

The Right Hon. C.C. KINGSTON:

There is no doubt about that, but shall we make an attempt to do it?

The Hon. I.A. ISAACS:

How does the hon. member say that state rights will be overridden?

The Right Hon. C.C. KINGSTON:

I will show hon. members, and I will prove with arithmetical precision, that the proposal which is now before us is simply a cheap and easy and expeditious means of enabling the house of representatives to override the will of the senate. There is no getting away from it—none whatever.

The Hon. A. DEAKIN:

That is its great recommendation!

The Hon. Sir J.W. DOWNER:

That is why the hon. member does not like it!

The Right Hon. C.C. KINGSTON:

I am really delighted to hear some of my friends who protested, in the heat of the moment, in language somewhat similar to that which I myself am compelled to employ in regard to a national referendum, as probably resulting in the overruling of state interests—the finality desired by some in connection with state interests—the extinction of state interests at the wish of the majority of the people—and who at the same time yield to the seductive eloquence of the Right Hon. Mr. Reid, who said practically, "Oh, no; we will not have anything of the sort"—or, rather, he bows to the majority. He was in a minority which advocated the national referendum, and he suggests something else which, when examined critically as it ought to be, is far more dangerous, and likely to result in the extinction to which I
refer, and which has induced a considerable majority of this Convention to say they will not have anything in the shape of a national referendum as applied to all cases. This thing-

The Hon. I.A. ISAACS:
This what?

The Right Hon. C.C. KINGSTON:
Thing.

Mr. MCMILLAN:
The right hon. gentleman will be classed as a tory soon!

The Right Hon. C.C. KINGSTON:
I was using the word in its mildest sense. This amendment, if it is worth anything, ought to work both ways.

An Hon. MEMBER:
So it will!

The Right Hon. C.C. KINGSTON:
I will prove that it will not. It ought to work for the benefit of the senate as well as the house of representatives-to enable the majority in the senate, by the aid of a minority in the house of representatives, when state interests are concerned, to have, if possible, their way on questions which form the subject of discussion at this joint sitting. What is the position? We will take the case when there are six colonies represented-76 members in the house of representatives, 36 in the senate-112 in all. If you are going to provide for a two-thirds majority, as is suggested by my hon. friend, Mr. Howe, you must have 75 altogether on your side.

An Hon. MEMBER:
No; it is of those present, not a majority

The Right Hon. C.C. KINGSTON:
They will all be present; there is no doubt about that. You want seventy-five on your side. If they are not there they will pair, so that it will come to the same thing. You require the command of seventy-five. Put it at its very best for the senate seventy-six members altogether, one in the chair, a majority against it. You cannot have more than thirty-seven on the side of the senate, and you are not likely to have anything so close. How are you going to get your seventy-six together in a joint sitting? Why there are only thirty-six members in the senate altogether, and under the best of circumstances, with the senate in a minority, but in a very substantial minority in the house of representatives, and polling the whole of the
Senate, you could not get the majority necessary for the affirmation of the views of the senate.

Mr. LYNE:
Hear, hear!

The Right Hon. C.C. KINGSTON:
There is no doubt about that. Take the lot, seventy-three and you are short of your two-thirds.

An Hon. MEMBER:
That is right enough!

The Right Hon. C.C. KINGSTON:
Right enough! It is right enough for those who say that the house of representatives ought to have two to one the best of it.

An Hon. MEMBER:
We do not want two-thirds!

The Right Hon. C.C. KINGSTON:
We will take it in another way.

The Hon. R.E. O'CONNOR:
If the bill does not pass, it does not get its own way!

The Right Hon. C.C. KINGSTON:
But is this thing only going to work one way? If it is intended to be a solution of the difficulty, with the house of representatives as the aggressive party, ought it not to be a fair thing with an equal vote?

The Hon. I.A. ISAACS:
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The Right Hon. C.C. KINGSTON:
The long and the short of it is this; While we are crying out in pious, political horror against the national referendum in all cases, we are providing with a most cheerful alacrity-some of us, at all events-a means whereby the senate can be-to use a word which has been used in connection with this matter-wiped out with every facility, with an impossibility, as it were, of its coming out on top so far as the affirmation of its views is concerned, and with a certainty that it is to be placed prostrate at the feet of the house of representatives. Now, if we are going to have a thing of this sort, why do we not have it in the first instance? If you mean unification-I think my hon. friend Mr. O'Connor, talked about it before-provide for it simply. What is the good of having a second chamber, when, where state interests are really involved, and the senate should be a permanent force for their preservation, you are going to provide for its final extinction in the simple mode which is commended for our adoption by my
hon. friend, Mr. Carruthers? I am, of course, prepared to do a great deal in the interests of federation, and after consultation with my constituents, I do not know whether, if you are going to put the power in the house of representatives, I should not be prepared to do it in the first instance without all this round about system suggested for our adoption. But I do not think many of us came here charged with the power, or at least with the duty, of adopting a provision of that description, and, although I cannot help recognising at the present moment that we are dealing with this subject in a tentative way, that it must come on for further consideration, when, I shall hold myself at liberty to give such a vote as after the maturest consideration I may see fit to give, yet at this particular moment I want it to be understood that, In whatever way I do vote, it is not a final but a tentative vote, and that at least I am attempting to discharge what I conceive to be my duty in pointing out the position in which a close analysis of the figures shows the senate must inevitably be placed by a proposal of this kind. Of course, if you only adopt the three-fifths proposition, you have to get 68 members—very much difference. Take, on the other hand, the strongest minority you can possibly have in favour of the senatorial views—37; what have you to get in the senate to carry your way?—31, or all but four of the whole of the senate, exclusive of the gentleman who may happen to be in the chair. What chance would the senate have under circumstances such as those? On the other hand, take the 68. Imagine a certain combination—I do not say it is probable; I hope it is not, but it might arise. Suppose that New South Wales has 26 representatives. We talk about combinations of the larger colonies against the smaller colonies. I have not much fear about that. I am using the figures for the purpose of illustrating my case. If state interests are really at issue let us suppose this case—take the waters of the Murray, a matter to which we attach the most vital importance, and in which state interests are involved—you will have 26 New South Welshmen and 24 Victorians in the house of representatives, with 12 members in the Senate. There you have 62 men whose interests in a matter of this sort would be opposed to the interests of the state through which the river Murray ultimately flows. They have only, in the one case, to get thirteen votes from the other states, for the purpose of enforcing their will against the will of the majority of the states who would join, or at least have been invited to join, this federation under the assurance that the senate—a body specially called into existence for the protection of state interests—should permanently and effectively have that power to protect and guard them, which is most insidiously sapped and taken away by the proposal now before hon. members.
Mr. WALKER:

Three-fourths would be better!

The Right Hon. C.C. KINGSTON:

Three fourths of 112 would be 84. Then the senate, with a minority of 37, has to get 47 out of the senate, which only contains 36 in all, for the purpose of making 84, the number which will secure effect being given to its wishes. We have hitherto proceeded on fair and scientific and logical lines. We have endeavoured to call into existence two bodies—one charged with the representation of national interests, the other to whom is to be particularly confided state guardianship. Let us arm each effectually. Let the one be supreme in national questions. At the same time, when-you are asking the other states to come in, subject to an efficient provision for the protection of state interests, do not let that provision be frittered away in the mode which is now proposed, unless after the most mature consideration. Under these circumstances, I shall move the amendment which I suggested for the purpose of asking the House to stick to the position which it seems to me is only the logical and proper position—that in national questions the national will shall be supreme; but, where state interests are involved, the state shall always be given the protection of the two majorities, one of the house of representatives, and, above all, the majority which is specially called into existence for the protection of those interests—the senate of the federal parliament.

Mr. TRENWITH (Victoria)[11.38]:

I regret extremely that I cannot see my way to support the proposal of my hon. friend, Mr. Carruthers. I think he entirely misconceives the effect it will have in operation if he assumes that it will tend to lessen difficulties, between opposing parties in the commonwealth. I have no idea myself that we shall find states against states at all; but we shall very rapidly find parties against parties in the commonwealth, and our experience of parties has taught us that a substantial majority may exist in one house with a very substantial majority in opposition in another house. If we find parties in that state in the commonwealth a party in the people's or representative house with a substantial majority, and, therefore, justified in the public interest in endeavouring to secure legislative sanction to its will—we may, by bringing down the majority in another house to join the minority in the people's house, prevent for all time the attainment of the wishes of an immense majority of the people of the commonwealth. Now, I think, on the other hand, that the very fair proposal submitted by my right hon. friend, Mr. C.C. Kingston, is one which ought to commend itself to both sections of
this Convention. It commends itself to me, who believe that, in every conceivable circumstance, the majority of the people should rule; but it seems to me that it should also commend itself to those who hold that there may arise contingencies in which distinctly state interests are involved, and upon which, therefore, the states have a right to speak as states, without regard to their numerical condition. The suggestion made by the right hon. gentleman provides that, unless a protest be made, unless some objection be taken to any question in dispute, it shall be treated as a national question, and shall be dealt with by a reference to the people by means of a mass referendum; but if, on the other hand, state interests are involved, it requires only one third, a very small number, not of the senate, but of the house of representatives, to say that in their opinion state interests are involved. They are not called upon even to prove the fact to any extent, but there is to be merely an expression of their opinion.

Mr. SYMON:

Does the hon. member think that the two-thirds will submit tamely to that?

Mr. TRENWITH:

If you make the provision in the constitution the two-thirds will have no option.

Mr. SYMON:

Would that not be coercion?

Mr. TRENWITH:

We are aiming to secure a solution of difficulties which may arise between the two houses, and the only objection to a mass referendum which I have heard urged is that state interests may be involved. Now, the proposal of the right hon. the Premier of South Australia does not provide that one-third can demand a national referendum, but that one-third can demand a state referendum, a dual referendum, a referendum to the people as people, and to the states as states, requiring before a decision is arrived at a majority of a dual character. This seems to me to be a complete protection to those who are afraid that state interests may be injured. I think, and I desire to say that, in my opinion, we are under a debt of gratitude to the right hon. member, Mr. Kingston, representing as he does one of the numerically smaller states, for his generosity and fairness in this matter. I do think that in the struggle which we have had, in the maze in which we have found ourselves in discussing this question, the right hon. gentleman has presented the only rational and tangible solution of the difficulty of discovering what are national questions, and what are state questions.

The Hon. J.H. HOWE:
Mr. TRENWITH:

One-half of the population would have to be lawyers!

The giving effect to the proposal of the right hon. the Premier of South Australia would not require that there should be a single lawyer in the house.

Mr. WALKER:

There are only twenty-five here!

Mr. TRENWITH:

There are probably twenty too many, although I am willing to concede that many of our discussions would have been lame and impotent but for the great assistance we have received from legal members of the Convention. I am not one of those who hold that the fact of one's being a lawyer should be a disqualification for any public position, but I agree with a great many others who think that the fact of a man being a lawyer often induces him to take an intensely technical view of public questions. However, that is not the subject under consideration now. I was endeavouring to show that there would be no necessity whatever for a legal knowledge in order to ascertain whether in the opinion of the senators the interests of a state were involved in some question which it was proposed to submit to a referendum. According to the right hon. gentleman's proposal when a dispute arises and becomes so acute that either house demands a referendum then, and not until then will arise the further question of what kind of referendum there should be. If no protest be made there is a reference to all the citizens of the commonwealth as citizens of the commonwealth; but if a protest be made by so inconsiderable a number as one-third of the house of representatives, no matter how the majority may desire a mass vote, a dual referendum will take place, a reference to the people as people, and to the states as states; and unless a majority is obtained under both conditions the will of the senate will prevail, and legislation upon the disputed point will be lost. Now, I put it respectfully to the hon. member, Mr. Symon, and to others who think with him that there is a danger of state interests being injured, that this is a reasonable solution—one which need not frighten a bold democrat like myself, who believe that the people, as a people—that the citizens, as citizens of the commonwealth, should in the last resort decide all disputed points. It need not frighten such as I, nor need it on the other hand, frighten those who believe that a majority representing the larger states might, under certain conditions, overbear and prejudice the interests of the smaller states. Now, I would like to submit to hon. members a thought which was suggested the
other day by a conversation which I had with my hon. friend, Sir Graham Berry. We have been talking all the time about the states, the states, the states, and forgetting almost entirely the object with which we came here. We came here representing states to create a nation-to create here, beneath the Southern Cross, a nation, and thereby to secure for the states in the aggregate that respect in the councils of the world which has not been previously secured to them-to give to them a power of acting in concert, of unity of action, to speak with a common voice upon matters in which, in existing circumstances, they cannot so speak. But we have allowed ourselves to forget the nation, slid we have been continually hovering round the states. Now, we should endeavour to lift ourselves out of this position. We should try to consider how we are to make a nation-a nation calculated to secure respect among the nations of the world-how we are to make our people citizens of such a commonwealth as would cause their hearts to beat more rapidly with a feeling of pride engendered by the edge of their new citizenship. We ought not to continuously and assiduous be overing over our own little locality, and forgetting the great object for which we are here. I conclude by impressing upon hon. members that the manner in which we have discussed this question, the length of time we have devoted to it -

An Hon. MEMBER:

Shows the importance of it!

Mr. TRENWITH:

The manner in which the galleries are filled during the time we are discussing this question, and the way in which it is discussed in the press during the time we are discussing it, are all evidences that it may be properly described as the corner-stone of federal possibility; and if we are unable to settle it in a way that will meet with the approval of the people, we shall have been wasting our time, we shall have been using the time we have spent in discussing this bill uselessly and idly, and nothing will result from our efforts. Because of the important character of this particular question I would entreat hon. members to make every possible concession when they can without any sacrifice of principle that they hold dear, and think to be important - to follow the lead so admirably set by my right hon. friend, Mr. Kingston, to forget whether they represent large or small states, and to remember only that they are engaged in building up a nation of which they will be proud, and of which their descendants will be proud in times that are yet to come - a nation that will stand the test of attacks from
without, a nation that will meet aggression from abroad with a front sufficiently strong to repel it successfully, a nation that will be free from aggression from within of a violent political character, because of the safeguards, the machinery, and the safety-valve, which have been placed within the Constitution itself.

The Hon. Dr. COCKBURN (South Australia)[11.52]:

It must be a little disappointing to those who were so sanguine last night as to expect that this question would be decided without much further debate, to find to how great a length the discussion is likely to extend. It shows how difficult it is, in a few hours, to decide a question like this, which so closely touches our eternal federal salvation. I, last night, formed a decision adverse to the proposal for the joint sitting of the two houses, and my reflections since then have tended only to confirm that view. I will be as brief as I can, and I certainly will not perorate, or use any words that I can avoid. In the first place, I consider that to carry this proposal would be to place an intolerable strain against the retention of the quota. Every force would be brought to bear, as has been vary properly pointed out by the hon. and learned member, Mr. Isaacs, to withdraw the concession of the quota which has already been made. My hon. and learned friend, Mr. Gordon, considers that he has a safeguard in the pledges of the right hon. the Premier of New South Wales and the hon. member, Mr. Carruthers. I listened very carefully to what the latter hon. gentleman said, but I did not see that he tied himself up quite so closely to this matter as I should have liked. At the same time I am quite sure that anything those hon. gentlemen have said they will stand by; but, admitting that they will stand by it, even the power and influence of those two hon. gentlemen will not, I think, be sufficient to stem the overwhelming demand which will be made that, if this joint sitting is to take place, the proportion of two to one as between the house of representatives and the senate must be overthrown. But, even supposing that the quota stands, we shall have this state of things: we shall have a debate going on in a chamber in which there are two to one as debaters-two members of the house of representatives to one member of the senate-and this would take place only when feeling had already been accentuated and when an esprit de corps had sprung up on the part of each house. Probably under ordinary circumstances hon. members are right in saying that the members of each chamber would not all vote one way, but I say that there would be a tendency to the formation of a corporate spirit in each house when a prolonged discussion had taken place, and I would not be at all surprised if, after there had been a double dissolution, and the senate had come back confirmed in their opinions, the
members of each house voted practically almost solidly on the matter in dispute. We all know the strength of debate, we all know what sort of debaters we shall have in this commonwealth parliament. We have seen a very fair sample of their quality in this Convention, and it is not easy for a minority to stand up against speakers, two to one, of such ponderous power of oratory as we shall be likely to have. I say in all seriousness that I have never listened to such able debate as we have had here. I do not believe that in any part of the world you could find a gathering in which more forcible, logical, and eloquent speeches are made, and I say that it would be a difficult thing for a minority of one or two to stand against such influence. Besides, we should remember that this joint sitting will probably be surrounded by the press, who will take the view of the house of representatives.

The Hon. J.H. Howe:
Will not the minority have able debaters too?

The Hon. Dr. Cockburn:
No doubt, but they will be only one to two, and we know the importance in debate, where great issues are impending-say in a no confidence debate-of following up a powerful speaker on one side with a powerful speaker on the other side, and it would be a serious matter if we could put up only one powerful speaker against two powerful speakers.

The Hon. E. Barton:
They will be equal!

The Hon. Dr. Cockburn:
They may all have equal speaking value, but there will be two to one against the senate.

The Hon. E. Barton:
But the hon. member surely does not expect thirty-six speeches from members of the senate and seventy-two from members of the other house?

The Hon. Dr. Cockburn:
Judging from what we have seen, I think there will be a tendency in that way. Then you will have the press present, and we all know and feel the power of the press.

Mr. Walker:
This morning for instance!

The Hon. Dr. Cockburn:
Every morning during the last few weeks it is very hard to stand up against a powerful press, and it would be very hard for the senate to stand up against a powerful press that was advocating the views of the house of representatives, to say nothing of the mass meeting of members of parliament that will take place in the environment, which again in a
difficult thing to stand up against. With all these influences against it, the senate will be placed at a great disadvantage, and I as one who has stood by the senate, and fought for the senate as a safeguard-

The Hon. J.H. Howe:

Stick to it still!

The Hon. Dr. Cockburn:

And, as a guardian of democracy, I, for one, if this proposal is carried, will take a last loving look at the senate before it disappears into the interior of the chamber of representatives. Now the senate is being gradually chipped into this subordinate position. It has already lost a great deal; but I think this will be its little all. In 1891 there was practically no serious proposal for any machinery by which the senate, when it felt it was doing its duty in standing up against a majority of the population, should be compelled to give in. Even in 1897, a few months ago, in Adelaide, the proposal of the hon. and learned. member, Mr. Wise, was practically scouted; but now he has succeeded beyond his wildest dreams, and a considerable majority has affirmed, the principle of dissolution. I say that that is as far as we ought to go in that direction. This proposal will amount to annihilation, and it will amount to annihilation of the

senate at a time when it has returned from its constituents confirmed in its view and satisfied that it is doing nothing wrong in standing by the just rights of the people of the states. As my right hon. friend, the Premier of South Australia, has pointed out, this machinery is only going to work in one way—that is, for the house of representatives and against the senate. The wheels will only revolve in one direction. It will remove deadlocks when they are caused by the senate; but no power on earth could make it move in the other direction to remove a deadlock caused by the house of representatives. This is simply another final and comprehensive means of insuring that the house of representatives, like a spoilt child, shall have its way in the last resort. We hear about the rule of the people. Are not the people of South Australia entitled to be heard? In every word I have said here I have been expressing, not my own views, but the opinions of the majority of the House of Assembly in South Australia. Those who talk about democracy and conservatism will do well to consider that if the views I am expressing are tory and conservative views, the House of Assembly in South Australia is a tory and conservative body, which is ridiculous. I do not believe there exists a more enlightened democracy in the world than the representative house in South Australia.

The Hon. F.W. Holder:

They passed a resolution in favour of the dual referendum!
The Hon. Dr. COCKBURN:

Which I have voted for. We passed an amendment in favour of a dissolution, and I voted for it to save the senate from the charge and penalty of being a conservative body. I have agreed to a dissolution of the senate, because I did not want that body to stand strong against popular opinion, and because I wanted to see it strong only in so far as it was reinforced by popular opinion. But rather than see the proposal before us carried I would see the term of office of the senate reduced to the term of office of the house of representatives. That I do not fear; but I fear to see the senate prevented from acting as it should act, as the bulwark of democracy. As to the parties in the commonwealth being divided into conservative and liberal parties, from any thought and reading I have given to the matter it is the most arrant nonsense possible. America never has been, and is not at the present day, divided into parties of liberals and conservatives. I defy any one to say which is the liberal and which is the conservative party in America to-day. Before the parties in America had become confused, and when they held WA to their original reasons for existence, the party of state rights was acknowledged to be the party of true democracy. The men who stood up for state rights and the protection of home rule and government were men like Thomas Jefferson, and their names have been handed down reverently from parent to child, as those of the guardians of liberty and democracy in America. The men who were called federalists, who went for nationalism as against state rights, men like Hamilton, with all his genius and transcendent power—where are they now? Their names are not household names in America, as are the names of Jefferson and those who worked with him. So it will be here. Unless we have some great civil war, which will confuse all the issues and blur all the party lines in Australia, and which I hope we shall never have, we shall have the same parties here as existed from the first in America. Parties will be clearly defined: there will be those who wish to see local government, home rule, and state entity preserved; and those who wish to see all these safeguards of the liberty of the people blurred, confused, and obliterated in a central government, which will be situated at a place too far distant for the people of Australia ever to be able to ensure effect being given to their views. I thoroughly believe that this last proposal maybe looked upon as, indeed, a proposal for finality. It is a final proposal for the extinction of the senate, of state rights, and of liberty.

Mr. SYMON (South Australia)[12.5]:

I submit to the hon. member, Dr. Cockburn, that he is, perhaps, just a little premature in pronouncing so splendid a funeral oration upon the
senate. It does not appear to me that the senate is in any such imminent danger of extinction or effacement as my hon. friend seems to think. The object we have all had in view during the last few days of debate has been to arrive at some means of securing finality. We have declared by a vote of two to one that some provision should be inserted in the constitution for the prevention of what are called deadlocks. We have agreed upon the principle so far that, amongst others, at any rate, there shall be a dissolution of the senate, either in the shape of a successive dissolution, or, if the Right Hon. Sir George Turner's proviso as it may be amended is added, by way of alternative, a simultaneous dissolution of the house of representatives and the senate. A large number of hon. members say that that is insufficient, that it might possibly leave things where they were. Various proposals have been made with a view to remedying this objection. Amongst them there has been that of the national referendum, which the Convention would not have at any price.

The Hon. I.A. ISAACS:
There has been no regular vote upon it!

Mr. SYMON:
There has been something uncommonly like it then. It was intended to be a straight-out vote. I know the intimation which my hon. friend, doing violence to his convictions, I think, has given, that possibly, if we are not civil and obedient, he will retrace his steps.

The Hon. I.A. ISAACS:
No. What I meant was that we said distinctly that we should vote for that if the other was not carried!

Mr. SYMON:
I know what the hon. and learned member said, and I think that I gave to his utterance the weight to which, under the circumstances, it is entitled. At any rate, for the moment the national referendum has been rejected by the Convention. Then we had a proposal for a dual referendum, which it was admitted would be ineffective; but it was thought that at any rate it would put off the risk of a continual conflict between the houses for a sufficient time to enable graver consideration to be given to the question at issue, and more moderate views to prevail, so that if the referendum had in the long run to be adopted, it would at any rate have effectually preserved the system of identity of states by requiring a majority not only of the people but also of the states. That also was rejected last night. Now we come to the proposal which was indicated by the right hon. member, Mr. Reid, and which has been formally submitted by the hon. member, Mr. Carruthers. It seems to me that it, at any rate, holds out a solution in the direction of finality upon questions as to which there may be a difference of opinion.
between the two houses of the federal parliament. Of the three schemes to
which I have referred, this appears to be the best. It has been suggested by
those who have hitherto been very staunch advocates of the national
referendum, that it provides, not in substitution, but in succession to a
dissolution—which, in my judgment, will be absolutely effectual of itself-
simply another safety-valve, which, however it may work, will have the
result at any rate of being final. To that extent surely it is an immense
advance. I feel that when the opposition to it is very largely from one of the
representatives of one of the small states, it cannot be so

advantageous to the interests of the senate, or the less populous states, as
some members seem to think. The objection of the Right Hon. C.C.
Kingston to this scheme is that it will not afford the protection to the senate
and the smaller states that he wishes to afford. The representatives of the
larger state of Victoria object to it because it will give too much protection
to the senate and the smaller states. So that there is evidently some
misapprehension, and between the two there may be considerable merit. Of
course you may have criticism of that kind addressed to any scheme that
may be submitted to the Convention. Those who believe that there should
be something in addition to the dissolution of the two houses, must seek to
arrive, if they can, at something which will reach this finality with the least
possible mischief. It seems to me that this proposal will reach finality with
the least possible mischief. What is more, my belief is that it will very
rarely, if ever, be called into operation. I have no such apprehension as has
been urged with regard to the required majority. I do not believe in
analysing figures, and saying so many figures will make two-thirds, and so
many one-third, and that if the vote goes one way you will have the house
of representatives dominating the senate, and that if a certain minority vote
in another way, you will have the house of representatives dominated by
the senate. I do not think that any correct result can be arrived at by such
statements. You cannot introduce a mathematical calculation of that kind
into the operations of a deliberative body of human beings.

Mr. HIGGINS:
They will not all vote one way—senators and representatives!

Mr. SYMON:
No. Underlying the objection to this scheme on the part of those who are
seeking naturally and rightly to protect the rights of the individual states,
which I emphatically wish to protect also, there seems to be the contention
that there would be those strong lines of demarcation between states and
states. I do not believe it. First of all, I believe that in the houses
themselves the members will vote according to their individual
convictions, and the cases will be infrequent in the last degree in which they will feel bound to vote in a body with regard to any state question or interest. If such a case occurs, and you have the senate and the house of representatives meeting together, you will have a solution of what you call a deadlock. Hon. members seem to forget that you have first a double dissolution either in the shape of a successive or a concurrent dissolution. Will anybody tell me that after that, if the difference still exists, the two houses when they meet together as one assembly, will not be prepared to deal with the matter in a spirit of moderation and fairness? Will anybody tell me that those who meet together on such an occasion will not be actuated by a desire to come to some reasonable conclusion, and will not have their differences and angles rubbed off by the discussion which must take place? I do not entertain the slightest apprehension that, if it should ever be necessary to call such a conference into being with a view of supplying an ultimate rule of finality, there will be any danger either of a combined vote of the small states in the senate seeking to overbear the larger body in the house of representatives, or the larger body in the house of representatives seeking to overbear the smaller body in the senate. At any rate, we are here now doing our best to deal with an exceedingly knotty and difficult question in the interests of all the colonies. Looking at the fact that differences of opinion now exist in all the states and amongst us as individuals composing this assembly, I say we have a constitutional object lesson as to what will happen in our federal parliament and federal conference. The hon. member, Dr. Cockburn, said that to adopt this proposal would be really an if you were treating the house of representatives as a spoilt child, who, in every complaint, was to have his own way. I do not agree with that position at all. It seems to me you are interposing difficulties and obstacles in the way of either house having its own will, without careful consideration and without the lapse of sufficient time for moderate counsels to prevail. By adopting this proposal, ineffective as it may be, open to criticism as it may be, like every other proposal, I believe you are taking at, least one step towards that ultimate finality which you are so anxious to secure. On that ground, at any rate, it is a step to which we might well give our assent. The Right Hon. Sir George Turner said he was quite satisfied with the double dissolution.

The Right Hon. Sir G. Turner:
I did not say quite satisfied. I said that I was satisfied that in the vast majority of cases the double dissolution would answer the purpose.

Mr. Symon:
That is quite sufficient for my argument. I agree with my right hon.
friend that either form of dissolution-

The Right Hon. Sir G. TURNER:

No!

Mr. SYMON:

I do not expect the right hon. member to assent to that; but from my point of view either form of dissolution, successive or concurrent, will render any other provision unnecessary. But if my right hon. friend does think that the double dissolution will serve the purpose, where can the objection be from his point of view and the point of view of his colleagues to insert the provision of the hon. member, Mr. Carruthers, providing for this subsequent conference between the two houses? I am sure my right hon. friends are not actuated by any pique or anything of that kind. They are desirous of accomplishing the object we all have in view. If that object will be accomplished in the majority of cases by a double dissolution or some form of dissolution, there can be no objection to inserting this additional provision asked for by New South Wales.

The Right Hon. Sir G. TURNER:

I would rather have nothing than take it!

Mr. SYMON:

I am afraid that would be acting like the spoilt child that the hon. member, Dr. Cockburn, compared the house of representatives to. Another proposal has been submitted, and I confess it is exceedingly ingenious; but, whilst I consider it is ingenious, I think it would be most mischievous. It involves this: We have decided against the national referendum and against the dual referendum; but this proposal is to embody in the constitution both referendums—the dual and the national. I do not know how we can very well place ourselves in that position, after having rejected each of these in succession. We have said that they were bad separately, but the combination of the two has removed the vice of each, and we now have a most virtuous combination in accepting the two referendums together.

The Right Hon. Sir G. TURNER:

It is taking the good of each!

The Hon. I.A. ISAACS:

Is the hon. member putting it in a fair way?

Mr. SYMON:

I think so. What does it mean to embody the dual and national referendums in the constitution? Does it not involve the acceptance of the dual and the national referendums? If we put in the national referendum apart from the rest of this proposal, it would only apply to the cases to which it was applicable.
No; the national referendum was to apply to all cases; the dual referendum, as proposed, was also to apply to all cases; but in this proposal the national referendum is to apply to national questions, and the dual referendum is to apply to all cases of state rights—each to its appropriate class!

Mr. SYMON:
Then it applies to all the cases to which it is applicable—that is to all the cases, under the constitution, of differences between the two houses. So will the referendum, apply to all the cases under the constitution to which it is applicable—that is, to all the cases of differences between the two houses.

The Hon. F.W. HOLDER:

Mr. SYMON:
No; my hon. friend is leaping before he comes to the stile. Now, what is proposed here? You are to have both referendums under the constitution; but you are not to bring them into application, except in a certain class of cases referable, or supposed to be referable, to each. You an not to allow that to be decided by the executive government, who, I think, would be a better body to decide it, if it were to be decided in that way, than a deliberative assembly, or a proportion of a deliberative assembly; but you leave a certain proportion—it is immaterial whether that proportion is a third or a half—of the house of representatives to decide whether or not a particular question is one affecting national or state interests, and whether or not a dual referendum or a national referendum shall be applied.

The Hon. I.A. ISAACS:
In other words, you allow a small proportion of the smaller states to decide whether they will have it applied to other states!

Mr. SYMON:
You allow a certain proportion, which may be of the smaller states, to decide; and the decision—it will be no decision, it will be influenced by prejudice, by strong feeling for their own particular state. You would introduce elements of discord of the very worst possible kind, and in the very worst possible place where they can be introduced—into the house of representatives.

The Hon. I.A. ISAACS:
I thought the hon. and learned member said there would be none of that!

Mr. SYMON:
There would be by this proposal. What we are desirous of doing is to keep it out; but if you are going to hand over the determination whether a
particular question shall involve a state interest, or simply a national interest, you ought to hand it over to some body entirely independent and removed from the house of representatives-or the senate, for the matter of that—who would be capable of bringing to bear on it a calm and dispassionate consideration, and solving what would really be, not a question of politics, but a question of law. You could not do such a thing by means of this proposal; it is admitted to be impossible that you can sever national questions from state questions. It is admitted to be impossible, and yet you are going to shift this impossibility on to the shoulders of a proportion of a deliberative body. If hon. members think that that can be conveniently done, or they look forward with pleasure to what the results of it would be, it is not a view which I take. My right hon. friend, Mr. Kingston's, proposal, reminds one of the story of the man who went about selling pills which were good against earthquakes. This proposal would have no effect whatever in stopping inflamed feeling or putting a satisfactory end to a legitimate difference of opinion between the two houses; but it would produce further complications and distraction and bad feeling, every opportunity for the creation of which, it seems to me, we ought, if possible, to avoid. My hon. friend, Mr. Trenwith, says that this was a generous proposal to come from the representatives of the smaller states. When one hears an expression like that one is apt to suspect whether it is going to have the effect of protecting the senate as is suggested. At any rate, as far as I am concerned, looking at all the proposals which have been made, it seems to me that we should do well to support that which has been submitted by the hon.

member, Mr. Carruthers, as, at any rate, although not free from criticism and good ground of criticism, a step towards that, finality which we are anxious to reach. I however, object to its being attached to the alternative proposal embodying the simultaneous dissolu

The Right Hon. Sir G. TURNER:
That means that you will come back to the original motion you carried, and nothing else!

Mr. SYMON:
No.

The Right Hon. Sir G. TURNER:
Yes, certainly!

Mr. SYMON:
In addition to the proposal of my hon. friend, Mr. Carruthers.

The Right Hon. Sir G. TURNER:
No; because it all forms part of one proposal we had in the bill, and you
must vote for or against the lot.

Mr. SYMON:

No. My hon. friend, Mr. Carruthers, intimated last evening—I am glad of the interjection, because it enables me to make this clear—that he would move this as an amendment to the proposal of the right hon. gentleman, Sir George Turner, and that if it were not carried in that shape, then he would move it as an addition to my proposal which was carried on Friday.

The CHAIRMAN:

I would point out to the hon. and learned member that that cannot be done. We cannot continue to discuss and rediscuss the same proposals.

The Hon. E. BARTON:

On recommittal!

The CHAIRMAN:

It can be done on the recommittal of the bill.

The Hon. I.A. ISAACS:

That will not be fair to those who will be away!

Mr. SYMON:

At any rate, sir, I am very glad to have got your ruling on that question. My hon. friend, Mr. Carruthers, intimated last night that he intended to adopt that course; if it is impracticable we cannot help it. The scheme which he proposes, defective though it may be, is one step at any rate towards that finality which we are all desirous of reaching a finality, at the same time, which some of us at least believe will be abundantly secured by the provision for the dissolution of the senate and of the house of representatives which we have already passed, and which I have no doubt the Convention will finally adopt in some shape or form.

Motion (Hon. J.H. HOWE) negatived:

That the Committee do now divide.

Mr. MCMILLAN (New South Wales)[12.28]:

I only want to say a word or two at this stage. My course is going to be a very simple one. I intend to vote against every proposal which may come up after this one is decided for settling a deadlock. I think it would be far better for us to remain where we are. I cannot help thinking, although this proposal was in a sort of tentative shape before the Convention at Adelaide, and has been more or less in the minds of some hon. members during this sitting, it was, to a certain extent, sprung suddenly upon us yesterday. I think it is a very serious thing when the whole trend of the mind of hon. members was in the direction of some kind of referendum to have, in a few hours, an absolutely new proposal put before them, and for
us to be asked to give a definite decision upon it. Now, I do not agree with my hon. and learned friend, Mr. Symon. I think that if there had been some proposal that we had been discussing for days, such as that involving the referendum, or even the proposal of the right hon. member, Mr. Kingston, that might have been put in as a tentative thing upon reconsideration; but I think it is a very serious thing for us in a sort of feeling of despair in our debates to come to a certain conclusion in a few hours to be called upon to consider a proposal involving an entirely new departure. I am absolutely against the proposal. I have given it every consideration. I do not think it would work well. And I do not think it would be acceptable to the democracy of the larger colonies. As far as the quota is concerned, if you pass this amendment you must make some provision by which the majority, say, of three-fifths shall go up or go down according to the alteration of the relative strength of the houses. That of course can be done in a certain way, and by a mode mechanical, but at the same time some of those who are inclined to vote for this proposal are absolutely against this hard and fast quota, and I am inclined to believe that the author of that quota has come to the conclusion that it has not so many advantages as he has imagined. I consider myself that it bristles with disadvantages. I also feel that, looking at this matter from a fair and impartial point of view, the decision to which we would come by passing this amendment would put the representatives from Victoria in a very awkward position. There is no doubt that there has been a great effort on their part, as well as on the part of New South Wales, to come to some understanding, which, whilst meeting with the wishes of their own democracy would be fair to the other States; and by a peculiar concurrence of circumstances yesterday, which nobody could foresee, those who were really the advocates of a national referendum became the destroyers of any referendum whatever. Therefore, I say most distinctly, that we have now reached a stage which many never expected, as a solution of this question, and that it is much better that we should remain at this stage, leaving it for the interval to give counsel, judgment, and reflection, and then we will be able to consider all the schemes-not the scheme that may be embodied now in our deliberations, and which would, of course, have an unfair advantage, and which might possibly commit those to it whom the lapse of time might cause to reverse their decision, but who might be inclined, out of a sort of false consistency, to stick to what they had advocated-

Mr. HIGGINS: What is the objection to the scheme from the hon. member's point of view?
Mr. MCMILLAN:
I am not going to discuss it now. I believe, as I say, that it bristles with a
great many difficulties.

The Hon. J.H. HOWE:
Will the hon. member please point them out?

Mr. MCMILLAN:
It has this disadvantage, which I have felt in many other matters that have
been brought before the Convention—that it is absolutely impossible to see
the combinations which may exist between the two houses on certain
questions under discussion. I also see that it may give rise, under certain
circumstances, to a large amount of corruption to a large amount of wire-
pulling; and I also see that a meeting of the two houses, based upon totally
different principles, is inconsistent with a federal government. But, as I
said before, I would prefer that this matter lay open for calm consideration,
and, as far as I am concerned, I am willing, with this as with every other
scheme which has been brought forward, to give it the best consideration.
And if I feel that, although it is not exactly the one that I believe in, yet it is
the best of the whole, I shall be as ready to subserve my own views to the
majority as any one in this Convention. I see there is a difficulty, according
to the rules of the Convention, in getting back to the position in which we
were stopped at the work of last night. I find that the amendment of the
hon. member, Mr. Wise, states:
Provided that the senate shall not be dissolved within a period of six
months immediately preceding the date of the expiry by effluxion of time
of the duration of the house of representatives.
That is really the point to which we have arrived.

Mr. LYNE:
Which point?

Mr. MCMILLAN:
The point at which the hon. member introduced his amendment. Unfortunately we have gone further than that as a matter of order, and we
have inserted:
And if after such dissolution the proposed law fails to pass with or
without amendment the proposed law may be referred to the direct
determination of the people.
Of course if we negative both of these proposals, then we shall leave in a
nonsensical sentence; but I would now appeal to hon. members as a matter
of getting through the remainder of our work, and as a means of freeing
every member of the Convention from any sense of inconsistency, freeing
him from any absolute obligation to any scheme after this interim process—if it is an interim process—I would appeal to hon. members, both on the ground of getting through the remainder of our work, and on the ground of leaving each with a free and open mind for the future discussion, to let well alone, and to stop this deadlock business at the stage we have reached.

The Right Hon. Sir JOHN FORREST (Western Australia):[12.37]

The procedure we adopted yesterday has placed us, I think, in an unsatisfactory position. I think that, if the course suggested had been followed—that is, of taking a vote as to whether the clause proposed by the hon. and learned member, Mr. Symon, should be rescinded or not—we would have known better where we are than we do at the present time. We have now before us a resolution of the Committee in the form of a clause which was proposed by the hon. and learned member, Mr. Symon, and we have also alternate proposals, carried last night which are altogether the opposite—to that which has already been embodied in the bill by the will of the Convention. I have been all along, as hon. members are aware opposed to simultaneous dissolution, of both houses. But it seems to me that what was agreed to last night practically rescinds the clause already adopted, although I am aware it was moved as an alternative to the procedure under the clause, proposed by the hon. and learned member, Mr. Symon. I promised the right hon. gentleman, Mr. Reid, that I would support him in the proposal he made that in order to provide efficiently for deadlocks, the house of representatives should, in the first instance, be dissolved, and after its return from the country, if the senate and the house of representatives were still unable to agree, then there should be a reference to both houses sitting together. I am prepared to abide by that promise; but I expect that if I do so, those who made it will also keep faith with me. I think there has been rather an inclination to go away from the proposition which has been made. It seems to me that those who made this proposal are now quite ready to accept the simultaneous dissolution of both houses, and if that be so they cannot, of course, expect that I shall keep faith with them, and vote for the conference which they propose with the simultaneous dissolution provisions tacked on to it. I am very much inclined to agree with the hon. member, Mr. McMillan, that the best course for us to pursue would be to leave the clause proposed by the hon. member, Mr. Symon, in the bill, and to postpone the further discussion to another time.

Mr. MCMILLAN:

The amendment of the hon. member, Mr. Wise!

The Right Hon. Sir JOHN FORREST:

The amendment of the hon. member, Mr. Wise, is only a piece of a clause. When a clause which embodies the amendment of the hon.
member, Mr. Wise, is put, I intend to vote against it. I do not believe in any alternative in this constitution. The course to be followed should be a clear course; it should be one course, and not two or three courses. I see no necessity for leaving two courses open for any government to follow. Surely it is sufficient that we should embody in clear terms the course that is to be followed under the constitution? I would much rather have Mr. Symon's clause rescinded, and Mr. Wise's clause inserted in its place, than I would allow both of them to remain. I should be very glad if the representatives of New South Wales would adhere to the proposal they made last night—that is, that one house should be dissolved, and that then, if an agreement could not be obtained, the conference should take place. I believe that proposal would meet with the support of a large majority of the members of the Convention. But if these hon. gentlemen are going to run away from the proposal they made, and not keep faith with us, then I shall be obliged to vote against the proposal altogether.

The Hon. E. BARTON:
Who is running away?

The Right Hon. Sir JOHN FORREST:
The proposal made by the right hon. member Mr. Reid, it seems to me, is not, being supported now in the way I expected it would be by that hon. gentleman, and also by the hon. member, Mr. Carruthers. I may have misunderstood them; but I should like to have means provided for carrying out the proposal which was made, and then I should be able to vote with them most thoroughly. If, however, the proposal of Mr. Wise is to remain, then I am not prepared to add on anything to it. I disapprove of it altogether,

Mr. HIGGINS (Victoria)[12.44]:
I rose principally when the hon. member, Mr. McMillan, sat down, with a view of objecting to what he suggested. I strongly deprecate the suggestion that we should separate without in some way indicating the best view we can come to with regard to giving finality. I think it is unjust to the public and unjust to the members of parliament in the different colonies who have to advise about it. There is no doubt that, whatever sneers may be indulged in about members of parliament, they have great influence in their constituencies, and we ought to recollect that, if we separate without agreeing to some provision for finality, we shall have all sorts of schemes bandied about from one to the other, and we shall not have anything definite and concrete upon which members of parliament and others can address the public from the platform. It is not correct to treat the proposal of the hon. member, Mr. Carruthers, as entirely novel. It was discussed in
Adelaide; it has been discussed in the press, and has often been the subject of debate.

The Hon. E. Barton:

It was proposed, with a slight difference by Mr. O'Connor, and in another form by Mr. Carruthers in Adelaide, and there was a good deal of discussion.

An Hon. Member:

I heard of it twenty-five years ago!

Mr. Higgins:

It is a mistake to think that this thing is rushed. We should show the greatest weakness and incapacity as a Convention if we were to say that this problem is too hard for us to solve, and we ought to put in something to secure finality. But, of course, the hon. member recognises that the double dissolution, although good in its way, will not secure finality.

Mr. McMillan:

There is nothing more simple than to put something in!

Mr. Higgins:

Put something, and the best you can. I intend to vote for the scheme of the hon. member, Mr. Carruthers, though I should like to amend it in one respect, which I shall presently point out.

Mr. Lyne:

In what direction?

Mr. Higgins:

In the direction of allowing the majority to decide. As to the proposal in its present shape we shall be in a very strange jumble in our voting. The Attorney-General of Victoria has indicated that he thinks the proposal for a joint sitting of both houses would be unfair to the house of representatives and unfair to the people, because they would have sitting with them the representatives of the senate, representing the minority of the people.

The Hon. I.A. Isaacs:

With equal representation!

Mr. Higgins:

On the other hand, the right hon. member, Mr. Kingston, says that we must not have this joint sitting because it is unfair to the senate, and the senate would be wiped out. I understand, then, that these two extremes will vote the same way with different objects-one in order to prevent injustice to the lower house, and the other in order to prevent injustice to the senate.

The Hon. I.A. Isaacs:
Different cases!

Mr. HIGGINS:
There has only been one referendum put before this Convention, and I voted for it. I do not recognise any referendum but a national referendum.

The Hon. E. BARTON:
Are there no eggs but hen eggs?

Mr. HIGGINS:
There are goose eggs.

The Hon. E. BARTON:
Of course there are!

Mr. HIGGINS:
We shall have a strange medley in our voting at the joint sitting. We shall find those whom we ordinarily conceive to be tories on the same side as those whom we conceive to be liberals. Wrongly, as I think, but rightly as the majority of hon. members here think, we have decided upon allowing each state to be equally represented in one house.

The Right Hon. C.C. KINGSTON:
This is the nearest approach to unequal representation!

Mr. HIGGINS:
That is decided so far as the present sitting of the Convention is concerned. The effect of it is this: you have put the sovereignty in commission, as it were; you have it half in the people and have in the states. You are putting the sovereignty, the ultimate yea or nay, in two bodies, with two inconsistent voices, and the only possible way in which you can secure finality is to get those two voices together in one joint sitting. If in this joint sitting you put these two voices together, you will see what is the ultimate result, and you will at least get finality. Of course I shall hope that, hereafter, before we absolutely pass the constitution, the senate will be so modified as not to include that basis of equal representation which has been alluded to. At the same time, I want to secure finality by some means. There is nothing so bad as leaving it in this state of divided power, and the only way to get finality is to get these two inconsistent sovereign powers together, and see which is the stronger in the end. The amendment of the hon. member, Mr. Carruthers, is not that there may be an amendment passed by the two houses on their joint sitting, but that the members of the two houses deliberating and voting together shall say whether the proposal should be adopted or rejected according to those present and voting. The amendment of the hon. member, Mr. Carruthers-I do not mean the original paper distributed, but the amendment as before the Chair is simply adoption or rejection. The difficulty about amending or suggesting amend-
ments in a money bill, therefore, do not arise. It would be a question of "yea" or "nay." Shall the proposal be adopted or not? As I said yesterday, I agree firmly with the criticism of the hon. member, Mr. Isaacs, that you cannot allow amendments on a joint sitting in the case of a money bill, because you would be giving the senate that which we have taken from them, but upon the mere question of adoption or rejection, when it is remembered that this joint sitting is only to take place after the ordinary constitutional method of appeal to the constituencies—of a dissolution—has occurred, I say that there is little or no danger in simply saying, "Let the two houses sit together, and let us see on the count of heads, which side has the most." I shall hope also that before dealing with the bill at its ultimate stage we may abolish the quota system which compels one senator for every two members of the house of representatives. I shall hope that that will be knocked on the head; but at the same time, I am bound to say this: that if the quota system be retained, a joint sitting is the only reasonable method I can see of arriving at finality. The proposal of the right hon. the Premier of South Australia does not obtain finality. It simply leaves the matter where it was. Assuming that by a resolution of the two houses you come to the conclusion that it is a question which ought to be referred to the states, and if you have a referendum to the states and people, and they do not agree, still there will be no finality. My strong objection to the suggestion is that it does not secure finality. As I said before, I fear that there would be offered too strong a temptation to the opposition to vote that a thing was a states question in order to embarrass the government of the day and to prevent a certain bill from being carried. I shall conclude by moving:

That the word "three-fifths" be omitted.

The CHAIRMAN:
There is already an amendment by the hon. member, Mr. Howe, to strike out those words.

Mr. HIGGINS:
If they be struck out, I intend to move that there be inserted in their place the words "a majority."

Mr. GLYNN (South Australia)[12.54]:
Whenever I hear any one apologising, I suspect that something is wrong. Now, the hon. member, Dr. Cockburn, apologised for the vote which he gave for the amendment of the hon. and learned member, Mr. Symon. The hon. member seems to have apologised for having done so on the score that, although setting up a senate with such exceptional powers, he was not
really creating a conservative body. I differ from the hon. and learned member, and that is one of the reasons which actuated me in opposing Mr. Symon's amendment, and which will still influence me in that direction. If we set up two houses equal as regards the suffrage, and armed with the same powers, we shall find one body obstructing the work of the other. Now, when the Canadian federation was instituted, it was stated by Lord Elgin, when the proposition was made to establish a senate based on a pretty wide suffrage, that a senate set upon such a basis, and practically as strong as was the lower house, would be a strong body to fight on the side of conservatism. As regards the French Chamber, an attempt was made to sweep its effective power away, to prevent it from exercising the large powers conferred upon it, upon grounds similar to those upon which supporters of the amendment of the hon. member, Mr. Symon, rely. I take up this position: That if you endow men of intellectual energy with great powers they will not allow those powers to rust. I rely upon the celebrated dictum of that great master of human nature who said:

He that made us with such large discourse, looking before and after, gave us not this capability and god-like reason to rust unused.

I find in the annals of the "American Academy of Political and Social Science," the following with regard to the case of the French Senate:-

It was maintained, with regard to the first, that the Senate could not justly be asked to act merely as a registering machine in the case of money bills. A house of lords composed of hereditary members, or an upper chamber largely named by the sovereign, might with some reason be required to yield in case of conflict; but the French Senate sprang from universal suffrage, equally with the Chamber of Deputies, even though indirectly, and it could not reasonably be required to efface itself.

I say that the same principle operates here as in France, and that, if you establish two chambers, equal in regard to the basis of representation and invested with the same powers, you will find one chamber obstructing the work of the other, upon the principle suggested by the quotation I have just made; because one chamber will decline to, by inaction, efface itself, and also from the perversity of human nature. Apart, altogether, from the question of a federation, I am strongly opposed to the principle of Mr. Symon's amendment. The hon. member, Mr. Isaacs, urged in opposition to Mr. Carruthers' preposition that there was no analogue in existence to justify its adoption. I fail to see that there is any substantial distinction
between the Norwegian scheme and this scheme. In Norway, also, you have the numerical disparity between one house and the other, yet you have two houses joining together.

The Hon. I.A. ISAACS:

Originally one house divided into two committees!

Mr. GLYNN:

Originally one house, resolved itself into two committees, the number of one committee being greater than the number of the other. These two committees again merged into one, the disproportion of numbers being still carried out. Therefore, the minority represented on the one side would, to as great an extent as under the amendment before us, be in danger of being out-voted, and the majority might equally find itself to some extent nullified. That might happen under the proposal of the hon. member, Mr. Carruthers, but I think the analogy between the two cases is perfect. You have two committees, different in number, combining into one, and allowing legislation to proceed upon the vote of two-thirds. What is the position as regards Mr. Carruthers' amendment? I do not care whether you take the proportion of three-fifths or two-thirds as the basis of legislation. We will say that there is a total of 112 members, of whom 76 are in the house of representatives. Under the three-fifths proposal the majority required would be 67. There is a fraction, but that will not affect the argument. The two large states will furnish 50 of that number. From the senate there would be 12; so, with the combination, we would get 62 out of the required 67; therefore, we would then have to get 5. To make up 5 there would be a balance of 26 in the house of representatives, and of 24 in the senate - a total of 50. If you take two-thirds, the number required will be 74 to form the necessary majority, and, to get that, we would have, as before, 62 members in the house of representatives, and the senate, who could be called upon by the two large states. So the number to be made up is 12, and, as I have already mentioned in connection with the three-fifths proportion, in the case of the two-thirds, to make up 12 you would have a balance of 50 members - that is 26 in the house of representatives, and 24 in the senate.

[The Chairman left the chair at 1 p.m. The Committee resumed at 2.5 p.m.]

Mr. GLYNN:

Just before the adjournment I was endeavouring to point out to the Committee that no matter what majority you have, three-fifths or two-thirds-

An Hon. MEMBER:
Or three-fourths!

Mr. GLYNN:

I have not gone into the figures as regards a three-fourths majority, for I do not think that the Convention would agree to a three-fourths majority, which would be rather unfair to the larger states. But, whichever may be the majority most likely to be accepted by the Convention, I take it that the large states need have very, little fear that their demands would not receive adequate and just recognition. In the case of three-fifths, the majority to be made up will be 67. As a matter of state interests will by assumption be involved, it is just to take it for granted that an amalgamation of votes will ultimately take place, and by this amalgamation the large states get in the house of representatives 50 votes, and in the senate 12, making a total of 62. Therefore, the balance to be made up, in the case of a three-fifths majority, would be only 5, and, in the case of a two-thirds majority, they would have 62, on the proportions already mentioned, and the number to be made up would be only 12. I say that if the policy, support of which were required by the larger states, were one which could not secure, in a three-fifths majority, a balance of 5 votes, or if in the care of a two-thirds majority, it was one which could not secure a balance of 12 votes, I fail to see how it could be founded on justice, reason, or expediency. In the case of a consolidation of votes, if the policy were one that had the slightest recommendation of justice and expediency, there ought, to be little difficulty on the part of the large states in getting, in one case a balance of 5, and in the other case a balance of 12. I think hon. members will agree with that position; and, therefore, without saying on what grounds the small states would adopt these majorities-looking at the matter purely from the point of view of the fears of some members of the larger states, I say that there is very, little that ought to cause any timidity on their part. That is, on what I may call grounds of mere abstract or a priori consideration as to what would be likely to take place in the voting and as, to the prospects of obtaining the balance to make tip a majority. But look at what takes place in France. As I mentioned last night, on a question arising as to a revision of the constitution, the National Assembly consists of an amalgamation of the two houses for the purpose of voting. The Senate is composed of 300 members, and the Chamber of Deputies, being on a population basis, is composed of a larger number.

The Hon. I.A. ISAACS:

573!

Mr. GLYNN:
Yes, about that number. I know that it is one for every 100,000 of the population. I do not know the exact number of deputies now; but, as the hon. and learned member, Mr. Isaacs, has mentioned, the proportion is about 300 to 573. Therefore, on amalgamation there, the same grounds of fear would be capable of being urged that are being put forward here by representatives of the smaller states; and, from another point of view, by representatives of the larger states, if they voted on amalgamation according to the numerical strength of the separate houses. But they do not, and that is the reason why I say that there would be very little difficulty experienced by the larger states in making up the small balance of five or twelve. The assumption of block voting against reason is not justified by experience. I mentioned last night—I think hon. members will excuse me for repeating the figures, because they are exceedingly important; from this point of view—that on matters involving in some cases almost the existence of the Senate, a vote took place on consolidation lines. In 1884, after an agitation that began in 1882, the National Assembly sat for the purpose of considering a proposal made by the Chamber of Deputies to take away the right of the Senate to amend money, bills or to interfere with the budget.

There were several other amendments also referred to the National Assembly for consideration, and although the matter had been agitated for two years, and although the Chamber of Deputies had a very large proportion of votes in the National Assembly, the vote, which was a consolidation vote, was in this way: There were 502 votes for, and 172 against; so you see there the 300 votes of the Senate were not block votes in the National Assembly, and the majority of 502 must have been very largely made up of some of the votes of the very senators whose powers, if not whose existence, were being aimed at by the amendment made in the National Assembly. There was another question which involved the respective rights in constitutional matters of the Chamber of Deputies and the Senate—a vote that was taken in 1875, shortly after the establishment of the Constitution. In that case the vote was 526 to 249, and as the Senate had only a total number of 300 members, some of the senators must have gone over to make up the majority in favour of the proposal which toned down their powers. So I think I am justified in taking up the position that if the amendment proposed by the hon. member, Mr. Carruthers, is agreed to, instead of the vote being carried out according to the numerical strength of the two houses, it will be a unitarian vote, given, with some allowances for class and state prejudices, on the grounds of common-sense, expediency, and fairness. Therefore, I would support that amendment. Last night I
supported the principle of a dual referendum, which, after a dissolution of the two houses, I think would be the best expedient we could adopt. But that has not been accepted, and I am driven back to take up some position in regard to this vote.

The Hon. I.A. ISAACS:

There is the proposal of the Right Hon. Mr. Kingston!

Mr. GLYNN:

I cannot at present see my way to adopt the amendment of the right hon. member, Mr. Kingston. I do not wish to repeat arguments which have been so very well used by hon. members; but I would simply say this, in addition: The proposal of the right hon. member, Mr. Kingston, would leave open the possibility of state rights or state interests being continually agitated in the parliament. It is a provision for deadlocks, and wherever any arose the cure sought by the right hon. member to be administered would necessitate the raising of State issues. If we leave matters alone, I believe that state issues will not arise. I believe that we hear of them in this Convention, because we have to be cautious to make provision for possibilities, although they may be exceedingly remote; but in the actual working of the constitution I do not believe that, perhaps, once in thirty years, if ever, a real state issue will arise; and, as I have said, the provision proposed by the right hon. member, Mr. Kingston, would necessitate the precipitation or suggestion of state issues, practically, under all circumstances.

The Right Hon. G.H. REID:

It would keep the sore open!

Mr. GLYNN:

Yes, it would keep the sore open. I do not wish to perpetuate the passions, turmoil, and ferment to which, during the last twenty-four hours, we have unfortunately become too much accustomed; therefore I cannot support that proposal. The only attempt that has been made to separate state issues from federal issues is in the German Constitution. In the German Constitution there is a provision that wherever a matter is not a matter that affects the empire as a whole, but is one that affects state rights or state interests, then only those states which are affected by the question can vote upon it; but, if I am not mistaken, there is either a specification of those matters, or some attempt has been made to indicate what they are in the lines of the constitution itself. But under the amendment of the right hon. member, Mr. Kingston-and this is what would be unfair to the larger states-we should put in the hands of the smaller states—either half or one-third of the whole—the power of suggesting a question as a state issue.
We know that in these matters it would be very hard to differentiate between what is and what is not a state issue, so that the ultimate arbiter would be the passions or prejudices of the representatives, which, upon the assumption that means are required to prevent deadlocks, would be at white heat at the time. I, therefore, cannot support the proposal. The right hon. member, Mr. Kingston, referred to the question of the control of the rivers as questions which might raise a state issue; but you will not raise this state issue in the federal parliament, because we shall settle in the constitution itself the lines upon which the rivers are to be dealt with.

The Hon. S. FRASER:

The constitution might be amended in accordance with clause 121!

Mr. GLYNN:

The deadlock question does not affect that at all; it is altogether separate from it. We shall settle in the constitution once and for all the extent to which there is to be federal control of the great arteries of commerce, including the rivers within the union, and once that question is settled no question of state rights in regard to it will arise between one state and another. I do not think, for instance, that there would be a block vote against South Australia, simply because a system of locking the rivers would give us more trade than we might otherwise get. If that were a state issue, it is not one which would separate the senate from the house of representatives. It would be a question between some of the states in the senate and other states in the senate, or between some of the members of the house of representatives and other members of the house of representatives. It would not give rise to a deadlock by creating a conflict between the two houses, which is the subject with which we are called upon to deal now. I hope that whatever may be the result of the voting on this question it will rather arouse the sense that a compromise has been effected than that a victory has been gained by one side or the other, so that the federal edifice may take its symmetry and its beauty from a harmonious blending of what is reasonable in the opinions of all.

The Right Hon. G.H. REID (New South Wales) [2.18]:

I am not going to address the Committee for more than three minutes, because I feel that anything like a long speech at the present time is quite out of place. I can say with a supreme confidence that the proposal that the two houses should sit together under a three-fifths majority is infinitely better than anything else the Convention is likely to agree upon. We all have our opinions upon this subject, and if we had our own way we should provide different solutions of the difficulty. At the same time we reserve to ourselves the right to reconsider the whole question in the light of further information; but I have no hesitation in saying that I look upon the
proposal that the two houses should sit together and decide these matters by a three-fifths majority as absolutely the best we have before us which has any chance of success. The right hon. member, Mr. Kingston, has naturally great attachment for his own little bantling. I generally look at the concluding sentences of documents of this kind first, and the concluding sentence of his suggestion is beautiful.

By the above effect will be secured to the national will in admittedly national questions, while state interests will be fairly guarded.

That is beautiful, and is what we all aim at. But when we look at what the hon. and learned member proposes to carry it out the thing falls to pieces. The right hon. member is in the difficulty in which I was the other day. I said, as he says, let us mark the national questions with a national referendum and the provincial questions with a state right. But if you cannot do that in connection with the subjects dealt with in the bill, how can you possibly do it with any reasonable chance of giving satisfaction in regard to measures which come before the federal parliament? If it cannot be done in genesis it certainly cannot be done in detail. I think that that is obvious. The bad result would be this: that the war between state and national interests would be kept up in perpetuity. Every question that came up in the commonwealth parliament might raise this eternal fight between the two interests. Would not that be the greatest calamity that could happen to the commonwealth?

An Hon. MEMBER:

It would entail it!

The Right Hon. G.H. REID:

It would keep it alive. Whilst we want to make some provision against deadlocks, if this will enable us to say to the people, "This constitution will work well, and we have put into it something, though in a rough and ready fashion, perhaps, which, if there is a crisis, will settle it," we shall have done pretty well. My right hon. friend puts these alternatives. He allows one-third of the house of representatives to declare that state interests are involved. That means that the representatives of Queensland, Tasmania, South Australia, and Western Australia will have to agree to make a question a state question; or half the representatives of half the states in the house of representatives, that is, two and a half in Western Australia, two and a half in Tasmania, and three and a half in South Australia. If you could divide people up in that way, that would sum up a total of eight and a half votes to decide whether a question was or was not one involving a state interest. In one of the alternative schemes, one half would have to
vote solid, and, in the other, eight and a half votes would do. We will all think over this matter during the adjournment; but I think that the course of sitting together will bring deadlocks to an earlier, a less expensive, and a friendlier determination than anything else. There is no doubt, as we know from our experience of conferences between the two houses, that if you bring them together even in the bitterest times, the result is greater friendliness, greater courtesy, and a greater desire for settlement. That has been our local experience, and I confidently believe that, if you place men face to face, and let them thrash a thing out, the effect will probably be to bring the two houses into more amicable relations. We all hope that there will very seldom be any necessity for this. I think that this is the best thing we can do upon the whole. I am absolutely sure, so far as one can be sure of anything, that it is the best we can do. If we can get any light on the matter further on, we shall all agree to act according to our convictions. As to money bills, it was agreed last night that an appropriation bill and a tariff bill should not be submitted to a vote in detail upon every clause. So the conference would run on the lines of the general provisions of the constitution as to money bills or bills which are not money bills. In the case of money bills, the question to be decided would be "That the bill do now pass." In the case of ordinary legislation, I see no reason why, if you bring the two houses together, you should not give them the opportunity of going through the whole measure clause by clause, and making it as good as they could. With regard to money bills, however, it will be seen that measures of that kind cannot be amended; but I have no objection to general measures being open to review by the general public.

The CHAIRMAN:
If the amendment of the hon. member, Mr. Howe, is put, the amendment of the right hon. member, Mr. Kingston, cannot be put.

The Hon. J.H. HOWE:
To facilitate matters, and to end discussion, I beg leave to withdraw my amendment.
Amendment, by leave, withdrawn.

Mr. WALKER:
Under the circumstances, I would ask leave to withdraw my amendment, too.

The CHAIRMAN:
The hon. member's amendment is not before the Committee.
Mr. HIGGINS:
Do I understand that the amendment of the hon. member, Mr. Howe, can be put later on?

The CHAIRMAN:
I understand that the hon. member, Mr. Howe, has withdrawn his amendment for the present to enable the right hon. member, Mr. Kingston, to move his amendment.
Amendment (by The Right Hon. C.C. KINGSTON) proposed:
That the word "the," at the beginning of Mr. Carruthers' amendment, be omitted with a view to inserting the following words: "a referendum of the people of the commonwealth in the case of national questions, and to a referendum of the people of the commonwealth and a referendum of the people of the states where state interests are involved."

Mr. SYMON:
This will be a test vote this time!

Hon. MEMBERS:
Hear, hear!
Question-That the word "the" proposed to be left out (Mr. Carruthers' amendment) stand part of the amendment-put. The Committee divided:
Ayes, 30; noes, 11; majority, 19.
AYES.
Barton, E. Henry, J.
Braddon, Sir E.N.C. Higgins, H.B.
Briggs, H. Howe, J.H.
Brown, N.J. Leake, G.
Brunker, J.N. Lee-Steere, Sir J.G.
Clarke, M.J. Moore, W.
Crowder, F.T. O'Connor, R.E.
Dobson, H. Reid, G.R.
Douglas, A. Solomon, V.L.
Downer, Sir J.W. Symon, J.H.
Forrest, Sir J. Venn, H.W.
Fysh, Sir P.O. Walker, J.T.
Glynn, P.M. Zeal, Sir W.A.
Gordon, J.H.
Grant, C.H. Teller,
Henning, A.H. Carruthers, J.H.
NOES.
Berry, Sir G. Peacock, A.J.
Cockburn, Dr. J.A. Quick, Dr. J.
Deakin, A. Turner, Sir G.
Isaacs, L.A. Wise, B.R.
James, W.H. Teller,
Kingston, C.C. Holder, F.W.

Question so resolved in the affirmative.

Amendment (by Hon. J.H. Howe) again proposed:
That the word "three-fifths" be omitted from the amendment of Mr. Carruthers, with a view to inserting the word "two-thirds" in lieu thereof.

The CHAIRMAN:
The question is:
That the word proposed to be left out stand part of the question.

The Right Hon. G.H. Reid:
Of course, if that amendment is carried, I absolutely withdraw from this proposal altogether.

The Right Hon. Sir G. Turner:
I desire to ask for the guidance of myself and other hon. members, what will be the effect if we create a blank, seeing that there are two or three proposals—one to insert the word "three-fourths," another to insert "two-thirds," and another to insert a bare majority? Which proposal will be put from the Chair first?

The CHAIRMAN: The amendment which has been first proposed.

The Hon. J.H. Howe (South Australia)[2.31]:
As far as I am individually concerned, I have every faith in the double dissolution. I believe we have been creating a monster in our imaginations that no man who will ever live on the Australian continent will see. It is no wonder, therefore, that we cannot devise any human means to get out of the difficulty. We are trying to find a remedy for a disease that will never exist. That is quite sufficient to account for our failure to bring forward some means which will end this difficulty. However, I should be very sorry to see federation wrecked on that account. That is why I voted with the able and learned Attorney-General of Victoria. I voted with

him for the dual referendum in Adelaide, and also at this meeting, but I could see that we were in such a minority that it was useless fighting any longer. Consequently, I am here to compromise matters. What ever my action may be to-day, it is simply to try to secure a compromise where by some method will be placed within the four corners of the constitution of Australia to meet this difficulty which we have been frightening ourselves so much about. I am now placed in a quandary, because the Right Hon. the
Premier of New South Wales, now taking a higher step, intimates that if I carry this amendment, which I consider is a very fair one, and which will work out equitably, he will withdraw from his position, so that the whole fabric we have been trying to erect falls to the ground. I do not like to be threatened or coerced by any man living; but still I put my own feelings on one side in order to bring about true federation. Consequently I withdraw my amendment.

The Right Hon. G.H. Reid:
I do not want the hon. member to withdraw his amendment. I will vote against it!

Mr. Higgins:
I understand that the hon. member has withdrawn his amendment!

The Chairman:
The hon. member cannot withdraw it except with the leave of the Committee.

Mr. Higgins:
I understand that the hon. member proposes to withdraw it with the leave of the Committee!

The Chairman:
Is it the pleasure of the Committee that the Hon. Mr. Howe have leave to withdraw his amendment?

The Hon. Sir P.O. Fysch:
No!

Mr. Higgins:
Then, Sir, I have a prior amendment to move. I wish before the word "three-fifths" is inserted to insert the words "a majority."

The Chairman:
It is too late now. The hon. member can fill up the blank if one is created.

The Hon. I.A. Isaacs:
May I ask, sir, if this is the position: the hon. member, Mr. Howe, has moved an amendment to strike out a certain word, and if that is permitted to be withdrawn, the word will have to remain?

The Chairman:
That has not been permitted.

The Hon. I.A. Isaacs:
The motion is that the word shall be struck out, and those who are for a greater proportion than three-fifths, and also those who are in favour of a
less proportion will vote, for their own respective reasons, for creating a blank, some for the purpose of putting in more than three-fifths, and some for the purpose of putting in less.

The CHAIRMAN:
If a blank is created, I will put first of all the question to fill the blank with the word "two-thirds," because that is the first proposal, and then, if that is negatived, I will put the question to insert the words "a majority."

The Hon. Sir J.W. DOWNER (South Australia)[2.37]:
I have not spoken on this question before. I did speak on the proposal to which this is an amendment; but I feel the greatest difficulty in coming to a conclusion how to vote at the present stage.

The Hon. S. FRASER:
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The Hon. Sir J.W. DOWNER:
I look upon this as being a mere intermediate condition, having no finality at all, in which we may create a terrible misleading, possibly, of public opinion, for it might be thought we had come to conclusi

The Right Hon. C.C. KINGSTON:
What does my hon. and learned friend think has been carried?

The Hon. Sir J.W. DOWNER:
We have carried two things.

The Right Hon. C.C. KINGSTON:
That is right!

The Hon. Sir J.W. DOWNER:
We have carried the amendment of the hon. and learned member, Mr. Symon, and the alternative of the double dissolution.
Some Hon. MEMBERS: No!
Other Hon. MEMBERS: Yes!

The Hon. Sir J.W. DOWNER:
I think in substance we have. We have had a vote on that identical question, and it has been carried. I do not say I agree to that. My views are pretty strong on this question altogether. I do not think merely as my hon. friend, Mr. Howe, put it, that we are anticipating terror's which will never happen. I will go much further. I will say we are creating the very mischiefs which we are making machinery to prevent, and which would never arise, if, in our studiousness to prevent evil we did not suggest, and by our suggestion compel, its existence. But at the present stage the thing would be carried. I have, said before in this discussion that, rather than see
federation fail, I would take the double dissolution and the dual referendum, and I will be found to be true to that view throughout when the time for my decision comes rather than that the cause should fail. But observe the difficulties in which we are placed. On one side we have New South Wales saying, if you do not let us have just what we want, good-bye to federation. We have Victoria telling us with even more eloquence, and certainly with greater fervour—

Mr. SYMON:
And with greater frequency!
The Hon. I.A. ISAACS:
But not with greater frequency than appears to be necessary!
The Hon. Sir J.W. DOWNER:
I do not like to enter into that, because I think there is too great a desire to reiterate their views on the part of a good many hon. members.

An Hon. MEMBER:
Not the lay members!
The Hon. Sir J.W. DOWNER:
No; but listening to one and another, and anxious for federation, I find if I get it here I lose it there, and if I get it there it is hopeless here. Then we known this is not the final stage.
The Right Hon. Sir JOHN FORREST:

The Hon. Sir J.W. DOWNER:
If it were the last stage, I should be prepared to come to a conclusion and state boldly what it is; but we know that whatever we do is to be subject to a long ordeal of public criticism, in which there will be an endless number of other suggestions made, and the fat will be in the fire again. All the old business, with the repetitions of the same idea we will have over again, possibly with the addition of fresh suggestions. Under these circumstances, I have, though with great doubt, resolved to vote against any further amendment. I think when we meet next time we shall be able, we must come to some conclusion.

Mr. SOLOMON:
No. We shall have an adjournment for the sake of some other elections!
The Hon. Sir J.W. DOWNER:
I think it will be safest at the present stage to stop where we have gone, to go no further. Of course, I have the least difficulty in doing this, because I disagree with it all. My opinion is so strong that this provision for deadlocks is unnecessary, that I am considerably assisted in the stand I am taking from that conviction; but yet I would not keep to that position, I
assure my hon. and learned friend, Mr. Reid, if I thought that the cause of federation was trembling in the balance. But it is not trembling now. We have not reached that stage, so I think as at present advised, I will stand by the amendments which have been carried, and object to any further proposal.

The Hon. E. BARTON (New South Wales)[2.43]:

I think the Committee might as well be alive to the difficulties which surround this question. It is proposed that the majority shall be "three-fifths", and there is a counter-proposition to that, that it shall be "two-thirds." Its withdrawal has been objected to, and now we will have to vote on it unless the objection is withdrawn. The difficulty I wish to point out is this: that if the gentlemen who are in favour of two-thirds vote with certain of my hon. friends who want to destroy this amendment altogether, a blank will be created, and then they will find themselves in a peculiarly difficult position, because they will have to choose between the position that the blank be filled by the word "two-thirds," in which case a large number of supporters of this proposal as it stands will vote against them; and, if the two-thirds proposition is lost, they will have to choose between allowing this matter to be decided by an absolute majority and leaving a complete blank. Either, then, there will be a complete blank or the thing will be decided by an absolute majority, I, therefore, ask hon. members not to take any such course as will lead them into that predicament.

The Right Hon. Sir JOHN FORREST (Western Australia)[2.45]:

I would appeal to my hon. friend, Sir Philip Fysh, to allow the hon. member, Mr. Howe, to withdraw his amendment. It seems to me rather hard on that hon. member that he should not be allowed to withdraw it, and if it is withdrawn, my hon. friend, Sir Philip Fysh, may propose something in its place. I, of course, would very much prefer two-thirds to three-fifths. I think it would make the senate stronger. I do not wish to go to a division upon a proposal which the hon. member himself wishes to withdraw. I regret that the Premier of Victoria should take such a strong stand in regard to the matter, and we all know that the decisions to be arrived at here are not absolutely final. I do not agree with the hon. member, Sir John Downer, that, because we are going to meet again, we should not exercise our judgment as regards anything which is brought before us now, for I think that if we exercise our judgement now to the best of our ability, leaving it open to us to alter our opinion before we meet again if we find any good cause to do so, we shall be really assisting federation. Probably when we meet again the matter will be new, and the differences and discussions will be greater than if we exercise our best judgment at the
present time. Personally, I prefer the two-thirds, but at the same time, I am quite willing that three-fifths should stand for the present, in order that we may consider the matter between now and when we meet again. I recognise that hon. members here are surrounded by great political pressure. Of course that is absent altogether in my case. Being far removed from the colony which I represent, I am more free to speak on these matters than, perhaps, I should be if I were surrounded by great political pressure, as are the representatives of New South Wales. I thoroughly understand that, and therefore I do not wish to do anything, and I hope I shall not do anything, which will make the pressure greater than it is. I think the best thing to do is to allow the hon. member to withdraw the amendment. There is not such a terrible difference between three-fifths and two-thirds.

The Hon. Sir J.W. DOWNER:

One-fifteenth!

The Right Hon. Sir JOHN FORREST:

It is less than seven in a hundred. At any rate we shall be subscribing a principle which can be altered when we meet again. I think we had better allow the three-fifths to stand, and we can discuss the matter in Melbourne or some other place later on.

The Hon. Sir P.O. FYSH (Tasmania):

It appears to me that we have come, so far as this session is concerned, at any rate, to the last resort, and that is the adoption of something like the Norwegian system. Presuming, therefore, that what we are doing to-day will be some guide as to what may be done hereafter, I wish to register my opinion that 74 out of 112 is not too large a majority to maintain. Two-thirds will be 74, and three-fifths will be only 66. But in deference to the generally-expressed desire to avoid any thing like delay, I shall withdraw my objection to the hon. member, Mr. Howe, having leave to withdraw his amendment.

The CHAIRMAN:

I understand that the hon. member, Mr. Higgins, also objects to the withdrawal.

The Right Hon. Sir G. TURNER (Victoria):

As I mentioned before, I consider that proposal a great blot on the bill, and I am desirous of reducing that blot as much as I possibly can. With that object in view, if this proposal is carried, I am going to propose that there shall be a simple majority—not a majority of two-thirds, three-fourths, or four-fifths. Therefore, I certainly shall support the creating of a blank, with the object of filling up the blank with the words "a majority."
Mr. HIGGINS (Victoria)[2.50]:
If the standing orders of South Australia will allow me—when the hon. member, Mr. Howe, withdraws his proposal—to move the same proposal again, I will certainly not stand in the way of his wish. But if the standing orders prohibit me from doing it, I must object to the withdrawal. With regard to the question of three-fifths, I desire to say that it will give us no finality. If we have two-thirds, three-fourths, or three-fifths, we make no provision for a case where there is a majority, and where we have not two-thirds or three-fifths. What we want mainly is finality; and, as we are all making sacrifices to obtain it, it might as well to insert the words "a majority." Therefore, if the hon. member, Mr. Howe, has leave to withdraw his amendment, I shall move the omission of the word "two-thirds " with the view to the insertion of "a majority."

The CHAIRMAN:
According to the standing orders of South Australia, if a proposition has been put from the Chair any single member can object to its withdrawal and insist on taking the sense of the House or the Committee as the case might be upon it. If hon. members object to the withdrawal of the proposition of the hon. member, Mr. Howe, it will have to be put. It does not matter whether it is put by the hon. member, Mr. Higgins, or Mr Howe. The hon. member, Mr. Howe, can vote against his own proposition if he likes.

The Hon. J.H. HOWE:
No, I will not do that!

The CHAIRMAN:
I will put it again: That the hon. member, Mr. Howe, have leave to withdraw his amendment."

Mr. HIGGINS:
I object!

The Hon. J.H. CARRUTHERS (New South Wales)[2.53]:
There is no doubt that, in connection with this vote, there will be a combination of hon. members with extremely different views, and as a result of that combination it is likely, unless we keep our heads cool, that the whole of the proposals will be defeated. The anxiety of the Premier of Victoria is to destroy the proposal in its entirety. He says so in so many words.

[P.972] starts here

The Right Hon. Sir G. TURNER:
I said I should vote against it at every stage!

The Hon. J.H. CARRUTHERS:

On the other hand, the hon. member Mr. Howe, and those who are working with him, may give their assistance to accomplish a purpose which is far from their aim. They desire to have certain words altered; they desire to have a definite proposal in a modified form. Supposing they unite their forces with those who are manifest and declared destroyers and wreckers of this proposal. They create a blank. Having created a blank they ask for the insertion of the words "a majority." Of course, if there is a combination of forces then to prevent that being carried it will be defeated. Then the proposal is made for the insertion of the word "two-thirds." There is again a division of forces, and t

The Right Hon. Sir JOHN FORREST:

Like some of the unholy alliances we had last night!

The Hon. J.H. CARRUTHERS:

Every alliance which aims at not having a straight vote on a straight issue is, to my mind, an unholy one. The Premier of Victoria expressed a desire to destroy the proposal by any means whatever, and he has taken this means of doing it. Let that be understood. It is of no use quibbling about words now. There are those who are in favour of the proposal against the would-be wreckers. With that made clear, we might all vote now in favour of the proposal for the retention of three-fifths.

The Hon. A. DEAKIN (Victoria)[2.55]:

I rise for the purpose of asking the hon. gentleman who has just resumed his seat to qualify his remarks, because, although I shall be found voting for the omission of the word "three-fifths," for the purpose of inserting the words "a simple majority," it will be by no means with the object of wrecking the hon. gentleman's proposal. In this I differ from the right hon. gentleman, the Premier of Victoria. I, for one, am endeavouring to follow the consistent course of voting for every scheme that is being proposed for the settlement of deadlocks.

An Hon. MEMBER:

As some others have voted against every scheme!

The Hon. A. DEAKIN:

Exactly; I vote for every scheme. In the different schemes one has preferences. As between the two referendums I prefer the national to the dual referendum, but I vote for both; and in this scheme I prefer a simple majority to a majority of two-thirds, or any larger number. But I look upon the real effective portion of this proposal as not resting on either the referendum or on the joint sitting. If we obtain a simultaneous dissolution,
we shall be putting pressure on both chambers to agree without the application of any machinery. We shall prevent the application of that scheme itself, and shall, as I endeavoured to explain at some length yesterday, induce both chambers to settle most of their difficulties in the ordinary constitutional manner. When the test issue is put as to the acceptance or rejection of Mr. Carruthers' proposal, I shall be found voting for it. It is a proposal which has many merits, and, if it were necessary, I should be prepared to defend it. It has less merit than some of the proposals that have been submitted,

but more than most. I am entirely in its favour, and assure the hon. member that, in voting as I do, it is with the object of assisting him. I hope to take another opportunity of having a word or two to say to my hon. friend, Dr. Cockburn, whose unhappy misinterpretations of American history are a constant source of provocation, peaceful as I am by disposition. The hon. member will persist in trailing the fragments of his recollection of American history to tempt me-

The Hon. Dr. COCKBURN:

The hon. member threw paving-stones at me!

The Hon. A. DEAKIN:

I wish to point out to the hon. member-I do not know how many times I leave already done so in these various conventions-that the existence of responsible government in this federal constitution, and in these colonies, alters the political position wholly from the position in the United States of America. Party government, as it exists in America, does not and will not exist here. Party government as it exists in Great Britain and in these colonies, will exist here. It will be on the lines of liberal and conservative parties; it cannot be on the lines of republicans and democrats. An executive responsible to the people-responsible to the parliament and to the popular chamber-will necessarily express and be governed by those currents of popular feeling which in America are almost powerless to affect the course of events. There the people only speak every four years; they only speak as a whole at the election of a president, and then they speak only through the party machine. In these colonies they will speak freely and often on the well known lines of division between liberal and conservative.

The Hon. Dr. COCKBURN:

Just as we see here, for example!

The Hon. A. DEAKIN:

Unless the hon. member changes his course, I shudder to think which side be will be found on, when we do divide into liberals and
conservatives.

The Right Hon. C.C. KINGSTON (South Australia)[3]:

The position is a somewhat difficult one. There is a considerable section of the Convention opposed to any solution of deadlocks, and by combining with those who are opposed to various particular solutions they can ensure one after the other the defeat of all, and prevent effect being given to what is undoubtedly the wish of the majority of the Convention that some solution should be arrived at. Now, I am not going to be a party to anything of that sort. I think for our own credit, for the sake of federation, we ought to put the thing before the people in as complete a shape as we possibly can; and under these circumstances I shall be no party to any attempt to mutilate a proposal—which emanates from any section of the Convention. I have tried to carry my own views in the matter. I have been beaten, and I have been fairly beaten, and I treat the verdict of this Convention with respect. I hope at some other time to induce the Convention to reverse its decision; but in the interval I am going to do what I can to put before the people of the country and the adjourned Convention some practical scheme for meeting this question of deadlocks. Under these circumstances, I shall not be found opposing at this stage the amendment of my hon. friend, Mr. Carruthers, and I shall not do anything for the purpose of putting it into an impracticable shape. I shall endeavour honestly to improve it, and I think it will be a substantial improvement to provide that at a joint sitting a majority of those present should decide the question. I will vote in that direction for that simple purpose, and without any desire whatever to injure the amendment. If it is carried in that shape, I shall support it. In any case I shall support its going into the bill for the considera-

The Hon. J.H. HOWE:

What about the majority-take the other side?

The Right Hon. C.C. KINGSTON:

If on the other side you provide that a majority should decide, then not
only do you give the house of representatives an opportunity, if they can command a majority at that joint sitting, of carrying their way, but you make a similar result possible as regards the senate. And why should you not? Put it in the way proposed, decide the question by a simple majority, and the result may be that by a majority of the senate and a minority of the house of representatives the view of the senate may be carried. Put it in any other way, and you are simply putting into the hands of the house of representatives a weapon for overruling the wishes of the senate. That I do not wish to do. Therefore, I shall be found voting in the way I have indicated. I think I have fairly enough defined my position, and have, at least, said quite sufficient to assure the hon. member, Mr. Carruthers, and those who have listened to me, that I cannot, under any circumstances whatever, be classed as a wrecker, or one who desires to do anything but what is fair and square in connection with this bill.

Question-That the word "three-fifths," proposed to be omitted, stand part of Mr. Carruthers' amendment-put. The Committee divided:

Ayes, 28; noes, 13; majority, 15.

AYES.
Barton, E. Howe, J.H.
Braddon, Sir E.N.C. Leake, G.
Briggs, H. Lee-Steere, Sir J.G.
Brunker, J.N. McMillan, W.
Crowder, F.T. Moore, W.
Dobson, H. O'Connor, R.E.
Downer, Sir, J.W. Reid, G.H.
Forrest, Sir J. Solomon, V.L.
Fraser, S. Symon, J.H.
Fysh, Sir P.O Venn, H.W.
Glynn, P.M. Walker, J.T.
Gordon, J.H. Zeal, Sir W.A.
Hackett, J.W.
Henning, A.H. Teller,
Henry, J. Carruthers, J.H.

NOES.
Berry, Sir G. Kingston, C.C.
Clarke, M.J. Peacock, A.J.
Cockburn, Dr. J.A. Quick, Dr. J.
Deakin, A. Trenwith, W.A.
Grant, C.H. Turner, Sir G.
Holder, F.W Teller,
Isaacs, I.A. Higgins, H.B.
Question so resolved in the affirmative.

The CHAIRMAN:
The question will now be-That the amendment of the hon. member. Mr. Carruthers, be added to the amendment of the Right Hon. Sir George Turner, as amended on the motion of the hon. and learned member, Mr. Wise.

Question-That the words proposed to be added be so added-put. The Committee divided:
Ayes, 29; noes, 12; majority, 17.

AYES.
Barton, E. Howe, J.H.
Berry, Sir G. Kingston, C.C.
Briggs, H. Leake, G.
Brunker, J.N. Lee-Steere, Sir J.G.
Crowder, F.T. Moore, W.
Deakin, A. O'Connor, R.E.
Forrest, Sir J. Quick, Dr. J.
Fraser, S. Reid, G.H.
Fysh, Sir P.O. Solomon, V.L.
Glynn, P.M. Symon, J.H.
Gordon, J.H. Venn, H.W.
Grant, C.H. Walker, J.T.
Hackett, J.W. Zeal, Sir W.A.
Henning, A.H. Teller,
Higgins, H.B. Carruthers, J.H.

NOES.
Braddon, Sir E.N.C. Isaacs, I.A.
Clarke, M. J. McMillan, W.
Cockburn, Dr. J.A. Trenwith, W.A.
Dobson, H. Turner, Sir G.
Downer, Sir J.W.
Henry, J. Teller,
Holder, F.W. Peacock, A.J.

Question so resolved in the affirmative.

The Hon. J.H. CARRUTHERS (New South Wales)[3.8]:
I do not intend to detain the Committee by speaking upon the amendment I intend now to move. All that I desire is that a vote may be taken upon the proposal. I move:
That the following words be added:--"Provided that if the proposed law be rejected it shall be lawful for a majority of those present and voting to pass a resolution paying the governor-general to refer the proposed law to a general vote of the electors of the commonwealth.

Mr. SYMON:

I rise to order. I do not think we have yet reached a stage at which the amendment the hon. member is submitting can be moved. The hon. member is indicating the course he has in view in the event of the conference not coming to a conclusion in regard to the proposed law. But it has not yet been decided whether this proviso is or is not to be inserted. Would it not be very much better that my hon. friend should deal with the proviso which embodies this amendment of the hon. and learned member, Mr. Wise, and his own?

The Hon. J.H. CARRUTHERS:

I see reason in the hon. member's argument, and I will not persist with this amendment until the Committee has decided whether the proviso shall or shall not stand.

The CHAIRMAN:

The question before the Committee is, that the amendment proposed by the Right Hon. Sir George Turner, as amended by the hon. and learned member, Mr. Wise, and as added to by the hon. member, Mr. Carruthers, be inserted in lieu of dissolving the house of representatives alone in the first instance, both houses of parliament may be dissolved simultaneously, provided that the senate shall not be dissolved within a period of six months immediately preceding the date of expiry by effluxion of time of the duration of the house of representatives, and if after such dissolution the proposed law fails to pass with or without amendment, the proposed law may be referred to the members of the two houses deliberating and voting together thereon, and shall be adopted or rejected according to the decision of three-fifths of the members present and voting on the question.

The Hon. Dr. COCKBURN (South Australia)[3.17]:

I voted for the amendment proposed by the right hon. member, Sir George Turner, as amended by the hon. and learned member, Mr. Wise, and I still should like to do so; but with this further addition to it, providing for the joint meeting of the two houses, I can no longer do so; and, therefore, very reluctantly, I shall have to vote against the whole thing. I should like to say that the hon. member, Mr. Carruthers, much as he
protests against unholy alliances, without his knowledge, had the benefit of an unholy alliance, and the last vote has been the means of defeating the proposition of the right hon. member, Sir George Turner, and I hope also his own.

The Right Hon. Sir G. TURNER (Victoria)[3.18]:

We certainly are in a difficulty over this matter, and I am in the position of having to choose between two evils. One evil is the proposal of my hon. and learned friend, Mr. Symon, that we should have a dissolution of the house of representatives followed by a dissolution of the senate. The other evil is the joint meeting of the two houses after a joint dissolution. So between the two there comes a joint dissolution. If I vote to prevent the proposal of the hon. member, Mr. Carruthers, from being added, the result will that I shall assist the hon. and learned member, Mr. Symon, in another evil.

The Hon. A.J. PEACOCK:

That is what it has been done for!

The Right Hon. G.H. REID:

Therefore, the right hon. gentleman will have to go straight!

The Hon. I.A. ISAACS:

He has always done so! The Right Hon. Sir G. TURNER: There is a clever loophole in connection with this, because the meeting of the two houses is not made compulsory. As the proposal stands, it is only that the proposed law may be referred, and that will rest, I have no doubt, with the government of the day. There is no one else who could take the necessary steps to refer it. The amendment does not say so in express terms, but the proposal, as I followed it when the Chairman read it, is simply that, after a double dissolution, the question may be referred to a meeting of the two houses; therefore, the government of the day would take very good care that they did not refer it unless they were certain beforehand that they had got the numbers. Although I look upon this as a great blot on the bill, I think that the fact that the referring the question will be in the option of the government, takes to a very great extent the sting out of the proposal; and seeing that I have to choose the less of two evils, I am prepared, without binding myself as to what I will do hereafter, either at the adjourned Convention, or when before the people explaining the bill, I am prepared to accept for the time-being what I consider the less of the two evils, and rather than help my hon. and learned friend, Mr. Symon-

Mr. SYMON:

I am sorry to hear that!

The Right Hon. Sir G. TURNER:
Rather than help my hon. and learned friend, Mr. SYMON, to get back into a position we have been fighting against four or five days, I intend, with very great reluctance indeed, and somewhat against my own feelings in the matter—and believing that I am doing an injury to federation, but not as great an injury as I would do if I supported my hon. and learned friend, and seeing that this proposal is only tentative, on this occasion I propose to vote with my hon. friend, Mr. Carruthers.

Mr. SYMON (South Australia)[3.19]:
I am indebted to my right hon. friend, Sir George Turner, for putting the position so plainly. What we are doing now—and I hope that hon. members will clearly understand it—is this: If we carry this proviso we are affirming the principle of an alternative simultaneous dissolution of both houses, and, therefore, as I am entirely against that course in the event of a dispute between the two houses, I intend to vote against this proviso.

The Right Hon. Sir JOHN FORREST (Western Australia)[3.20]:
I should like to ask my hon. and learned friend, Mr. Symon, whether in voting against this proposal we vote, as I suppose we shall against the whole of the clause—the amendment of the hon. member, Mr. Carruthers, and everything else.

An Hon. MEMBER:
Of course you do!

The Right Hon. Sir JOHN FORREST:
All that we have been fighting for the last hour or two goes by the board. While I am very anxious to vote against the proviso, and also against the amendment proposed by the bell. and learned member, Mr. Wise, I should have been very glad to be able to vote with the hon. member, Mr. Carruthers, provided that there should be a successive dissolution beforehand, or even a dissolution of one house: but it seems to me that we have got into a difficulty, therefore, I am bound to follow the hon. and learned member, Mr. Symon, and vote against the whole of the clause we have been trying to pass. I warned my hon. friend that if his amendment were to be tacked on to the proposal of the right hon. member, Sir George Turner, this would be the result. I was assured that it would not—that means would be found of separating that amendment from the proviso proposed by the right hon. member, Sir George Turner; but it seems to me that it is not possible to do that, and I am, therefore, very reluctantly compelled to vote against the whole of the clause.
An Hon. MEMBER:
The proviso?
The Right Hon. Sir JOHN FORREST:
   No; the Chairman is going to put the whole clause, I believe.

The CHAIRMAN:
   I would point out to the right hon. gentleman that the question is to insert the words I have just read in lieu of the word "if" in the amendment of the hon. member, Mr. Lyne.
The Right Hon. Sir JOHN FORREST:
   That is all the words including the proviso of the hon. member, Mr. Carruthers. I should like my hon. and learned friend, Mr. Symon, to address himself to this point.

Mr. SYMON (South Australia)[3.23]:
   In answer to my right hon. friend, the position seems to me to be perfectly clear. We have now got the proviso before us completed by the two amendments which have been moved, It was moved originally as a proviso by the right hon. member, Sir George Turner; on that the hon. and learned member, Mr. Wise, moved an amendment, and on that the hon. member, Mr. Carruthers, has moved and carried an amendment. Now the whole proviso, as Sir Richard Baker has intimated, is to be put, and that proviso embodies the principle of an alternative simultaneous dissolution of the two houses. Those in favour of that will, of course, support the proviso. For my part, I shall oppose it; but the position will be that, if the proviso is rejected, the whole of it, with the two amendments, will-unfortunately as to one of them-fall through.

The Hon. F.W. HOLDER (South Australia)[3.24]:
   I have been watching a nice little scheme being worked out, and now we see the end of it. but I do not intend to be entrapped. Ever since we passed an amendment yesterday in the direction of a simultaneous dissolution, there has been an effort so to overload that with anything and everything as to make it break down of its own weight; and, if we do not take care, hon. members who desire that will probably succeed now. This is a complicated question, and I ask you, sir, is it not possible under the standing orders for you to divide a complicated question and to put the different issues separately?

The CHAIRMAN:
   Hon. members must recollect that the Committee has affirmed every one of these propositions, having affirmed them in the form of additions to the amendment If hon. members had moved them in different forms, and had
allowed one proposal to be carried adding something to the clause before they moved another, it would have been simpler; but it is not for the Chairman to dictate how amendments shall be moved.

The Hon. E. BARTON (New South Wales)[3.26]:

It seems to me to be eminently desirable that we should have an opportunity of dealing with these proposals seriatim in the fresh light of the recent vote. I think it is only fair that the Committee should have an opportunity to say whether it will have the consecutive dissolution with the alternative of the double dissolution, and the proposal of the hon. member, Mr. Carruthers, in addition, or whether it will have only one of these dissolutions, adding the proposal of the hon. member, Mr. Carruthers, to it. Unfortunately, the standing orders are in the way of this being done; but there is a way out of the difficulty, slid that is by moving the Chairman out of the chair to obtain the suspension of the standing orders. I think that rather than have a continuance of this complication, a body like this should suspend the standing orders in order to get matters straight.

An. Hon. MEMBER: I shall object

The Right Hon. Sir G. TURNER:

Before my hon. friend does that, I would point out that we may lose the great step which we have already made—the double dissolution.

The CHAIRMAN:

May I make a suggestion. We are only now seeking to insert words in lieu of the word. "if" in Mr. Lyne's amendment. If these words are inserted it will be competent for the leader of the Convention to take advantage of, the suspension of the standing orders to rescind the amendment of the hon. member, Mr. Symon.

The Hon. E. BARTON:

Quite so. We will, deal with; this matter as we ought to deal with it. If we find that the proposal consists of three branches, of which we desire only two, leaving out either the consecutive or the double dissolution, I shall move, the Chairman out of the chair in order to put things straight.

Mr. TRENWITH:

I s

Question—That the words, proposed to be inserted in, place of the word "if" in Mr, Lyne's amendment be so inserted-resolved in the affirmative.

The CHAIRMAN:

We now have to deal with, the remainder of the amendment proposed by
the hon. member, Mr. Lyne, which is inconsistent with the previous decision of the Committee, and, therefore, I propose to strike it out as consequential. The question is, that the amendment which now takes the place of Mr. Lyne's amendment, be, inserted, after the word "senate" (line, 180 page 932).

The Hon. E. BARTON:

There are the remaining words of the original amendment suggested, by the Assembly, of New South Wales to be dealt with.!

The CHAIRMAN:

We will come to that by-and-by.

Mr. SYMON:

What are the words proposed to be inserted?

The CHAIRMAN:

It is proposed to insert the following words after the word, "senate" (Mr. Symon's amendment, line 18, page 932):

Provided that in lieu of dissolving the house of representatives alone in the first instance both houses of parliament may be dissolved, simultaneously: Provided that the senate shall not be dissolved within a period of six months immediately preceding the date of the expiry by effluxion of time of the duration of the house of representatives. And if after such dissolution the proposed law fails to pass with or without amendment the proposed law may be referred to the members of the two houses deliberating and voting together thereon, and shall be adopted or rejected according to As decision of three-fifths of the members present and voting on the question.

The Hon. Dr. COCKBURN:

I understand that the proposal now is the insertion of the complicated amendments proposed by the right hon. member, Sir George Turner, the hon. and learned member Mr. Wise, and the hon. member, Mr. Carruthers. What does the hon. and learned member, Mr. Barton, now propose to do? I want to give a vote in accordance with my views, and I think that the Convention ought to be able to devise means for carrying out the wishes of its members.

The Hon. E. BARTON:

What I propose is, that, after this matter is dealt with, an opportunity shall be given to hon. members to take such a course as will relieve them of one of the two proposals which precede this—that is to say, to enable
them to rescind either the, amendment of the hon. member, Mr. Symon or the amendment of the hon. and learned member, Mr. Wise, so that the taking of a joint vote of the two houses, in the event of a deadlock, will be something which follows upon either a concurrent dissolution or a joint dissolution, as hon. members choose, but so that there shall not be the alternative of both.

An Hon. MEMBER:

Why not?

The Hon. E. BARTON:

I intend, to give hon. members an opportunity to vote as they wish to vote, and, without expressing any opinion of my own, I will take such a course as will enable them to do so!

Mr. SYMON:

That is not the point of the hon. and learned member, Dr. Cockburn. His point is this: It is not a question of attaching the amendment of the hon. member, Mr. Carruthers, to a consecutive dissolution, or to a simultaneous dissolution, it is a question of attaching his amendment to anything at all. The objection of the hon. and learned member is not to a consecutive or to a simultaneous dissolution, but to the amendment of the hon. member, Mr. Carruthers.

An Hon. MEMBER:

That is carried!

Mr. SYMON:

Yes. It would be a useless waste of time to open the whole thing again in that fashion. We might be here for another month. I have not called for a division, and— it is not proposed to call for a division on the question of the proviso. I have stated my objection to it; but, although it is alternative, still, in the view of the majority of hon. members, it is not an undesirable thing that we should have it put, as the Right Hon. Sir George Turner has proposed as an alternative. Seeing that this is all a tentative arrangement, and will be reconsidered and recast hereafter, I am not going to call for a division, although I shall assert my view when the voices are given upon, the insertion of these words.

The Hon. E. BARTON:

The Committee has already obtained leave to rescind any amendment that has been carried.

The CHAIRMAN:

No; only one amendment.
The Hon. E. Barton:

That, I think, is the amendment of the hon. member, Mr. Symon. Consequently the Committee, without suspending the standing orders, can rescind any portion of that amendment. We cannot do any more than that without suspending the standing orders.

Mr. Symon:

That does not meet the hon. member Dr. Cockburn's difficulty. The Hon. E. Barton: The hon. member Dr. Cockburn's difficulty is that while he may be in favour of one or the other he is not in favour of this.

The Hon. Dr. Cockburn:

I am not in favour of the three things.

The Hon. E. Barton:

I think he voted against the proposal of the hon. member, Mr. Carruthers.

An Hon. Member:

Yes.

The Hon. E. Barton:

Well, the instructions to the Committee that leave be given to reconsider and rescind do not apply to the hon. member Mr. Carruthers' proposal, but they do to the amendment of the hon. member, Mr. Symon. Therefore, unless we move the Chairman out of chair, and get further instructions, we can only rescind the hon. member Mr. Symon's amendment.

The Hon. Dr. Cockburn:

I think we had better do that; it is too serious a matter for any vote to be recorded which is not in accordance with the views of hon. members. I think that somehow or other we, should devise; means to give effect to our wishes. However, I do not wish to stand out in this matter. I only wish to say that I thoroughly disapprove of the addition proposed by the hon. member, Mr. Carruthers.

The Chairman:

I think the hon. member ought not to argue that question now.

The Hon. Dr. Cockburn:

I only want to say that I supported the hon. member Mr. Symon, in his proposal for a successive dissolution. I also supported the hon. member Mr. Wise's proposal that there should be an alternative of a simultaneous dissolution, so long as it is not exercised so as to always penalise the senate and never penalise the house of representatives. I want to vote for these two things; but I am put in such a position that I have no opportunity of doing so. I should like to have such an opportunity. But, as it is understood
that all our work now is simply preparatory and tentative, although I object to anything I do not approve of getting a prescriptive right of existence, still I suppose there is now no alternative.

Question—That the words proposed to be inserted in paragraph A, after the word "senate," be so inserted—put. The Committee divided:

Ayes, 23; noes, 13; majority, 10.

AYES.
Barton, E. Howe, J.H.
Berry, Sir G. Kingston, C.C.
Brunker, J.N. O'Connor, R.E.
Carruthers, J.H. Peacock, A.J.
Cockburn, Dr. J.A. Quick, Dr. J.
Deakin, A. Reid, G.H.
Fysh, Sir P.O. Solomon, V.L.
Glynn, P.M. Trenwith, W.A.
Gordon, J.H. Turner, Sir G.
Hackett, J.W. Walker, J.T.
Higgins, H.B. Teller,
Holder, F.W. Isaacs, I.A.

NOES.
Braddon, Sir E.N.C. Leake, G.
Briggs, H. Lee-Steere, Sir J.G.
Clarke, M.J. McMillan, W.
Crowder, F.T. Moore, W.
Dobson, H. Zeal, Sir W.A.
Forrest, Sir J. Teller,
Grant, C. H. Downer, Sir J.W.

Question so resolved in the affirmative.

The Hon. J.H. CARRUTHERS (New South Wales)[3.44]:
I beg to move the addition of the following proviso, and I only desire to have a division of the Committee upon it:

Provided that if the proposed law be rejected it shall be lawful for the majority of those present and voting to pass a resolution praying the governor-general to refer the proposed law to a general vote of the electors of the commonwealth, and upon such resolution being presented to the governor-general he may direct that such general vote of the electors be taken.

If that be carried I shall subsequently move that the minority shall also have the right to claim a general referendum to veto the proposed law.

Mr. SOLOMON:
What generosity!
Question—That the words proposed to be added be so added—put. The Committee divided:

Ayes, 13; noes, 27; majority, 14.

AYES.
Berry, Sir G. Peacock, A.J.
Brunker, J.N. Quick, Dr. J.
Deakin, A. Reid, G.H.
Higgins, H.B. Trenwith, W.A.
Holder, F.W. Turner, Sir G.
Isaacs, I.A. Teller,
O'Connor, R.E. Carruthers, J.H.

NOES.
Braddon, Sir E.N.C. Henning, A.H.
Briggs, H. Howe, J.H.
Clarke, M.J. Kingston, C.C.
Cockburn
Crowder, F.T. Lee-Steere, Sir J.G.
Dobson, H. McMillan, W.
Downer, Sir J.W. Moore, W.
Forrest, Sir J. Solomon, V.L.
Fraser, S. Symon, J.R.
Fysh, Sir P.O. Venn, H.W.
Glynn, P.M. Walker, J.T.
Gordon, J.H. Zeal, Sir W.A.
Grant, C.H. Teller,
Hackett, J.W. Barton, E.

Question so resolved in the negative.

The Hon. E. BARTON:

I move:
That the remaining words of the proposed new clause 57A be struck out.

Amendment agreed to.

The Hon. E. BARTON (New South Wales)[3.49]:

Now the question arises as to the procedure of the Committee in dealing with the proposals which are antecedent to the one just adopted. I understand that it is the wish of a number of hon. members to have an opportunity to reconsider those portions in the light of the decision they have come to with reference to a joint vote of the houses.

Hon. MEMBERS:
Let it go!

An Hon. MEMBER:
We will consider it in Melbourne!

The Hon. E. BARTON:
Let it be understood that I am only endeavouring to arrive at the general sense of this body. I am perfectly willing to let things stand as they are, at any rate, until our next meeting, which I hope will be in January. As the mouthpiece of hon. members, I should feel myself bound, if I saw that there was a general desire to reconsider these matters at the present stage, to take the necessary steps to bring that into order.

Mr. MCMILLAN:
Unless you have another scheme!

The Hon. E. BARTON:
As I do not find that the desire expressed is a general one, I am only too happy to be relieved of that duty.

New clause, as amended, agreed to.

The Hon. E. BARTON (New South Wales)[3.53]:
I would like to point out to hon. members that time is becoming very precious just now, and that our right hon. friend, Sir George Turner, may have to go away to-night. With regard to a question like the judicature, on which we are pretty well agreed except as to a difference of opinion as to the degree of restriction on the right of appeal, I scarcely think that in the limited time now left we need take much trouble. I would like to ascertain the opinion of hon. members whether it would not be a more desirable thing to take some discussion on the very important question of finance and trade. We know that this matter was considered so important by the right hon. member, Sir George Turner, and others, that, although we appointed a select committee to deal with finance, it nevertheless was thought desirable that we should have a discussion on it, and that discussion took two or three days, and the object of it was not only to evolve the views of hon. members but to let that evolution sink into the minds and hearts of the members of the Finance Committee, who were then, of course, expected diligently to turn over all that had been said to them, and embody all these proposals in some clause. Unfortunately, the arduous nature of the duties of the Convention in which the members of the Finance Committee have participated has prevented them from holding as many meetings as would have been desirable; and inasmuch as these gentlemen have not found it possible to hold so many meetings as would enable them to put propositions before us

The Hon. J.H. HOWE:
I am told that they held two meetings!

The Hon. E. BARTON:

We now come back, to a certain extent, to our own resources. I feel very much inclined to move that the whole of Chapter III which relates to the judicature be postponed in order that we may reach the chapter on finance and trade, because I take it that the Convention itself, in debating this matter for three days in the beginning, and the intense desire expressed by hon. members that this, as one of the most important matters before us, should be dealt with as speedily as possible, ought to find now its consequence in some such step as I have suggested. As a member of the Drafting Committee I have brought before my colleagues the necessity of endeavouring to formulate, in some way, the opinions which were expressed with a great deal of warmth and emphasis during the debate on finance. Hon. members will find in their hands a series of proposals as to which I wish only to say this: that they are not to be taken -they are only marked "suggested amendments "-as the evidence of any desire an the part of the Drafting Committee to set themselves up as authorities on finance. I am afraid if I were to do that in my own person, I should speedily cover myself, with ridicule; but these matters which hon. members will find in print are simply an endeavour of the Drafting Committee to put into the form of legal phraseology what seems to be the subject of of very common expression of opinion amongst hon. members; and we thought we might just as well put them into print, in order that hon. members might see what they looked like as clauses, of the bill. That has been the sole object of the Drafting Committee, and I hope they will be absolved completely from any desire toilet themselves up as financial authorities. Having said that, I suggest that the consideration of Chapter III be postponed.

The Right Hon. G.H. REID (New South Wales) [3.56]:

I think it is very well known to the Convention that the Finance Committee was appointed to take these matters into consideration. We met to consider what was best to be done, and we found it impossible to take up this very difficult matter in any systematic fashion whilst these sittings have been held. It was impossible for us to be in the Finance Committee and in this Chamber at the same time. We gave up the attempt, and we came to the conclusion that the following plan of operations would probably lead to the best result:-that the two members representing each colony should give the matter, at the adjournment of the Convention, their best consideration jointly; that each set of two should exchange views with the other members of the committee; and that we should then meet in
Melbourne, or at some convenient spot, before the Convention reassembled, and hit upon a scheme, in the light of all our suggestions, which would be in the hands of hon. members some time before the Convention actually reassembled. That is our desire. I would ask, however, whether my right hon. friend is going to Melbourne to-night? Is there any indefiniteness about it?

The Right Hon. Sir G. TURNER:
None!

The Right Hon. G.H. REID:
Then I would suggest to the hon. member, Mr. Barton, whether it would not add to a sense of incompleteness if we, with an hour to spare, began this subject. No, possible good could be derived from it. One speech only could be heard. We should, indeed, leave a sense of incompleteness if we attempted to deal with a subject of this kind within an hour of the adjournment of the Convention. I would suggest that it would be much better to leave the matter in the hands of the committee. Of course we should all be very glad if we could get on to some extent with the matter, but until the committee report on the clauses in the bill it is perfectly clear that a general discussion will be more or less idle. We have had a general discussion, and the committee have had the benefit of it, and no doubt it will work on the lines suggested by that discussion, but any further general discussion within an hour of separation would, I submit, be futile. I suggest that we should not attempt to begin again until we have some opportunity of beginning and finishing.

The Hon. E. BARTON (New South Wales) (3.59):
I quite appreciate the suggestion which has been made; but I do not want to rush the Committee into the consideration of anything which it will not have time to finish. I must express a little difference of opinion from that expressed by the Premier of New South Wales as to our being within an hour of the adjournment of the sittings of the Convention, because I see no reason why the Convention should not go on with its work. The Premier of Victoria is leaving; but I am quite sure he has confidence in his col-

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leagues whom he leaves behind, and that it would he an almost unheard-of thing if we were to say that, because one of our most respected delegates, and one of those whose opinions we most esteem, goes away, we should on that account suspend work. I am sure all the admiration I feel for the Premier of Victoria would not justify me in taking that course, and I do not think he would expect it. I am going to ask the Convention to sit until to-morrow evening to deal with so many matters in the bill as are now left unsettled. When I made a suggestion just now with regard to the question
of finance, I did not mean for an instant that I was even going to propose those clauses which have been committed to print. They are not my clauses; they are only a matter of drafting; but I am quite willing to accede to the suggestion, if it is the wish of the Convention, to go on with business other than finance. I hope hon. members will support me in sitting to-morrow.

An Hon. MEMBER:
And to-night?
The Hon. E. BARTON:
And to-night. I will ask hon. members to get as far as they possibly can to solve the financial question in the time at our disposal. I think an attempt to complete it, as has been rightly put by the Premier of New South Wales, would not be creditable to the Convention. I think, however, there is ground, which we have already travelled over, which we can deal with between now and to-morrow evening, and I suggest to hon. members that they follow me in taking that course. Then we could adjourn from to-morrow evening until Friday afternoon. In the meantime, the Drafting Committee, with the help of any legal members who would kindly assist them, would take in hand the numerous amendments which have been made during the present sittings of the Convention, so as to put them in their proper order, and in legal phraseology in the bill. Then I would ask hon. members to meet on Friday afternoon for an hour—it would only be a matter of an hour-to deal with mere formalities, after which the Convention would be adjourned to such place as it will sit in, I hope, in January.
The Right Hon. Sir JOHN FORREST:
What about the alternative clauses?
The Hon. E. BARTON:
We shall simply put them in the best drafting phraseology we can, and treat them as the decision of the Convention so far. I hope hon. members will follow we in the suggestion I have made. Under these circumstances, I do not propose to go on with the discussion on finance. The clauses which have been referred to have been circulated and that, I think, is enough for present purposes.
The Hon. F.W. HOLDER:
When shall we decide when we shall meet again?
The Hon. E. BARTON:
I do not see why we should not decide that to-morrow afternoon.
The Hon. Dr. COCKBURN:
Or before the Premier of Victoria goes away!
The Hon. E. BARTON:
Hon. members will see that that is not a question we can decide in Committee. I see no objection, however, to the House resuming now and discussing that question, and then we can adjourn until the evening sitting.

Mr. SYMON (South Australia)[4.4]:

I would suggest that there is a considerable portion of Part II, relating to the senate, which we might complete. It is awkward to have these disjointed portions of the bill dealt with. We might deal with that and also with the provisions applicable to both houses and the powers of the parliament. I particularly refer to the powers of the parliament, because I understand that some of my colleagues, as we all do, take strong views on one or two points which have been elucidated during the present session, although not finally concluded. It would be well if we could have the assistance of our friends from Victoria, certainly on one of those matters—for example, that relating to the navigability of the river Murray.

The CHAIRMAN:

The Committee have already postponed those clauses until after the consideration of the other clauses. We cannot go back; we must go forward. Do I understand the leader of the Convention to move that Part III be postponed?

The Hon. E. BARTON (New South Wales)[4.5]:

That has not been done yet. I propose to report progress in order that the matter of the adjourned meeting be dealt with before the Premier of Victoria leaves. I think the best plan would be to move that the Chairman leave the chair, and ask leave to sit again at a later period of the day. I understand—and my right hon. friend, Sir George Turner, will correct me if I am wrong—that it would be a desirable thing, with reference to the exigencies of the various governments, that there should be some quiet conversation between the various Premiers before we decide the question as to where and when we are to sit. I take it that my right hon. friend, Sir George Turner, before he goes, would like to exchange views with the other Premiers who are present. If that is so, I would move that the Chairman leave the chair for a quarter of an hour, and then the House, can resume, and we can deal with the question.

The Right Hon. Sir G. TURNER (Victoria)[4.6]:

I do not know that there is any necessity for the course the hon. member has suggested. Unless my right hon. friends desire it, I do not desire it. There seems to be a general wish among members that the next meeting of the Convention should be held in Melbourne.

The Right Hon. G.H. REID:
Hear, hear!

The Right Hon. Sir G. TURNER:
And, although I would not stand in the
way of any other colony having the honor, as I did not stand in the way of New South Wales having the honor on this occasion, of course, if it is the general desire, I would not attempt to oppose the wish of the Convention. In regard to meeting in January, I think that would be a very bad time. If we are to meet in Melbourne, I think we should meet in March.

The Hon. E. BARTON:
I should have very great difficulty in attending!

The Right Hon. Sir G. TURNER:
Most of us will be busy in our parliaments until the latter end of December; besides, in January we shall have very trying weather.

The Hon. E. BARTON:
Not as bad as February!

The Right Hon. Sir G. TURNER:
That would prevent us from getting on with our work as rapidly as we might desire; and, if the meeting were postponed until March, I think it would be found advantageous. However, if that would not be convenient to my hon. and learned friend, I should be prepared to agree that the Convention should meet some time towards the latter end of January.

The Hon. E. BARTON:
It would be far better to fix a time concurrent with most of the parliamentary vacations—say, about the middle of January.

The Right Hon. Sir G. TURNER:
I will not stand in the way of the hon. and learned member's suggestion if it is deemed most convenient!

The Hon. E. BARTON:
After what the Right Hon. Sir George Turner has said, I do not think it is necessary to have any suspension of the sitting to give the various Premiers an opportunity of discussion, and I shall simply move:
That the Chairman leave the chair, report progress, and ask leave to sit again at a later hour of the day.

Motion agreed to; progress reported.

NEXT MEETING OF THE CONVENTION.
The Hon. E. BARTON (New South Wales)[4.9]:
What does my right hon. friend say to meeting on the 18th January? That will be Tuesday. It will enable the delegates from New South Wales and from South Australia to leave on the Monday, if necessary, so that they
will save a day.

Mr. WALKER:

We must remember that we expect the colony of Queensland to be represented, and that the Premier of that colony will not be back until the 4th October, and it may take some time to get the necessary bill through parliament.

The Hon. E. BARTON:

It will not take four months.

Mr. SYMON:

In South Australia it took four hours!

The Hon. E. BARTON:

It is a question between the 18th and the 25th January, and I think the 18th would be the better date.

The Right Hon. Sir G. TURNER:

I do not object if that is the wish of the majority; but, personally, I should prefer some time in March.

Motion (by the Hon. E. BARTON) agreed to:

That the standing orders be suspended to enable a motion to be made without notice.

The Hon. E. BARTON:

It has been suggested that as there will have to be a short sitting on Friday, the motion had better be made in this form:

That this Convention, at its rising on Friday next, stand adjourned until 12 o'clock, noon, on Tuesday, the 18th January, and that the Convention do then meet in Parliament House, Melbourne.

The Right Hon. Sir JOHN FORREST:

The delegates from Western Australia cannot get there conveniently on the Tuesday!

The Hon. E. BARTON:

Well, say Thursday, the 20th January. Before the motion is put, I must point out that there must necessarily be a quorum here on Friday, or else the consequences will not be very pleasant. If there happens not to be a quorum, the Convention must stand adjourned from day to day.

An Hon. MEMBER:

If we pass this motion?

The Hon. E. BARTON:

The question would even then arise under the standing orders whether the Convention would not have to be adjourned from day to day; so that I impress upon hon. members that if I place Friday in the present motion, it must be on the understanding that we form a quorum on that day. A
meeting on Friday will, I assure hon. members, be necessary, because nobody wishes to see the bill left with amendments which have been put in more homely phraseology than is appropriate in a statute. Therefore, the Drafting Committee will require to have a spare day, say, Thursday, to bring matters into ordinary form, and then we shall ask the Convention to pass the bill through Committee in the ordinary way. I propose that the Convention should sit tomorrow, but not on Thursday. I beg to move the motion, in its amended form, as follows:-

That this Convention, at its rising on Friday next, stand adjourned until 12 o'clock, noon, on Thursday, the 20th January, and that the sittings of the Convention be then held in Parliament House, Melbourne.

The Right Hon. Sir JOHN FORREST (Western Australia)[4.15]:

I cannot help thinking that the leader of the Convention is proposing that we should meet at rather too early a date. It may be a very convenient date for gentlemen of the legal profession, who will then be in their ordinary long vacation; but, for my own part, it would be most inconvenient for me to return to the work of this Convention at so early a date. I have been away from Western Australia nearly the whole of the year, and Christmas will be the very earliest date at which our local Parliament can be expected to conclude its work. If this resolution is adhered to, we shall have to leave the colony immediately after Parliament has concluded its labours and pass a month or six weeks in Melbourne. I should much prefer to see a date fixed one month later.

The Right Hon. Sir E. BRADDON:

The right hon. gentleman will be in better training in January!

The Right Hon. Sir JOHN FORREST:

It is all very well for those who are in Melbourne or in Tasmania; but we have to come a long way. It takes us a week to get here, and while we are here we are altogether away from our work.

The Hon. E. BARTON:

January is holiday time generally, is it not?

The Right Hon. Sir JOHN FORREST:

I do not think so.

The Hon. E. BARTON:

It is more holiday time than is any other month in the year!

The Right Hon. Sir JOHN FORREST:

As I have pointed out, as soon as our Parliament is over we shall have to come to Melbourne to this Convention. However, I shall not move any amendment to the proposal; but if the date were fixed a month later it would be more convenient to many of us.
The Hon. J.H. HOWE (South Australia)[4.17]:
I should like to have a word to say with regard to the position of the Western Australian delegates. I should like to be clear as to whether, if we assemble again on the 20th January, that date will be an obstacle to the Western Australian delegates coming to Melbourne.

The Right Hon. Sir JOHN FORREST:
I do not think that will be so; we shall have to try and be there.

Question resolved in the affirmative.

COMMONWEALTH OF AUSTRALIA BILL.

In committee:

The Hon. E. BARTON (New South Wales)[4.20]:
I think our best course of procedure, now that we have settled the matter of our next meeting, will be to take the bill in its regular order, and, as a matter of technical procedure, to enable that to be done it will be necessary to postpone the remaining clauses. That will bring us, I think, to clause 5, and from that point we can go straight on with the remaining clauses of the bill. I therefore move:

That the remaining clauses of the bill and the schedule be postponed.

Motion 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 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."

Amendment suggested by the Legislative Council of New South Wales:
Add at the end of clause "Original states shall be taken to mean such states as form part of the dominion at the date of its establishment. New states shall be taken to mean such states as may thereafter be admitted into or constituted by the dominion."

Mr. SOLOMON (South Australia)[4.23]:
To avoid the possibility of any question arising with reference to the boundary of the province of South Australia—that is, whether it would include, in the ordinary acceptation of the term, the Northern Territory which is provisionally annexed to it—I move:

That there be inserted after the word "Australia," line 5, the words "including the Northern Territory of South Australia,"

The Hon. I.A. ISAACS:
Is that part now technically South Australian territory?

Mr. SOLOMON:
That is rather a difficult question to answer. Under letters patent under her Majesty's hand the Territory latitude northward during the pleasure of her Majesty. A question in future might arise whether electors in that portion of the province had a right to a voice in the affairs of the commonwealth—that is to say, whether that portion which is provisionally annexed really was a portion of the province. To avoid any such question arising, I move the amendment I have indicated.

Amendment agreed to.

Amendment (Hon. E. BARTON) agreed to:

That the amendment suggested by the Legislative Council of New South Wales be amended by omitting the words "New states shall be taken to mean such states as may thereafter be admitted into or constituted by the commonwealth."

Amendment of Legislative Council, New South Wales, as amended, agreed to.

Clause, as amended, agreed to.

Clause 6 (Repeal of 48 and 49 Victoria, Chapter 60) agreed to.

CHAPTER I.-THE PARLIAMENT.

Part I. General.

Clause 6 (Governor-General to fix time and places for holding session of parliament. Power of dissolution of house of representatives. First session of parliament).

The Hon. E. BARTON (New South Wales)[4.26]:

This clause was postponed pending dealing with clauses about conflicts between the two houses; but nothing has been done by the Committee, I think, to prevent this clause from being passed in its original shape.

Clause agreed to.

Clause 10, paragraph 1. 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.

Amendment suggested by Legislative Council and Assembly of Tasmania:

Omit "The parliament of the commonwealth may make laws prescribing a uniform manner of choosing the senators. Subject to such laws if any"

Amendment suggested by, Legislative Assembly of Victoria:

After "prescribing" insert "the times, places, and"

The CHAIRMAN:
The first amendment suggested in paragraph 1 is by Tasmania -to omit the words "the parliament of the commonwealth may make laws prescribing a uniform manner of choosing the senators. Subject to such laws if any." But, inasmuch as Victoria has suggested the insertion of the words "the times, places, and," after the word "prescribing," I will, in order to enable the amendment suggested by Victoria to be placed before the Committee, put the question to leave out the first line of the paragraph, as a test of the amendment suggested by Tasmania.

Question-That the words proposed to, be left out stand part of the question-resolved in the affirmative.

The Hon. I.A. ISAACS (Victoria)[4.28]:

Clause 10 as it now stands is practically a transcript of the American provision. The reason why the provision was framed that way in the American Constitution, and I think - the hon. and learned member, Mr. Barton, will no doubt correct me if I am wrong - the reason why it was also framed in that way by the 1891 Convention, was that as the senators were to be appointed by the state parliaments, the place of choosing them should be as each state parliament might determine, and the time of doing so should be whenever that parliament chose to decide upon.

The Hon. E. BARTON:

A little more than that. We thought, I think, in dealing with the matter before, that it was advisable that the parliament of the state should determine the time and place for elections as it would have a better knowledge of local affairs, whereas the parliament of the commonwealth might make laws as to the system on which the elections should take place.

The Hon. I.A. ISAACS:

The manner of choosing the senators was as to whether the two houses should sit together or separately, and so on; and the Congress has made laws in that regard on two separate occasions; but we have now provided that there shall be a dissolution of the senate, and I think, especially in regard to that, it will be right, and will harmonise with what we have done, to say that the parliament of each state may determine the time, place, and manner of choosing the senators; but, above all that, the parliament of the commonwealth may make laws prescribing the time and place and manner of choosing. They have power under this to prescribe a uniform manner, so that if the parliament think fit the manner of choosing, whether by ballot or otherwise, may be determined by the federal parliament.

The Hon. E. BARTON:

If you make the amendment read "the time and place and a uniform
manner," I will not raise any objection to it. It will then fit in with the remainder of the clause.

The Hon. I.A. ISAACS:
Leave that to the Drafting Committee.

The Hon. E. BARTON:
Then, I will accept that.

Amendment suggested by the Legislative Assembly of Victoria agreed to.

Clause 10, paragraph 2. 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 maybe continued, and offences against the laws regulating such elections shall, as nearly as practicable, apply to elections in the several states of senators.

Amendment suggested by Legislative Council and Assembly of Tasmania:
After "determination" omit "and unless the parliament of the commonwealth otherwise provides."

The Hon. E. BARTON (New South Wales)[4.35]:
I do not see the reason for leaving out these words. I think they ought to be left in, for otherwise, for all time, unless there happens to be a referendum upon the proposed amendment of the constitution, the parliament of the commonwealth will not have power to provide in respect of these matters, which it may be very necessary to provide for in case of some emergency.

Amendment negatived.

The CHAIRMAN:
There is a further amendment suggested by the Legislative Council of Western Australia, to transpose the words of senators, "to stand after the word "elections." This is a mere matter of drafting, and I will make the alteration as a consequent amendment.

The Hon. E. BARTON (New South Wales)[4.36]:
I think it would be advisable to add to the clause the words:
So long as the senators are directly chosen by the people of the state as one electorate.

We inserted in the second paragraph of clause 9 the words "until parliament otherwise determines," and inasmuch as power is given to parliament to alter the system of choosing the senators by the people of the
state voting as one electorate, I think it would be wise to add to this clause the words I have suggested.

The Hon. I.A. ISAACS:
Is not the clause clear as it stands?

The Hon. E. BARTON:
Well, it is a mere matter of drafting. I will not propose any amendment.
Paragraph 2, agreed to.

Mr. GLYNN (South Australia)[4.38]:
I should like an explanation from one of the representatives of Tasmania as to why these words were struck out?

The CHAIRMAN:
We have dealt with that question; the hon. member cannot go back.

Mr. GLYNN:
The position seems to me to be this: that, inasmuch as the parliament of the commonwealth is limited to making provision as to the manner of choosing the senators, and the fixing of the time and place remains with the state parliaments-

The Hon. I.A. ISAACS:
That has been altered!
Clause, as amended, agreed to.
Clause 11 (Failure of a state to choose members not to prevent business) agreed to.
Clause 12 (Issue of writs).

The Hon. I.A. ISAACS (Victoria)[4.39]:
It has been suggested by the Legislative Assembly of Victoria that this clause be omitted, but the amendment was consequential upon another provision which has been negatived.
Clause agreed to.
Clause 13 (Retirement of members).

Mr. GLYNN (South Australia)[4.40]:
I took objection to the first paragraph of this clause in Adelaide, and I cannot allow it to pass now without protesting against it. I fail to see the reason for sending the senate to the electors in two parts. I cannot see why the principle of municipal elections should be applied to the election of such a body as the senate. The idea is, I believe, to dilute the senate occasionally with public opinion, upon the assumption that it will get a little out of touch with the opinion of the constituencies; but I think that a far better expedient would be to dissolve the whole body. You are not
going to bring the senate into touch with public opinion merely by sending half its members back to the constituencies. I think the proper thing would be to send all the senators back at once. If the clause is passed as it stands, half of the members of the senate will be more in touch with public opinion than the other half, and that I think is not desirable.

The Hon. I.A. ISAACS (Victoria)[4.41]:

I would like to suggest to the hon. and learned member, Mr. Barton, that this would be a good place, when he comes to consider the drafting of the bill, to provide for rotation in connection with the dissolution of the senate.

The Hon. E. BARTON:

Yes.

The CHAIRMAN:

The Legislative Assembly of New South Wales and the Legislative Council of Tasmania have proposed the omission of the second paragraph of the clause.

Clause agreed to.

Clause 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.

The CHAIRMAN:

It has been suggested by the Legislative Council and the Legislative Assembly of Tasmania that after the word "until" line 13, the words "the expiration of fourteen days after" should be inserted.

Mr. GLYNN:

The objection to this amendment is that you leave it to a member of parliament, whose place is to be filled up, to help in determining who is to be his successor. A member appointed during the recess would be sitting for fourteen days, and he would have a voice in determining who was to succeed him.

The Hon. E. BARTON:

That will not help him!

Mr. GLYNN:
It is rather inconsistent with parliamentary procedure. Amendment suggested by the Parliament of Tasmania agreed to.
Clause, as amended, agreed to.
Clause 15. The qualifications of a senator shall be those of a member of the house of representatives.
Amendment suggested by the Legislative Council of Victoria:
Add at the end of clause, with the exception that he must be of the full age of 30 years."

Amendment suggested by the Council and Assembly of Tasmania:
Add at the end of clause "Except that no person shall be senator who shall not have attained the age of 25 years."

The CHAIRMAN:
I will put the amendment of the Victorian Council first; then, if the representatives of Tasmania, or any other hon. member, wish to alter that, they can move an amendment.

Question-That the words of the Victorian amendment be added-put. The Committee divided:
Ayes, 4; noes, 29; majority, 25.
AYES.
Fraser, S.
Solomon, V.L Teller,
Zeal, Sir W.A. Walker, J.T.
NOES.
Barton, E. Higgins, H.B.
Berry, Sir G. Holder, F.W.
Braddon, Sir E.N.C. Howe, J.H.
Briggs, H. Isaacs, I.A.
Brunker, J.N. James, W.H.
Clarke, M.J. Kingston, C.C.
Cockburn, Dr. J.A. Leake, G.
Crowder, F.T. Lee-Steere, Sir J.G.
Dobson, H. Lyne, W.J.
Forrest, Sir J. O'Connor, R.E.
Glynn, P.M. Quick, Dr J.
Gordon, J.H. Symon, J.H.
Grant, C.H. Turner, Sir G.
Hackett, J.W. Teller,
Henning, A.H. Peacock, A.J.
Question so resolved in the negative.

The Right Hon. Sir E. BRADDON:

I have no intention of moving any amendment. I do not desire to see any
age fixed for members of the senate.

Clause agreed to.

Clauses 16, 17, and 18 agreed to.

Clause 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.

Amendment suggested by the Legislative Assembly of Tasmania:

After "for," line 2, omit "two consecutive months of." Insert "thirty
consecutive sitting days in."

Amendment negatived; clause agreed to.

Clause 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.

Mr. GLYNN (South Australia)[4.55]:

I would suggest to the hon. and learned member, Mr Barton, whether it
would not be advisable to, provide that a motion shall be carried in the,
House declaring that a vacancy has occurred. Under clauses 45 and 46,
under certain circumstances-either through a disqualification arising, or
from a crime having been committed-the seat is declared to be vacant. Who
is to inform the president of the fact?

The Hon. E. BARTON:

Clauses 45 and 46 relate to disqualifications!

Mr. GLYNN:

Clause 20 deals with the question of a vacancy having occurred. This
vacancy may occur under clause 46 by a member having been adjudicated
a bankrupt or having been convicted of a felony, and the question is: how
is the knowledge of that disqualification having arisen to be brought before
the parliament or the president? The usual method, I think, is that the
declaration of a vacancy having occurred is made by a motion in the house
itself. Clause 49 provides that, on a vacancy happening, if the person
declared to be incapable of sitting does sit, he is liable to a certain penalty;
but it does not go to the length of saying that if a vacancy occurs the
penalty is to be inflicted. We may be in this position that a man by having
been adjudicated a bankrupt or convicted of a felony, his seat may be
vacated, but the penalty for taking his seat would not be imposed upon
him, and the knowledge of the vacancy having occurred is left to
haphazard.
The Hon. I.A. ISAACS:
Suppose parliament does not sit for some months!
Mr. GLYNN:
There is no harm in allowing the seat to be vacant if parliament is not sitting.

The Hon. E. BARTON:
This clause provides for the communication of a vacancy to the governor of the state in case of it occurring!
Mr. GLYNN:
What I suggest is that an addition be made, that on a vacancy happening a resolution ought to be passed in the, parliament declaring that fact, because otherwise the president will not know whether the seat is or is not vacated. He cannot know whether a man has been adjudicated a bankrupt or whether he has been convicted of a felony.
The Hon. E. BARTON (New South Wales):[4.59]:
The Gazette tells him that, and the practice, no doubt, will be precisely the same as obtains in all the legislatures at present. On the happening of the insolvency of a member, a communication is made by the registrar or judge in bankruptcy to the Speaker or President, telling him of the vacancy.
Mr. GLYNN:
In most places a resolution is carried!
The Right Hon. Sir G. TURNER:
The coming candidate will look after that!
Clause agreed to.
Clause 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.
Amendment suggested by the Legislative Council and House of Assembly, Tasmania:
Line 3, after "senate" insert "or any question of a disputed election relating to the senate,"
The Hon. E. BARTON (New South Wales):[5]:
This suggestion raises the question that hon. members seemed to have a strong opinion about in Adelaide—that is to say, whether a disputed election shall be determined, by the federal court or a court exercising federal jurisdiction. It is simply a question whether hon. members have changed their minds since then. This clause has relation to clause 50, which provides that:
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.

As my hon. and learned friend, Mr. Higgins, has pointed out, clause 50 does not provide for that period during which a vacancy, may take place before the federal parliament has an opportunity to legislate on the subject, and the question is really whether it is worth while to provide for the period during which the possibility may occur. I do not know whether it ought to be provided for, perhaps it ought; but I think that may be left in the hands of the Drafting Committee, and be dealt with on recommittal. I will take a note of it.

Amendment, negatived; clause agreed to.

Clause 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

Mr. HIGGINS (Victoria)[5-2]:

This clause fixes the quorum, of the senate at one-third. I admit that one-third is a reasonable number when there, are only thirty or thirty-six senators; but suppose the number of the senators is increased, one-third may be too many, if the states are split up. Suppose, for instance, there are sixty senators, I think, twenty are too many to require for the purpose of making a quorum.

An Hon. MEMBER:

No!

Mr. HIGGINS:

I can only speak from my experience in our House. The quorum of our House, consisting of ninety-five members, is twenty members. I feel that it would be very inconvenient, in some cases if the House were to meet and to be stopped because they could not get more than twenty members together.

The Hon. E. BARTON:

The hon. member would not let the senate legislate with less than ten members present?

Mr. HIGGINS:

So long as you have only thirty or thirty-six senators, ten or twelve maybe a reasonable number; but

I want to insert at the beginning of the clause the words "until the parliament otherwise provides," in order to give parliament the power to alter the quorum if necessary.
The Hon. E. BARTON:
I think parliament ought to have power to provide for the case of a quorum. I will accept the amendment.
Amendment (Mr. HIGGINS) agreed to:
That the words "Until the parliament otherwise decides" be inserted at the beginning of the clause.
Clause, as amended, agreed to.
Clause 23 (Voting in senate) agreed to.

The CHAIRMAN:
The next clause to be dealt with is postponed clause 32.
The Right Hon. Sir G. TURNER:
Before we pass clause 24, I wish to ask the hon. and learned member, Mr. Barton, when he proposes to recommit this clause which relates to the constitution of the house of representatives?
The Hon. E. BARTON:
As soon as we reach the recommittal stage!
The Right Hon. Sir G. TURNER:
The Hon. E. BARTON:
There will be a recommittal stage at this sitting; but that will only possibly be for drafting. I think it would be better to leave this for the January sitting, because then my right hon. friend will have an opportunity to deal with it.
The Right Hon. Sir G. TURNER:
That will suit me better!
Clause 32. A member of the senate shall not be capable of being chosen or of sitting as a member of the house of representatives.
Amendment suggested by the Legislative Council and House of Assembly of Tasmania:
Omit the clause.
The Hon. I.A. ISAACS (Victoria)[5.4]:
I believe my hon. and learned friend, Mr. Lewis, whom I do not see in his place, drew attention to this clause. If I recollect aright, his point was that a member of the house of representatives was not capable of being a member of the senate.
The Right Hon. Sir E. BRADDON:
The suggestion is that the clause be omitted!
The Hon. I.A. ISAACS:
I do not think it ought to be omitted.
The Hon. E. BARTON:
The Tasmanian suggestion is that a man should be a member of both
houses of the same parliament!
The Hon. H. DOBSON:
   It is to omit this clause, because, I think, it should come in a later place!
The Hon. I.A. ISAACS:
   I think the hon. and learned member, Mr. Barton, said to my hon. and
   learned friend, Mr. Lewis, that he would put this clause in the portion of
   the bill relating to both houses.
The Hon. E. BARTON:
   What is the clause later on with which this clause is connected?

The CHAIRMAN:
   I would point out that there is nothing in the bill to prevent a man from
   being chosen against his will.
The Right Hon. Sir JOHN FORREST (Western Australia)[5.5]:
   I would suggest that a man may be chosen, being absent from the colony,
   without knowing, about it. In his absence some of his friends may elect
   him.

An Hon. MEMBER:
   There is no harm done!
The Right Hon. Sir JOHN FORREST:
   But, according to this clause, be is incapable of being chosen. I think we
   had better say that be should not be capable of sitting.
The Right Hon. C.C. KINGSTON:
   I think the matter is generally dealt with by the electoral law. Therefore,
   we might as well leave it!
The Hon. C.H. GRANT:
   I would point out that the clause does not provide that a member of the
   house of representatives shall not sit as a member of the senate!
The Hon. H. DOBSON (Tasmania)[5.6]:
   That matter is dealt with by clause 44A. There are two clauses which
   prevent hon. members from sitting in the states

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legislatures as well as in the commonwealth parliament. The Attorney-
General of Tasmania moved the omission of clause 32, because he thought
the matter came under the provisions relating to both houses. I think we
had better omit the clause now, and deal with the matter when we come to
clause 44A.
The Hon. E. BARTON:
   I think it would be better to deal with the clause as suggested by the
   colony of Tasmania. I will assent to that course.
Clause negatived.

Clause 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.

Amendment suggested by the Legislative Council and House of Assembly of Tasmania negatived:

After "representatives" insert "or any question of a disputed election relating to that house."

Clause agreed to.

Clause 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 takes his seat.

Suggested amendment by the Legislative Council of South Australia and the Legislative Council and House of Assembly of Tasmania:

Omit "four" insert "three."

The Hon. J.H. GORDON (South Australia)[5.8]:

I hope the suggested amendment will not be agreed to. I shall only repeat now, in a few words, the contention I made when the Convention sat in Adelaide: that if the salary is made too low it will result in either men of independent means or men to whom the salary itself is sufficient inducement to leave their colonies becoming members of the federal parliament. Whilst in both these classes we may have able and desirable representatives, I think it would be a mistake that the character of the representatives should be confined, as it will to a large extent be confined if the salary is made too small, to those two classes of the community.

The Hon. E. BARTON (New South Wales)[5.9]:

I would suggest that it would not be conducive to obtaining the service of the best men in the parliament of the commonwealth if the salary were made equal to that of members of one of the state parliaments. The salary, for instance, in the Parliament of New South Wales, is £300, and membership does not involve absence from the colony during the session. In the case of most of the colonies, however, after the commonwealth is established, membership will involve absence from home during the whole of the session. Under such circumstances, the competition is relatively less in the case of the commonwealth than in the case of the states.

The Hon. S. FRASER (Victoria)[5.10]:

I think £400 per annum is little enough to pay to representatives who come from distant colonies. I think, however, some distinction should be made.
Hon. MEMBERS:
No, no!
The Hon. S. FRASER:
It is done in other countries.
The Right Hon. Sir JOHN FORREST (Western Australia)[5.11]:
The salary, if one were absolutely dependent upon it, does not seem very large. At the same time, I do not suppose we expect those who are chosen to be members of the senate and the house of representatives will be altogether dependent on the emoluments they receive as members.
The Hon. S. FRASER:
Many may be!
The Right Hon. Sir JOHN FORREST:
I do not think so. It is more an honorarium than a salary; otherwise we should not find the distinguished persons who now occupy seats in the local legislatures willing to accept positions.
The Hon. E. BARTON:
We should either give a man nothing, or make it worth his while to attend!

The Right Hon. Sir JOHN FORREST:
It seems to me that if the £400 per annum is to be considered as a salary, it is altogether inadequate. If, on the other hand, it is to be considered an honorarium, it is too large. We must not altogether get rid of the idea that there is some patriotism in the people, and that they desire to give their best services to the state without looking at the matter from an £ s. d. point of view. I am afraid that, when we have formed the federal parliament, we shall find that those who have businesses which require their constant attention will not be able to leave them in order to attend. No doubt those who live close to the seat of government will be able to go by train from Melbourne or Sydney to attend to their parliamentary duties, returning now and again to look after their ordinary business; but what about these living in colonies which are far distant? Take the case of Western Australia. How, for instance, will members of the legal profession be able to leave their place of business and take part in the government of the country? They will not be able to do it. Unless they are men of some means, or have no business to attend to, they will not be able to leave their homes-especially will they be unable to take office. Their businesses would be ruined whilst they were a thousand, or a couple of thousand miles away. I hope we shall find that those who are willing to become members of the federal parliament will be persons who are able to devote some time to their
duties. For that reason I do not look very much at the amount of the emolument to be given. It is either too little, or it is quite enough. I do not feel inclined to move that it be reduced, or to support its reduction. At the same time I think £300 a year would be quite sufficient. But I take it that the persons who will become members of the senate, or house of representatives will not be persons who are altogether dependent upon this small honorarium. If there are no persons on this continent willing to give up some time without much reward to the service of the state, then I take it we are far from being ready to take upon ourselves the responsibilities of this federal government. If we expect that this small amount of £400 a year will be a sufficient inducement to persons to give their services, and, if they have nothing else but this, I think we shall have very indigent persons as members of both houses of parliament. No one would say that any of the gentlemen I see around me would leave their businesses, and go away to the federal parliament, and that £400 a year would recompense them for the loss they would sustain. That is not thought of for a moment. The actual loss they would sustain, if they had businesses to attend to in their own colony, instead of being represented by £400, would amount to several times more than that. I hope we shall not for a moment think that the persons who are to be members of the senate and house of representatives will be persons who will depend altogether upon the small amount named in this bill. If it were so, all I can say is, the amount seems to me inadequate.

The Hon. I.A. ISAACS (Victoria)[5.19]:

I take it that our great object in electing two houses of parliament as representatives of the people is to see that the people are represented. It is impossible, having regard to the immense area of the continent, that the people can be adequately represented if the choice is restricted by want of means on the part of would-be representatives, and I think the only doubt in this matter is whether £400 is enough.

The Hon. Sir W.A. ZEAL:

That is twice as much as the amount paid in Canada!

The Hon. I.A. ISAACS:

It is perfectly plain that anything less than £400 would be a farce. If there was a proposal to increase the amount, it might be a matter for Consideration; but we ought not to hesitate to retain at least £400 a year.

Question-That the word "four" proposed to be omitted stand part of the clause -agreed to.

Amendment suggested by the Legislative Assembly of Victoria:
Omit "on which he takes his seat," insert of his election."

The Hon. I.A. ISAACS (Victoria)[5.21]:

If we say that the honorarium shall be reckoned from the day on which the member takes his seat, it may be very hard indeed on the members of the house of representatives. The house might not be sitting at the time of an election. Indeed, it might be the case with a member of the senate. A vacancy might occur, a member might be elected, and might have to commence his services and perform all the duties of his position and get none of its emoluments. If we were to adopt the amendment suggested by Victoria, and omit the words "on which he takes his seat," inserting the words "of his election," there would be a difficulty in the case of the senate; because the date of the election of the senators is previous to the 1st of January, so that by omitting these words you might be paying two people at the same time. I would suggest to the Drafting Committee that they should adopt some such words as these "from the day on which his services commence." That would apply in the case of a member of the house of representatives to the day of his election, and in a case of a senator to the date from which his services were actually reckoned.

Mr. SYMON:

Does not a senator begin

The Hon. I.A. ISAACS:

A senator is elected in the year preceding the 1st of January, and his predecessor, so to speak, retains his office until the expiration of the year.

Mr. GLYNN (South Australia)[5.23]:

I would point out to the hon. and learned member that his suggestion does not go quite far enough. Under clause 13 the services of the first senator, or the senators of the first parliament, commence from the January preceding the date of his election. So that if the suggestion of the hon. and learned member is carried out we shall be paying a man for time he does not serve.

The Hon. I.A. ISAACS:

It is the date on which the law deems his services to have commenced!

Mr. GLYNN:

Does not the hon. and learned member know that under clause 13, in the case of the senators of the first parliament, instead of their services dating from the January succeeding the election, they date from the January preceding the election; so that if you say that the payment shall date from the commencement of their services, in such general terms, you will be paving the first senators for time they never served. I would suggest that the clause should be amended in this way:

That after the words "on which he takes his seat" we should add the
words "in the case of a senator, the commencement of his services."

That would be the January succeeding the date of his election, and I think
also the date when the term of office of the old senator would expire, so
that there would be no overlapping. Then I should add the words "and in
the case of a member of the house of representatives, from the day of his
election." In the case of the first election of the senate the allowance should
be reckoned from the date of the election. That would be right as regards
the first senators, because the date of their election would also be the date
on which their real services commenced, though theoretically the date of
their services would be from the January preceding.

The CHAIRMAN:

There are some new clauses proposed by South Australia and Tasmania
to follow clause 44, and I shall first put clause 44 to the Committee.
Clause 44 agreed to.
New clause to follow clause 44 suggested by the Legislative Council of
South Australia:
No member of the senate or house of representatives whilst in receipt,
out of the general revenue, of any official Wary or annual sum shall be
entitled to receive any such payment as aforesaid, except in so far as such
payment may exceed the amount of such official salary or annual sum.
The Hon. E. BARTON:
I would suggest that we should not pass this proposed new clause. It is a
mere matter of legislation for the commonwealth to consider.
Mr. SYMON (South Australia)[5.25]:
I think it would be very undesirable to agree to this proposal. It is very
unlikely that any minister would refuse to deduct from his official salary the
salary he receives as a member of the house of representatives. Besides
that, if any provision of the kind be necessary, it will be competent for
the federal parliament to pass it. There is no need to put the provision in this
constitution.
The Right Hon. Sir JOHN FORREST (Western Australia)[5.26]:
What I want to know is whether it will be competent for a minister to
receive a salary as a member of the house of representatives in addition
to the emolument attached to his ministerial office? I should say that he ought
not to receive the two remunerations, and that is in accord with our present
practice.
The Hon. E. BARTON (New South Wales)[5.27]:
This is not a matter to be provided against in the constitution. We may
rely upon the parliaments of the different colonies to provide against the receipt of the two salaries by their members while members of the commonwealth parliament, and the parliament of the commonwealth will make a similar provision in regard to its own officers.

The Right Hon. Sir JOHN FORREST:

But this provision does not refer to states!

The Hon. E. BARTON:

It maybe the case in a state or in the commonwealth. In any, case there is a competent authority to make the provision, and there is no need to put it in the constitution.

The Right Hon. Sir JOHN FORREST:

All that I desired to emphasise was my opposition to a member receiving the salary of a minister and at the same time the salary of a member of the commonwealth parliament.

Mr. HIGGINS (Victoria)[5.29]:

If the words "until the parliament otherwise provides" are used it will permit each member to receive a salary of £400 a year, and the commonwealth would then be able to provide that members are not to receive that salary in addition to an official salary.

New clause negatived.

New clause proposed by the Legislative Council and Legislative Assembly of Tasmania:

44A. A member of a house of the parliament of a state shall be incapable of sitting in either house of the parliament of the commonwealth.

The Right Hon. Sir E. BRADDON (Tasmania)[5.30]:

We had a long discussion upon this question in Adelaide, and it was decided without division that members of the various states parliaments should be eligible to be elected members of the commonwealth parliament. Surely that is a just and proper course to take. Why should the electors be debarred in their choice of representatives from choosing members of the local parliaments if those members be disposed to undertake the responsibility and toil of representing them alike in the commonwealth parliament and in the state parliament? Beyond that, there are many reasons why this course should be taken. The effect of the clause would be to very seriously restrict the choice of representatives.

The Hon. E. BARTON (New South Wales)[5.31]:

Although I do not wish to make this proposal the subject of a long discussion, I may say that I have always been of opinion that some such provision should be in our constitution. Of course there are reasons to be urged both ways. But I take
it that the very fact that a member of parliament, both of the state and of the commonwealth, would have a divided interest, is a strong reason against his being a member of both parliaments. "No man can serve two masters; either he will love the one and hate the other," and so on. I believe that there is likely to be, on the part of a member of both the local and commonwealth parliaments, either too strong an adherence to the interests of the state to the neglect of his duty to and the interests of the commonwealth, or, on the other hand, such a strong adherence to the interests of the commonwealth as would prejudice the state of which he is a member. It is all very well for the hon. member opposite to shake his head as if that were a very doubtful proposition. It may be; but I think it is rather a strong one. I think it is extremely likely that you will have that conflict of interest arising. I do not know of any body of laws in which provision is made for a man to be allowed to hold two positions in regard to which the course of duty of one office would be incompatible with the course of his duty in the other.

The Right Hon. Sir JOHN FORREST:
There are a good many novel provisions in this bill!

The Hon. E. BARTON:
Because it is a new constitution. But there is no need to insert novelties which are a negation of the course usually followed in these matters. Take a member of the state parliament who is in the ministry, and who is also a member of the commonwealth parliament. Suppose he accepts an invitation to become a minister of the commonwealth. Could there be a more incompatible position?

An Hon. MEMBER:
He could not give the necessary time to the two offices!

The Hon. E. BARTON:
There are plenty of men who would work twenty-four hours to get two salaries, or who would draw two salaries and do work for one.

An Hon. MEMBER:
He cannot be in two places at one and the same time!

The Hon. E. BARTON:
He can, to this extent. The result of a provision of this kind is almost certain to be this: that the parliament of the commonwealth will not sit at the same time as do the parliaments of the states. That will afford an opportunity to hon. members to trot off from one parliament to the other, from one ministerial office to the other, and to draw both salaries. If there has been one thing more than another which has excited a good deal of
opposition among those I have heard discussing this matter, it has been the opportunity afforded to persons who belong to both parliaments to draw two salaries. I have heard that denounced as gross bribery and corruption. I do not agree with that proposition. I think it is a wrongful and insulting way in which to view the matter, as it is also an imputation, to some extent, against the Convention. But I mention it to show that there is a strong feeling upon the subject. I believe we shall not be doing any good by multiplying opportunities of this kind. It is all very well to say that every man whom the people elect is a patriot. All of us have direful experience to the contrary, and I think we had better act on that experience.

The Right Hon. C.C. KINGSTON (South Australia)[5.34]:

I think this is rather a strange proposition to submit to this Convention, seeing that nine-tenths of its members are members of local parliaments. It amounts to a statement that provincial patriotism is inconsistent with national patriotism, that loyalty to the state, and loyalty to the nation, cannot be expected from the same individual; that, in point of fact, we are creating a body that will be in a state of constant opposition to the various state parliaments. I say that nothing of the sort is the case. I would not be a party to the creation of such a thing. I should rather think that we were calling into existence a body which may be expected to do good work in the interests of both the nation and the provinces. Otherwise I would not support it. What is the position? We can form some idea upon the subject from hon. members who have been returned to this Convention to-day. But there is no doubt that in the natural order of things you will have great difficulty in securing representatives to attend the sittings of the federal parliament in another colony if, by a constitutional provision on the subject, you permanently exclude all your local politicians who have served you well from being in the federal parliament. We should not do anything of that sort?

Mr. HIGGINS:

We want men of experience in the federal parliament in the first instance!

The Right Hon. C.C. KINGSTON:

We want men of experience there at all times. We want men who have served the state in the smaller arena, and that they should be able to continue their services there as long as their doing so is consistent with the public interest, and at the same time we want to utilise their services in the higher sphere. Why should we declare that the two things are utterly inconsistent? I do not believe they are. I believe that in the greatest matter of all with which provincial politicians have had to deal in this Convention, there has been a proper loyalty exhibited both to the state and to the nation-
loyalty which, is strong now, and will be strong at all times. I should be very sorry to think the reverse were the case. Leave the matter to the parliament of the commonwealth if you like—leave it to the electors of the commonwealth, or the electors of the states. If they think that the two offices cannot be properly held by one individual at the same time, they will have the power to say so, and deal with the question when it arises; but to lay down within the four corners of this constitution, as if we were the people, and wisdom would die with us that no man who has the confidence of a provincial constituency, and is returned as a member of the local parliament, shall have liberty, even if the federal electors so desire, to serve the federation in the parliament of the commonwealth, seems to me to be a monstrous proposition. Let us leave the matter to those who can decide it from time to time by their votes as they deem fit. Let us not, local politicians as we all are, in framing a federal constitution, do anything which might be suggested as an affirmation of the monstrous proposition that loyalty to any state of the federation, and loyalty to the Australian nation, are inconsistent things which cannot be expected from the same individual.

An Hon. MEMBER: Very great difficulties!

The Hon. S. FRASER: Very great difficulties. More especially in the first parliament would it be necessary to have men of experience; and men who are held in high esteem by the constituencies should be eligible for seats in it.

Mr. SYMON: They would be eligible. This provision would not prevent their being elected; it merely says that if elected they shall not hold the two offices!

The Hon. S. FRASER: Men holding certainties are not likely to give up those certainties.

Mr. SYMON: They are not asked to give them up until the other is made a certainty!

The Hon. S. FRASER: That removes part of my objection certainly.

The Hon. R.E. O'CONNOR: They are not to come under this provision until they have been elected and have a right to sit in the federal parliament!

The Hon. S. FRASER: They will be capable of being elected whilst holding the other position.
Mr. SYMON:
Certainly!

The Hon. S. FRASER:
I agree with the right hon. member, Mr. Kingston. I do not think that the commonwealth interests and the state interests will clash. I see no reason why they should, and the federal parliament can deal with this matter if it is found to be a drawback.

The Hon. Dr. COCKBURN (South Australia)[5.39]:
Clauses similar to these were first embodied in the bill of 1891. I have always thought it was a great pity that they were struck out. I do not think that we need talk about duties clashing; but we all admit that in a federation there is a balance of power between the central authority and the local authority, and I do not think that any man should be in both pans of the scales at the same time. But, quite apart from that question, as a matter of convenience I think it is most objectionable that a member of the local legislature should also be a member of the federal parliament. We do not want to degrade the local legislatures more than we can help. We do not want their convenience to depend on the federal parliament; but that is bound to be the result if we allow a member to occupy the dual position.

The Hon. S. FRASER:
The local parliaments would be mere shire councils then!

The Hon. Dr. COCKBURN:
They would be bound to become so. A man elected to the federal parliament would be a prominent politician in his own state, and will have influence in his own parliament, and yet if members occupy dual positions the sittings of the local parliament will have to be made to depend on the meetings of the commonwealth parliament, and the local parliament will have to be adjourned because Mr. so and so has to go to Sydney, Melbourne, or elsewhere to attend the meetings of the commonwealth parliament. You will degrade the position of the local parliaments altogether. Do we not see the inconvenience here of members of this Convention having parliamentary duties to attend to in their own provinces? Do we not see that we have to get through our work by a certain time, because hon. members here are also members of the local legislatures, and the work must be got through or not done at all by a certain time in order to allow them to attend to those other duties? I say that the position, viewed from either side, is intolerable. The commonwealth parliament and the state parliaments must be distinct as far as their personnel is concerned, otherwise we shall constantly have the commonwealth parliament asked to adjourn in order that the members of the local parliament may go and attend to their duties in the local
parliament, or, what would be just as bad, we shall have the local parliaments asked to adjourn their business in order that members there may go and attend the sittings of the commonwealth parliament.

The Hon. J.H. GORDON (South Australia)[5.41]:

There is another reason that weighs against this pluralism—that is, that members of the federal parliament who were eminent in their local parliaments would be governed in the federal parliament, I am afraid, to a large extent by party interests—not by consideration for the interests of the whole country, but by consideration for the interests of the party with which they were associated in the local parliament. If I may judge from public movements, I am not sure that we have not seen something in that direction in this Convention. If any members of the federal parliament were tied by the strings of local politics, that would be a distinct disadvantage to the federal parliament.

The Hon. H. DOBSON (Tasmania)[5.42]:

My reason for urging the adoption of the amendment of the Tasmanian Parliament, which is simply a transcript of the provision of the 1891 bill, is that, as I submit in all humility, it is impossible for any politician, I do not care who, to do his duty to the electors both in the state parliament and in the federal parliament. I would not allow him to act in the two capacities. My short experience of political life has taught me that he could not by any possibility do his duty.

The Hon. I.A. ISAACS:

Is this the place to determine that for all time? The Hon. H. DOBSON: I think it is. I am sure that the hon. member, Mr. Higgins, intends to rise for the purpose of pointing out that this is a matter that should be left to the electors. I desire to anticipate the hon. member, and, with every deference, I differ from my right hon. friend Mr. Kingston, and say that this is a matter in which we are in a far better position to judge than any electors would be. The electors-men by the hundreds and thousands—do not know exactly what it is to be a member of parliament; they do not know the work that you have to perform, the thought and reading that you have to undertake, to write your principles or ideas on the statute-book; and if you were to ask them to vote for a popular man for election to both parliaments, they would do it without being in the slightest degree able to judge whether that man's brain or time would enable him to serve the commonwealth and the state also. I know from my own short experience that a man could not do it. You can skim just over the surface of things; you can go to your local parliament and make a speech, and then rush away to the federal
parliament and make another great oration; but if you wish to advance legislation, and to take part in the progress of your country, and take up the thousand and one ideas that are worth consideration, and must be dealt with in a statesmanlike manner, with continuity, with perseverance, I say it is absolutely useless to expect you to give your best in both capacities. When the federal parliament first meet they will take months to pass all the bills necessary to bring into force a judicature and other things. They will take months to pass a tariff bill. For one or two years they will have to do everything—the high court will have almost nothing to do—and during that time you will have the very best men from every local parliament, if you do not pass this clause, leaving his own state to look after itself whilst he is away trying to make his name in the commonwealth parliament. If he succeeds in one parliament, he will absolutely and positively neglect his duty in the other. I again differ from the right hon. member, Mr. Kingston, when he says that it will limit the choice of the electors. The idea of an ultra-democrat talking like that! A member of the federal parliament is to be provided with a neat little salary of £400 a year, free passes, and all sorts of privileges, and no doubt one of the nicest clubs in the commonwealth will be the new parliament. Does the right hon. member suppose that the democracy of federated Australia will let this parliament be without men? The men will come, some of them with new ideas—men not content to go in the old ruts; and it

will be a good thing. So far from limiting the choice of the people, it will widen it. The electors will have to go outside for other men. I hope that the Committee will adopt the amendment, which is taken from the bill of 1891.

[The Chairman left the chair at 5.47 p.m. The Committee resumed at 7.30 p.m.]

Mr. Higgins (Victoria): The proposed new clause is, in short, a prohibition against anyone who is a member of a state parliament sitting as a member of the commonwealth parliament.

The Hon. I.A. Isaacs: It does not prevent such a person from being elected!

Mr. Higgins: I am not superfining: I am speaking of its substance. I am dealing with the broad question: Ought a man who has a seat in the states parliament to be prohibited from sitting in the commonwealth parliament? The hon. member, Mr. Dobson, has intimated that he knew what I was going to say—that I was going to say, "Leave it to the electors." I was going to say something else. I was going to say, "Leave it to the federal parliament."
think that it will be a great hindrance to the proper working of the federal parliament at its inception if the men who have had most experience in the working of the state parliaments are prohibited from being in the federal parliament.

The Hon. H. DOBSON:
They will not be prohibited!

Mr. HIGGINS:
The proposal is to prohibit them.

The Hon. H. DOBSON:
No; but they must give up their seats in the state parliaments if they desire to sit in the federal parliament. They must make a choice!

Mr. HIGGINS:
They are prohibited from sitting in the local parliaments while they have a seat in the federal parliament. I feel that if you enact that provision as an absolute prohibition, you must face a grave dilemma. You have either to deprive the local parliaments of the men who are their natural leaders, or you have to deprive the federal parliament of the experience of the best qualified men in Australia, the men most acquainted with the working of parliamentary institutions. Are we to inflict the serious dislocation which this would involve upon the local parliaments; are we to deprive them of their best talent, or are we to deprive the federal parliament at its inception, when the greatest difficulties will face the members of the federal parliament, of the men of light and leading who have been used to the affairs of state in the local parliaments? There is also this to be considered: There is no doubt that men used as ministers or members to the affairs of the local parliaments may be hampered in the work of the federal parliament by having to attend the state parliaments. Of course, the first answer is that that is for the electors; still, there is no doubt that there will be injury inflicted upon one or other of the parliaments by a member having to attend to his other duties. Under the circumstances, I would suggest that the best plan is at the inception of this constitution to have no absolute prohibition, but to allow a free hand to the electors; at the same time to allow a free hand to the federal parliament to impose a disqualification upon men becoming members of the commonwealth parliament. I am not at all sure whether it is not competent for the federal parliament under the bill as it stands to impose a disqualification of this sort. Section 15 says the qualifications of a senator are to be those of a member of the house of representatives. Section 31 says "until the parliament otherwise provides the qualification of a member of the house of representatives shall be as follows":-I take it that under these words it would be competent for the federal parliament to make provision for the
qualification of a member of the house of represent
atives to be that he is not a member of one of the state houses. That is a matter for the Drafting Committee. As we have passed section 31, I do not propose an amendment. I simply intimate that, in my opinion it is worth consideration whether, under section 31, it is not competent for the federal parliament to enact that one of the qualifications of a member of either house shall be that he does not hold office in any other colonial parliament. There must be a serious dislocation with regard to the time of the leading men of the state parliament being spent in the parliament of the commonwealth; there must be inconvenience; but that can be got over if it be found that the duties of a member of a state

The Hon. I.A. ISAACS (Victoria)[7.40]:

I think that this is a very open question. There are many arguments on both sides as to whether it is advisable to prevent members of state parliaments from being members of the federal parliament.

But I think we should take a wrong course in irrevocably, or practically irrevocably, fixing our ideas in the constitution. I would point out for hon. members' consideration how great the advantage has been to this Convention to have members of state parliaments here, and more particularly-of course, excluding myself, members of governments. If it be ultimately thought improper-and I am not going to express any opinion one way or the other about it-that members of local parliaments shall have seats in the state parliaments, there are three modes of preventing it. The first is that the federal parliament may so enact; the next is that the state parliament may so enact; and the third, and, perhaps, the most effectual mode of prevention, is that the electors themselves may decline to elect a man. As we have these three modes of prevention, why should we fear the future in this respect? Why should we determine beforehand what shall or shall not be done in this respect in the federation? It may be that the state may consider that its interests will be best served by sending to the senate some of its most experienced parliamentarians; and, as we have heard over and over again that the selection of a senator is essentially a matter of state concern, why should we not leave it to the state, subject to the paramount provision of the federal parliament in that respect, to decide whether it should send as a senator, or as all its senators, the men who have won the confidence of the local electors, and who still retain that confidence? It seems to me to be a matter which can easily be resolved by one or other of these three modes, and I think, therefore, that we should stand by the bill in this respect, and not adopt the proposal which has been made by our friends from the Tasmanian Parliament.
The CHAIRMAN:  
Before anyone else addresses the Committee, I would suggest that, perhaps, this may be taken as a test division on several amendments. The Legislative Council of South Australia has suggested substantially the same thing, as hon. members will see on page 25 of the schedule, and the Legislative Council of New South Wales has also suggested the same thing, namely, that no person shall be a member of both the state parliament and the federal parliament. I take it that this will be a test division on all these three suggestions.

Hon. MEMBERS:  
Hear, hear! The Hon. Sir J.W. DOWNER (South Australia)[7.43]: I have had varying opinions on this subject, as I expect a good many hon. members have had at different times. On the balance of convenience, I think that the paragraph had better be omitted. At all events, we should not lay down any such rule as is suggested. That must be left to be worked out in the future. It must be left to the federal parliament to put a limitation on the choice of the electors if necessary. At present, I can see manifest reasons why that course should be taken. I will suppose-and I think it is not an unfair supposition-that all the present Premiers, if they continue in office, are elected to the first federal parliament-

The Hon. I.A. ISAACS:  

The Hon. Sir J.W. DOWNER:  
I will suppose that all the attorney-generals-and I am quite sure that my hon. friend will be attorney-general-will be elected.

The Hon. I.A. ISAACS:  
I am afraid that, under the bill as it stands, ministers in state parliaments will be prevented from being elected to the federal parliament!

The Hon. H. DOBSON:  
It must be!

Mr. SYMON:  
It would be a very inconvenient thing to have them in the federal parliament.

The Hon. Sir J.W. DOWNER:  
That might be so; I am not so sure even about, that.

The Hon. J.H. GORDON:  
Does not the hon. member think that any house could stagger along with advantage without them?
The Hon. Sir J.W. DOWNER:

I do not think it is probable, under the circumstances, that the same gentlemen will remain premiers and members of the federal parliament. I think there will be incidental difficulties. The question is whether, in the initiation of this matter, we want to impose limitations which might have the effect of preventing the electors selecting the men who best know the subject matter with which they have to deal. We have not such a large area of selection at the present time as we may hope to have. It is quite impossible to resist that knowledge, however we may try to deceive ourselves. There may be most excellent men out of parliament; we have several here at present. At the same time, the men who have chosen to sacrifice their own personal concerns to attend to political affairs are, as a general rule, better acquainted with them than those who come in capriciously, and when it may happen to suit them. I do not think it would be a good or a wise thing, at the beginning of the initiation of this scheme, to propose a limitation upon the electors which will have the effect of preventing them from selecting as their members the men who have chosen to make politics their study, and the men who may be more peculiarly capable of assisting them in any questions that have to be determined. I do not mention this with any positiveness; I mention it as my opinion—which has been, as I say, a changing one—with the greatest possible diffidence; but I think on the whole it would be better to begin without a limitation. It will be better to say, if we put anything in, "until parliament otherwise provides.'

Then, in the course of events, as we find that the commonwealth advances, as we hope, and are fairly confident it will, the time may come when we shall have a better area of selection, and when it might be expedient to alter and limit the choice of the electors. That, time alone will prove. But at the initiation of these proceedings, to begin by penalising a man in his own colony in a way as a condition of enabling him to be a member of the commonwealth parliament, will be to compel the electors to make a choice between their own home concerns, which, after all, ought to be their dearest property, and the welfare of the commonwealth, which, dear as it may be, ought, after all, to be a secondary consideration. I think it will be wiser if we leave this provision exactly as it stands, with an alteration, if alteration is needed—and I am not sure it is not—which will enable a limitation to be imposed by parliament if, in the course of time, it is found advisable.

Mr. SYMON (South Australia)[7.49]:
There is no doubt that this is, as has been said, a very open question, and it is one which is surrounded with more or less difficulties from the points of view to which attention has already been called. Whilst I entirely agree with the principle of the clause which is sought to be introduced into the constitution, I confess that I am impressed a good deal with the suggestion made by the Attorney-General of Victoria, as to the existence of a power—if it does exist—in the federal parliament to impose this disqualification at a later period. I am satisfied myself that the principle sought to be enforced by the clause under discussion is the right one. I should like to point out, first of all, that it is no limitation, as some hon. members seem to think, upon the choice of the electors.

An Hon. MEMBER:
The effective choice Mr. SYMON: It is no limitation upon the choice or upon the effective choice of the electors—that is to say, the holding of a seat in the state parliament is no disqualification for election. The electors will select the men of most experience in politics, the men in whom they have most confidence, and the federal parliament, even in the inception of its proceedings, will enjoy the same benefits and advantages from the experience of those who may be elected, as though this clause had never been introduced. The limitation is not upon the choice of electors; the limitation is upon the choice of the elected. The limitation is upon the choice of the elected whether he will serve, not God or Mammon, but whether he will serve the nation in the federal parliament, or whether he will confine his ambition to the local concerns of the state to which he belongs.

The Right Hon. Sir E. BRADDON:
That is hair splitting!

Mr. SYMON:
How can it be? It is said that it is a limit upon the choice of the electors. The electors do not want to select their ministers in the local parliaments, and send them on to the federal parliament—not necessarily; there is no limitation. The foundation of the contention is that your local electors will wish to send local ministers into the federal parliament. If they did, then I should support a prohibition—I do not say in the first instance; I feel the weight of the argument in that respect—I should support a prohibition of ministers of the state being sent to the federal parliament. I believe it would be a most mischievous thing to do. It would tend to introduce local politics into the federal parliament, or to lead men from the states to subordinate, in many respects, federal matters to the exigencies of their local politics. What have we had here? I admit we could not have had a better example
than we have had here of the desirability of a choice, and the necessity of experience. We have had the most experienced men from the parliaments. Everybody acknowledges that. We have had the most experienced ministers-men who have held office for years, and who are full of political knowledge and political experience. But it has been suggested over and over again here—notably by my hon. friend on the other side who is against this clause—that the ministers in this colony are over-weighted by the pressure of public opinion and so on, and that in some respects, at any rate, with regard to questions that have come up for discussion, their views are more or less tinged with the atmosphere of the local politics in which they live. I am putting these considerations to hon. members, admitting, as I do, the difficulty of the question. Is that a desirable thing to exist in connection with the federal parliament? I say it is not; and, more than that, when it is suggested that a man will be competent, I do not think he can be competent to undertake the duties of both the local and the federal parliaments. To my mind it is impossible for him to discharge the duties of both satisfactorily. I think that the federal parliament and its duties will be adequate for the ambition of any man in Australia, and that, so far as the elected are concerned, however their ambition may be satisfied with the existing local condition of things, it will have a wider field and a higher object than perhaps their minds have hitherto conceived. I believe their presence in the federal parliament will fill their highest ambition; and, on the other hand, the duties they have to discharge will occupy all their attention and absorb all their energies, to an extent which will be inconsistent with the discharge of those other duties which appertain to the office they hold in the local parliament of the particular state. I do not assent to the way in which the hon. member, Mr. Higgins, has put it—that it is a prohibition; it is nothing of the kind. It does not limit the choice of the electors; it does not impose any prohibition upon them; that I think is apparent.

Mr. HIGGINS:
But members of local parliaments will not stand!

Mr. SYMON:
Does the hon. member, Mr. Higgins, say that be will not stand? If so, I hope he will reconsider his decision, because that would be one of the greatest losses the federal parliaments could sustain.

The Hon. S. FRASER:
A member could not be elected to the position; he could not sit!

Mr. SYMON:
Does my hon. friend mean that the electors cannot elect him?
The Hon. S. FRASER:
   I am referring to the provisions of the local acts

The Right Hon. Sir E. BRADDON:
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Mr. SYMON:
   That is exactly what we want to prevent.

The Right Hon. Sir E. BRADDON:
   You will prevent the effective choice of the electors!

Mr. SYMON:
   You limit the choice of the member; but you do not limit the choice of
   the electors. The elected has to, say whether he will prefer the federal
   parliament with its wider scope of interest and duty to the local parliament
   with its narrower scope.

An Hon. MEMBER:
   Why cannot he serve both?

Mr. SYMON:
   I do not see how he can. Take, for instance, a minister in Western
   Australia. Our right hon. friend, the Premier of Western Australia, as we all
   know, is monarch of all he surveys; he, can bear no brother near the throne.

The Hon. A. DEAKIN:
   Like Alexander, he is sighing for new worlds to conquer!

Mr. SYMON:
   I do not think my right, hon. friend would be in a position to do, much
   conquering, if, while controlling the destinies of the great colony of which
   he is premier, he had to come all the way.

over to the federal capital to discharge his parliamentary duties there. We
know my hon. friend's capacities are unbounded; but I am afraid they
would be unequal to that task. The point is whether you are going to limit
the choice of the men who are elected of which body they will be a
member, leaving it to the electors to say whether they prefer those who
have had experience in the local legislature, as of course they naturally
would, to discharge the duties intrusted to them in the commonwealth
parliament. I understood the hon. member to say just now that he would
not stand.

Mr. HIGGINS:
   I did not say so!

Mr. SYMON:
   If the hon. member wishes to convey that, I do hope he will reconsider
   the position; but if it did occur to the hon. member or to any other hon.
member not to do so, the effect would be that the state would have the benefit of services which would otherwise go to the federal parliament. There is another phase of the matter to which I would like to call attention. There is an ineradicable objection on the part of the people to pluralities whether in political or ecclesiastical matters.

An Hon. MEMBER:
Then they will not elect the members!
Mr. SYMON:
I do not know. However, the principle is well understood, and I think it might very well be ingrafted upon the constitution, in so far as it is a principle. But there is another point involved, and it is this: that throughout the whole of these colonies there is a great objection on the part of unreasoning and uninstructed persons against the federation at all, on the ground that it is going to create a lot of offices, and permit what some persons who are in the habit of using language more expressive than refined would call a game of grab. They say that the federal system will simply create place and pay, and when you have pay in the local parliament, and superadded to that the pay of the federal parliament, the people of this country, when they come to understand those conditions, would not assent to it. If it be a good principle, why should we not have the credit of putting it in the constitution? Why leave it to the people to say, "These men want to grab at these things"?

An Hon. MEMBER:
That is sound logic—it is a good principle!
Mr. SYMON:
Put it in. I have already said that I admit the difficulties from the point of view of expediency, and possibly, when my hon. and learned friend, Mr. Isaacs, points out the remedy which he has incidentally suggested, it may be sufficient. But what I want hon. members to consider is whether it is not well for us not to say, "Let the electors reject the men who are already in the local parliament, and who become candidates for the federal parliament." But let us put it in as a principle, let us have the credit of saying that there shall be no plurality of offices so far as we can prevent it in connection with this constitution.

The Hon. S. FRASER:
Why should you prevent the plurality of ministers?
Mr. SYMON:
I do not see, except that the mischief, if there were mischief, would be greater in degree in that case than in the case of the local parliaments. If the
principle applies to the one, it applies equally to the other.

The Right Hon. Sir E. BRADDON:

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Mr. SYMON:

You act on the principle. Surely the right hon. gentleman would not support the opinion that it is desirable that ministers of the state parliaments should be ministers of the federal parliament.

The Right Hon. Sir E. BRADDON:

It is not practicable!

Mr. SYMON:

I do not think that it is practicable; but if it is neither practicable nor right in principle, we ought to exclude it.

The Right Hon. Sir E. BRADDON:

I did not say that it was not right in principle!

Mr. SYMON:

But I say that if it is not practicable, and if some of us think it is not right in principle, we ought to exclude it. At any rate, I admit the practical difficulties which surround it on every side, and that there is considerable force in the contention that has been urged in regard to many other provisions, and the possible difficulties in connection with the establishment of the commonwealth, and in connection with the first parliament, it seems to me that the balance still is entirely in favour of embodying the principle in the constitution, and in supporting the amendment which is now under consideration.

The Hon. E. BARTON (New South Wales)[8.3]:

I should like to say, without detaining hon. members, that having spoken on this matter, and having expressed the strong opinion that there ought to be some limitation that would prohibit any person from being a member of the state parliament and at the same time a member of the commonwealth parliament, I adhere to that opinion, but nevertheless that I have been convinced by the arguments I have heard that this matter is not a subject for incorporation in a document of this kind. I have all along been protesting both at Adelaide and here-particularly at Adelaide-against the idea of this Convention attempting to legislate for the people of the commonwealth, whose interests we shall best consult by giving them the instrument of legislation and letting them make their own laws. Simply in accordance with that principle it is that I withdraw my opposition to the idea gentlemen being allowed to be members of the two parliaments at the same time. But I think it is an altogether improper thing that a man should
be a member of both parliaments, and I think that it will tend to make the
members of the federal parliament delegates of the state parliaments. After
all it is a matter of internal polity for the commonwealth, and it is for the
commonwealth to govern its internal polity itself. Just in the same way as I
object to subsequent provisions, because I consider that they place
limitations on the commonwealth parliament, I am prepared to give way on
this matter. After all I think that the views that I or any other hon. member
may hold as to what it is right for the commonwealth to do are matters for
us to urge at the proper time, and that is after the commonwealth has been
constituted.

The Hon. J.H. GORDON (South Australia)[8.9]:

I am extremely sorry to hear the defection of the hon. and learned
member, Mr. Barton, from the principles which he laid down with so much
strength, and in which I followed him so heartily.

The Hon. E. BARTON:

I adhere to the principles! The Hon. J.H. GORDON: I differ entirely
from the position which the hon. and learned gentleman now assumes
when he says that this is not a matter for us to decide, but a matter to be
decided by the federal parliament or the states parliament, as the case may
be. The proposition of the hon. and learned member, Mr. Isaacs, which is
supported by the hon. and learned member, Mr. Barton, to leave the matter
to those parliaments is a piece of simplicity. We are the people to decide
this matter, and not those who will be distinctly and directly interested in it.
Unless the federal parliament, and all the states parliaments in future are
going to be composed of angels, unless they are going to be above all
questions of self-interest and I have never known a parliament that

was-they are not the parties who should settle the question. How often has
it been attempted in our local parliaments to lessen the number of members
and to lower their salaries, with the result that, after a long and arduous
fight, the proposal has generally been defeated? So that to leave it to the
federal parliament, on the one hand, and to the states parliament, on the
other, to limit the opportunities of their members, argues a simplicity on
the part of hon. members who advise it which surprises me, after having
observed their astuteness in regard to other matters. The illustration of the
hon. and learned member, Mr. Isaacs, seems to me to be against the
proposition. We have in this Convention able men who have done, and
who are doing, good service in the parliaments of their own colonies; but
that, to my mind, shows the undesirability of having the same men in both
the federal and the states parliament. We are engaged here in fighting a
battle for our own colonies.
Mr. HIGGINS:
The representatives of the small states seem to be!
The Hon. J.H. GORDON:
Well, I will make that concession to the hon. member; he has been fighting the battle of the whole world. To a large extent, we have all been fighting for the interests of our own colonies. But we want men in the federal parliament who are detached as much as possible from local interests. Hon. members here have one eye upon the proceedings of the Convention and the other eye upon their local parliaments.
The Right Hon. Sir E. BRADDON:
How does the hon. gentleman propose to detach the members of the federal parliament from the interests of their local parliaments?
The Hon. I.A. ISAACS:
Will a candidate tell his electors that he is going to regard the interests of the whole of the commonwealth as much as he will regard theirs?
The Hon. J.H. GORDON:
No; but he will not be in the federal parliament to advocate local interests and considerations. He will, of course, have a natural leaning towards his own state; but members of the federal parliament should be detached as much as possible from local interests, and not be directly involved in their advocacy, which would be the result if we had ministers and great party leaders in the federal parliament. The argument that this matter should be left to the federal parliament, I have, I think, disposed of, and the argument that it should be left to the electors is, in my opinion, an unsound one. A member of a local parliament in seeking election to the federal parliament would have the advantage of political machinery behind him; he would have the advantages given to him by his position, and he would have a considerable start over an ordinary candidate. The argument of the hon. member, Sir John Downer, has in it a spice of egotism which, while justified in his own case, I think the most modest of us will do well not to adopt. He says, in effect, "We are the people of light and leading. Take away the members of the state parliament and you have nothing left but I dust and ashes." I differ from that view. There are as good fish in the sea as ever came out of it. I am bold enough to say that if we wiped out the whole of this Convention, Australia might suffer; but it would still roll on in its proper place in the Cosmos. There is really nothing in the argument that the states cannot get along-to use some hon. member's phrase-without their men of light and leading. I do not know that we constitute the whole of the ranks of the elect. A system of plurality will taint federal politics with local interests beyond the point at which they should be influenced in that way. It will create monopolists of those who are at pr
Mr. WISE (New South Wales)[8.11]

was understood to say that eight out of the ten members representing New South Wales in the Convention were members of either house of the local parliament. If they were to be excluded, he did not know, as a practical man, where they could get the remaining twenty-four to properly represent the colony in the commonwealth parliament.

Mr. SYMON:

Does not the hon. member want to reduce the number of members in the local parliament?

Mr. WISE:

Undoubtedly; but in South Australia there is a plethora of admirable candidates. We all hope to see the hon. member, Mr. Gordon, in the federal parliament; but I cannot imagine the South Australian Parliament without that hon. member in it. No doubt, many hon. members will feel the same with regard to other colonies of which they have more knowledge than I have. As a practical question, the best course would be to leave the matter, as the hon. member, Mr. Barton, has suggested, to work itself out under the guidance of experience, and let the federal parliament determine from time to time what is the best course. The logical conclusion of the argument advanced by the hon. member, Mr. Gordon, namely, that there is a danger of local interests warping men's judgment when they come into the federal parliament would be that we should elect only foreigners to the federal parliament.

The Hon. J.H. GORDON:

That would be a reductio ad absurdum!

Mr. WISE:

Of course; but that would be the logical conclusion from the argument. I will support the suggestion of the hon. member, Mr. Barton.

The Right Hon. Sir JOHN FORREST (Western Australia)[8.15]:

I support the proposal of the hon. member, Mr. Barton, Whatever virtue there may be in the future in the proposition now placed before us by the hon. member, Mr. Symon, and others, I think that in the beginning, at any rate, it would be much better for us to leave this matter to be dealt with by the federal parliament. There can be no doubt in the mind of any one that in the smaller states, at any rate, there are not too many public men who would desire to become members of the senate or house of representatives. We desire to build up these two institutions, at any rate, in the early days in a way that will reflect credit upon the work that we shall have completed. I am sure it is the desire of everyone that the men who will become the first
members of the senate and the house of representatives shall be selected from those most experienced in public life, and those who are most able in the various governments and legislatures. If we exclude every public man from taking a part in the government of the various colonies; if we say to him you shall at once decide whether you shall give up your connection with the politics of the colony you belong to, or whether you shall take part in the federal government, I think it will have an injurious effect on the early days of the federal constitution. I believe we have difficulties enough ahead of us without making any more, and we may be assured of this: that both the states and the commonwealth will be able to take care of their own business in this respect. They will be able to regulate this matter. They will soon find out whether it is desirable or expedient that persons holding office in the parliaments or governments of the various states shall also hold seats in the federal parliament, and the federal parliament itself will also take care that it shall be fitly represented, and if it finds that the plan adopted is undesirable will place restrictions upon it. When we look round this Chamber and notice that every person here, almost without exception, represents the
popular people of his own colony in its parliament; when we look back to the Convention of 1891, and remember that every single delegate, I think without exception, was a member of the parliament of the colony he came from, I think we will take a very strong step if we say that not one of these persons who were there in 1891, and who are here to day, shall be a member of the federal parliament, unless he decides at once whether he will throw in his lot and take a part in the federal government, and altogether sever his connection with the local parliament. I think it is unnecessary for us to decide that question. It will be much better for us to leave it to time to settle it. I can at once understand the objections which have been raised to members occupying a place in both houses; but I think that them objections may be fairly left to the future to settle. They will settle themselves. I think if we frame this constitution in this respect in a way which will leave it to the electors, which will leave it to the local parliament, and which will leave it to the federal parliament, if need be, to settle this matter, it will be far better than for us to settle it at the present time. As for the small matter referred to by someone—I forget who it was—members receiving double pay, I think that is unworthy of our notice. Surely that may be arranged by the local parliament or by the federal parliament. They can easily make some regulation or condition as to whether persons who occupy places in both legislatures shall receive double emoluments. The thing is altogether too small for us to deal with at
the present time. As to the proposition or suggestion that there is an objection amongst the people of the various colonies to persons holding many offices, that is a matter, too, which will be under their own control, which they will be able to settle for themselves. I have never heard any objection of the sort myself. I have never heard it suggested that persons will try to obtain places in the local parliament and also in the federal parliament with the object of obtaining double pay. I think it is not very likely to occur, and in any case it can easily be restricted. Whatever may be our ideas as to what is best in the future, the best course for us to pursue now is to place as little restriction as possible upon any one in regard to whether he shall be a member of one parliament or another.

The Hon. A. DOUGLAS (Tasmania):

It is not likely that in an assembly like this the proposition of the hon. and learned member, Mr. Symon, will be carried. This assembly reminds me of a number of individuals seated round the festive board drinking to the toast of "our noble selves." We are all interested in this matter, and we are all going to vote for our "noble selves," because most of us expect to be returned to the federal parliament, and if not to that to some other. It has been argued that many of those who will be returned to the federal parliament will be men holding positions in the local parliament; consequently they will be strongly impressed with the idea that they should keep possession of the parliamentary benches, and should rule the whole of the continent. There can be no doubt that the position taken up by the hon. member, Mr. Gordon, is the correct one; but it will have no weight here. I am not going to attempt to argue the matter, because I look upon the result as a foregone conclusion. The hon. and learned member, Mr. Barton, has altered his view, which was the correct one, to suit the circumstances of the present arrangement.

The Hon. E. BARTON:

I did not know that!

The Hon. A. DOUGLAS:

No, the hon. and learned member did not know it, What is the idea? To carry out this little arrangement amongst ourselves. There is scarcely a man present who does not an-

The Hon. J.H. HOWE:
I am nearly persuaded to vote for it! The Hon. A. DOUGLAS: I do not care whether the hon. member does or does not vote for it, because he will be in the minority. We are to have ministers from various colonies in the federation. Hon. members speak about the premiers in the local parliaments being in the federal parliament. I should like to know how many premiers there are here now, who were here in 1891?

The Hon. E. BARTON:

Ministers in the local parliaments will not be able to hold seats in the federal parliament. They will not, at any rate, be ministers in the federal parliament!

The Hon. A. DOUGLAS:

Cannot they serve two masters in a proper manner? Of course they can. They can travel here from one colony, and they can go back again. I do not, however, desire to keep up the argument any longer, as it is only a case of so much "talkee-talkee," as we used to say in Victoria in the early days.

Mr. HIGGINS:

The hon. member has been in Victoria, then?

The Hon. A. DOUGLAS:

It so happens that I know more of the colony than the hon. member does, although he would lead the people of New South Wales to suppose that he is the only man in Victoria who knows anything about it. The proposal of the hon. and learned member, Mr. Symon, and the hon. member, Mr. Gordon, is the most truthful, honorable, and straightforward.

Question-That the new clause suggested by the legislature of Tasmania stand part of the bill-put. The Committee divided:

Ayes, 10; noes, 24; majority, 14.

AYES.
Berry, Sir G. Solomon, V.L.
Brown, N.J. Symon, J. H.
Cockburn, Dr. J.A. Walker, J.T.
Dobson, H.
Douglas, A. Teller,
Grant, C.H. Gordon, J.H.

NOES.
Barton, E. Holder, F.W.
Braddon, Sir E.N.C. Isaacs, I.A.
Briggs, H. Kingston, C.C.
Brunker, J.N. Leake, G.
Carruthers, J.H. Lee-Steere, Sir J.G.
Crowder, F.T. Moore, W.
Downer, Sir J.W. O'Connor, R.E.
Forrest, Sir J. Quick, Dr. J.
Fraser, S. Venn, H.W.
Glynn, P.M. Wise, B.R.
Hackett, J.W.
Henning, A.H. Teller,
Higgins, H.B. Deakin, A.
Question so resolved in the negative.
New clause, suggested by the Legislative Council and Legislative Assembly of Tasmania:

44b. A member of either house of the parliament of the commonwealth shall be incapable of being chosen or of sitting as a member of the other house of the parliament.
New clause agreed to.

Clause 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 or a discharge, or the expiration or remission of the sentence, or a pardon, or release, or otherwise.

Suggested amendment by Legislative Assembly of New South Wales:
Omit "II. Who is an undischarged bankrupt or insolvent or a public defaulter; or"

Mr. GLYNN (South Australia)[8.33]:
Before the Committee proceeds to consider the amendment which has been suggested by the Legislative Assembly of New South Wales, I would suggest that we make an alteration in the first portion of the clause by adding the words to the effect that these disqualifications shall operate until the federal parliament otherwise provides.

The Hon. E. BARTON:
Does the hon. member contemplate the federal parliament making provision exempting a man who has taken the oath of allegiance to a foreign power?
Mr. GLYNN:

This provision is really temporary. It is to cover the gap between the adoption of the constitution and the passing of special legislation by the federal parliament. I would ask hon. members also to consider the effect of sub-clauses II and III. For instance, the meaning of the term "bankrupt" itself may change. It may be very different twenty years hence from what it now is. Then there is the word "felony." As Sir Samuel Griffith has pointed out, the meaning of the word "felony" is changing considerably. In some colonies felony is comparatively a light offence; in other colonies it is a heavy offence. In New Zealand felony is practically unknown to the federal law. Changes similar to that which have taken place in New Zealand in regard to the meaning of the word may take place in other colonies, and if you leave the clause as it stands you will put it in the power of the states parliaments to either extend or diminish the qualification by making a change in the meaning of "felony." I say that this is a matter for the federal parliament, and that it ought not to be fixed perpetually in the constitution. Again, as regards the construction of the clause itself, I would draw the attention of the Drafting Committee to another matter. The hon. member, Mr. Barton, has referred to the taking of an oath or declaration of allegiance. The first part of the clause, it will be seen, does not read with the latter part of it. For instance, it says, "Any person who has taken an oath or made a declaration or acknowledgment of allegiance, obedience, or adherence to a foreign power." The clause then goes on to say that the person shall be incapable of being chosen or sitting as a member of the senate or of the house of representatives until the disability is removed. But, once a man takes an oath of this kind, you cannot remove the disability because a thing is done. The amendment required is purely a drafting amendment. The way in which the matter should be put would be, until the removal of the disqualification caused by the taking of the oath. That is the evident intent of the clause; but the wording of the clause is altogether different. I think this is a matter that ought to be left to the federal parliament, and I think that the words I suggest should be adopted.

The Hon. E. BARTON (New South Wales)[8.36]:

I am unable to see that it would be a good thing to limit this clause in the way suggested by my hon. friend, Mr. Glynn, who has said that this is a matter that should be left to the federal parliament. This happens to be just one of those matters which are included in the constitution of every one of the colonies. All the colonial constitutions provide for such matters as these, and it is perhaps right that they should provide for them, for even in the first parliament it would be rather a strange thing to find persons who had taken oaths of allegiance to foreign powers, who were undischarged...
bankrupts or insolvents, or who had been recently attainted of crime, or convicted of felony or infamous crime. Unless you have provisions of this kind, it is quite possible that somebody might take a violent affection for a gaol-bird, and put him into parliament. We do not want that sort of thing. It is one thing not to put limita-
tions on the ordinary freedom of the citizens of the commonwealth. It is another thing to provide against the defilement of parliament; and this would be the case as regards the 3rd sub-clause, whilst in the case of the 2nd sub-clause it would be the admission into parliament of persons who had not purged themselves of certain disabilities, while in the case of the first sub-clause it would be the entry of persons into parliament whose very conditions would suggest that their interests were quite different from those of the citizens of the country. Persons who have taken the oath of allegiance to a foreign power are not to be classed in the same category as citizens of the country for the purpose of joining in legislation.

An Hon. MEMBER:  
And not to be trusted?
The Hon. E. BARTON:  
Not to be trusted, prima facie!
Mr. GLYNN:  
That is not one of my points!
The Hon. E. BARTON:  
If the definition of a point is a thing of no magnitude, it is not a point because it is larger. These limitations having been put in all constitutions of the Australian colonies, and having worked well, and prevented the entry of undesirable persons into parliament, they may well be continued in the constitution we are now framing. They are not limitations of the freedom of the electors. It is scarcely to be supposed that, except by inadvertence or accident, the electors would vote for such a person; but it is quite possible that the electors of the commonwealth, not knowing that certain persons had taken the oath of allegiance to a foreign power or had become attainted of some crime, or become bankrupt or insolvent-it is quite on the cards that such persons would stand for election for the commonwealth parliament, and the electors might choose them, not knowing who they were. That is not at all an improbable supposition. Such a thing has happened, and it is a kind of thing which the electors are to be protected against, because it is a state of things the electors themselves could not provide against. They might be taken in warily; they might be caught in a trap. This is not merely a case of preserving the freedom of the electors, but of preventing them
from being imposed upon by persons who otherwise might creep into parliament, perhaps, in some cases, persons who were insidious enemies of the commonwealth, and in other cases persons who had been attainted of crime, or who were under other conditions of which they should rid themselves before they offered themselves for election to any legislative assembly. I submit that on the whole it is very desirable to avoid making the alteration suggested by the hon. member, Mr. Glynn; and while I am speaking, I think I might say that, although it is far less objectionable, it would be desirable also not to accept the amendment that has been suggested by the Legislative Assembly of this colony.

The Hon. J.H. CARRUTHERS:

Is it not a fact that in all our constitution acts power is reserved to the local parliaments to alter them, and they have altered them in this respect?

The Hon. E. BARTON:

The disqualification in regard to bankruptcy and insolvency still remains in the electoral law of New South Wales; so that our electoral law has followed the constitution in that respect.

Mr. GLYNN (South Australia): I think that the hon. and learned member, Mr. Barton, has not put the case quite fairly. I agree with what he said as to the necessity of imposing this disqualification; but I think it should be only temporary, and that the federal parliament should have power, if it wishes to do so, to remove it. The principle of federalism is to have as short a constitution as possible, leaving as much as possible to the federal parliament. I ask the Committee to adopt the amendment. That will allow this disqualification to attach to people who are returned in violation of the law until the federal parliament in its wisdom thinks fit to alter or to repeal it. As the hon. and learned member has spoken strongly upon this point, I will refer him to what Sir Samuel Griffith says upon it. This is the view he takes. Referring to section 45 he says:

This section—which is not altered from the draft of 1891—needs verbal amendment. The words "until," &c., at the end are not applicable to the whole of the cases mentioned. The word "felony" also is, it is suggested, an inappropriate one. Apart from the fact that the word no longer bears any definite descriptive meaning, the use of it has the effect of making the disqualification in question dependent upon state law. In New Zealand, the term is no longer used in criminal law, and it may be disused in other colonies. Moreover, the same offences are felonies in some colonies and misdemeanours in others. In all, I believe, manslaughter by negligence is felony.
On this point I submit three alternative suggestions:

1. To leave the imposition of disqualifications to the federal parliament; That is my suggestion, covering the gap in the meantime by a provision in the constitution -

2. To establish disqualifications until this parliament otherwise provides;

3. To substitute for "felony" words to the effect following: - "An offence of such a nature that by the law of the state of which he is a representative a person convicted of it is liable to undergo penal servitude or imprisonment with hard labour for a term of three years."

The Hon. E. BARTON:

I have the proposed amendment of Sir Samuel Griffith before me, and it reads somewhat differently. I am prepared to accept it.

Mr. GLYNN:

That is a question of detail. The amendment is suggested by Sir Samuel Griffith to obtain uniformity of interpretation. In some of the colonies the term "felony" includes exceedingly light offences, while in other colonies a crime of considerable magnitude must be committed before one becomes guilty of a felony. The hon. and learned member, Mr. Barton, referred to the fact that a similar provision was embodied in some, I think he said in all of the colonial constitutions. But he omitted to say that these constitutions can be easily amended. In most of them an amendment can be made, if it is carried by a two-thirds majority of the houses, and a resolution is passed asking for the royal assent to it. These constitutions can be more easily amended than the draft bill before us. Then, too, they were passed on the inception of constitutional government in Australia. The constitution of South Australia was passed in 1855, and the constitution of New South Wales and Victoria are of about the same date. I think, the fact that we have similar provisions in our constitutions should not determine our decision in regard to this matter. I move:

That the words "Until parliament otherwise provides" be inserted at the
beginning of the clause.

The Hon. S. FRASER (Victoria)[8.45]:

If any clause is wanted in the bill, I think it is this clause, with a very
slight modification as to the word "felony." That, of course, might be
slightly altered to suit local requirements.

The CHAIRMAN:

I would ask the hon. member to confine his remarks to the 1st paragraph.

The Hon. S. FRASER:

I think the 1st paragraph is absolutely necessary. A foreigner might get into our parliament, and sell our defence secrets to a foreign power. We
must look forward to the time when we will be a powerful nation, or even now when we are weak it is still more desirable that we should be in safe keeping within ourselves. Such a clause is in force in every, country. Would a foreign country allow a Britisher to go into its parliament? There would not be the slightest chance, and their laws will scarcely allow a foreigner to travel through their country.

The Hon. A. DOUGLAS (Tasmania) (8.47):
I cannot see why there should be any objection to this proposal. All that we are asked to do here is to affirm a law already in our constitution, and that the general parliament should have the power of altering it in any shape or way it may choose. We are bound to trust the federal parliament.

An Hon. MEMBER:
They can alter it under clause 131!

The Hon. A. DOUGLAS:
Yes; but they would have to go through a great many formalities.

The CHAIRMAN:
The hon. member must confine his remarks to the first paragraph, unless he wishes to propose an amendment to insert the words "until parliament otherwise provides."

The Hon. A. DOUGLAS:
I am in favour of putting in these words, because it will create no difficulty whatever. We should give the parliament power to alter it afterwards if they saw a necessity for doing so. We may be sure they will not make any ridiculous alteration. It is astonishing how many objections are brought forward when it is proposed to give the federal parliament any power. First of all, we are told that we are not to bind the future parliament; but as soon as we wish to give them more freedom in dealing with any matter, we are told that

Question-That the words "until parliament otherwise provides" be inserted—put. The Committee divided:
Ayes, 8; noes, 26; majority, 18.

AYES.
Brown, N.J. Solomon, V.L.
Dobson, H. Walker, J.T.
Douglas, A.
Grant, C.H. Teller,
Moore, W. Glynn, P.M.
NOES.
Barton, E. Higgins, H.B.
Berry, Sir G. Holder, F.W.
Braddon, Sir E.N.C. Howe, J.H.
Briggs, H. Isaacs, I.A.
Brunker, J.N. Kingston, C.C.
Carruthers, J.H. Lee-Steere, Sir J.G.
Cockburn, Dr. J.A. O'Connor, R.E.
Crowder, F.T. Symon, J.H.
Deakin, A. Trenwith, W.A.
Forrest, Sir J. Venn, H.W.
Fraser, S. Wise, B.R.
Gordon, J.H.
Hackett, J.W. Teller,
Henning, A.H. Quick, Dr. J.

Question so resolved in the negative.
Paragraph 1 agreed to.
Clause 45, paragraph II. Who is an undischarged bankrupt or insolvent, or a public defaulter;-
or
Amendment suggested by the Legislative Assembly of New South Wales:
Omit paragraph II.

The Hon. J.H. CARRUTHERS (New South Wales)[8.55]:
I propose to ask the Committee to agree to the suggested amendment of the New South Wales legislature. None of the constitutions of the various Australian colonies provide that a man who is an undischarged bankrupt, an insolvent, or public defaulter, shall, during the whole period of his bankruptcy or insolvency remain out of public life. The constitution of the South Australian legislature has no provision of the kind.

The Right Hon. C.C. KINGSTON:
He forfeits his seat!

The Hon. J.H. CARRUTHERS:
He forfeits his seat. The next clause in the draft bill-clause 46-provides for the forfeiture of the seat. That brings the federal law in a line with the law of the various colonies, and that I hold is quite sufficient. Why should men who, through some misfortune, are compelled to take advantage of the insolvency or bankruptcy laws, he kept out of public life until they can get their certificate of discharge?
Because they can get it at once if their bankruptcy is honest!
The Hon. J.H. CARRUTHERS:
My hon. friend knows they cannot.
Mr. WISE:
They can get it in this colony within three weeks or a month!
The Hon. J.H. CARRUTHERS:
It is easy to talk like that, but it is not so easy in practice to do it. If any one contested their discharge and demanded an examination of one thing or another, he could retard the granting of the certificate for months. What is more likely than that, in the strife of politics, we should have some one keeping some leading public man out of political life by keeping his affairs before the Insolvency Court? In framing this constitution has there been any great, demand on the part of the Australian people that we should go beyond the constitutions under which responsible government owes its existence? Has there been any evidence whatever that this law has injured the rights and privileges of citizens? We know of instances in which those who have devoted themselves to the profession of politics-some of our greatest statesmen have had to live a life of poverty. They have neglected their own affairs in attending to the affairs of the country, and they have thus impoverished themselves. In many instances, public men have had to seek the protection of the Bankruptcy Court. Not the slightest suspicion has been cast upon their conduct of public affairs, and time after time the electors have returned them to their seats in parliament without any injury to public business. It has never been urged in those instances that the public have suffered. Surely it is sufficient that we should provide that the seat shall be forfeited. The public are sure to know the circumstances of a man's insolvency. Under our law the election in such a case cannot take place until twenty-one days. I cannot imagine an election taking place at an earlier period, especially if you have to provide for elections all over the continent. There will be ample time for the public to know of a man's insolvency and the causes which led up to it. Surely the electors themselves can be trusted to say whether a man ought or ought not to be returned. Apart from that, if hon. members will look at the clause, they will see that a man may be an habitual drunkard; he may have been convicted of misdemeanour time after time; he may be a thief or a criminal; but he is not, however, disqualified from a seat in parliament unless he is a felon. I hope the Committee will agree to the New South Wales amendment, especially having regard to the fact that, under the next clause, the disqualification which exists in, all the Australian colonies under the constitutions is still provided for, and no attempt is made to eliminate it.
Mr. WISE (New South Wales)[9]:
I hope the amendment of the New South Wales legislature will not be carried. Poverty is no shame, and should be no disqualification. But unquestionably where a man fails in his own business, it is prima facie, until explained, an admission of inability to conduct the affairs of other people.

An Hon. MEMBER:
Not at all!

Mr. WISE:
I quite admit that in many cases an explanation easily gets rid of the disqualification; but, prima facie, you would not trust the management of your own private affairs to a man who had failed, unless he was able to give an explanation of his failure. I do not think we ought to ask that the affairs of the nation should be intrusted to such a man, unless he is able to give an explanation.

The Hon. J.H. CARRUTHERS:
Would you keep the seat vacant for him until he could explain?

Mr. WISE:
That is a matter which might be left to the commonwealth, who will have power to make general laws relating to bankruptcy and insolvency. All that is provided here is, that when a man finds himself in a position of inability to meet his creditors, he shall explain to the proper tribunal that he has been forced into that position by misfortune. In this colony, in Victoria, and in Queensland I do not know what the law is in the other colonies—if a man has been forced into bankruptcy by misfortune, he can obtain his certificate in a very short space of time.

The Hon. J.H. CARRUTHERS:
If there is an opposing creditor?

Mr. WISE:
Why is there an opposing creditor? Unless from pure malice, he is an opposing creditor because he believes, rightly or wrongly, that he has been defrauded or cheated. It is unquestionably true that in this colony many of the men to whom we owe most are men who have had to seek the protection of the Bankruptcy Court; but it is equally true that there have been frequent scandals from men becoming bankrupt, and making use of their bankruptcy as a ground for re-election, appealing to the sympathy of electors, to some of whom, possibly, they owe money—

Mr. WALKER:
I have known it happen over and over again!

Mr. WISE:
Appealing to the sympathy of the electors, and asking them to return them, not on their merits, but because they are unfortunate. I do not think such a display of sympathy is to the advantage of the public interest, and it appears to me, seeing that the failure to meet obligations involves ruin to those persons who suffer loss through that failure, it is only just that the man should be called upon to explain publicly what were the reasons which reduced him to that unfortunate position.

The Hon. J.H. CARRUTHERS:

Does the hon. and learned member notice that under this provision a man can be a thief, and yet not be disqualified!

An Hon. MEMBER:

Yes, he is disqualified!

Mr. WISE:

I think he is. I quite agree that if the laws of the different colonies prevent a man from obtaining a certificate within a reasonable time, the commonwealth, which will have power to pass laws dealing with bankruptcy or insolvency, may introduce a clause giving a man an opportunity of clearing himself at the earliest occasion. But I protest against the idea that a man who has failed to meet his obligations—though I do not, by any means, regard it as the highest proof of public virtue that a man pays 20s. in the £; many men who pay 20s. in the £ are rogues. At the same time we have to deal with facts as they are, and under existing circumstances it is prima facie a confession or admission of incapacity, at the least, if a man fails in his business obligations, and he should, therefore, I think, be called upon to explain what the causes of his failure were before he is intrusted with the high duties of legislation.

The Hon. H. DOBSON (Tasmania) [9.4]:

I hope we shall discuss this matter, if we are going to discuss it at any length, upon a broad principle, and that we shall put on one side the local experiences of our worthy friend, Mr. Carruthers. I quite agree with the hon. and learned member, Mr. Wise, that any man who has become bankrupt can get his discharge, if he is worthy of it, in a very short space of time. A discharge is generally withheld for two reasons. First of all, because a bankrupt has probably been guilty of something of a fraudulent character, in which case he ought not to be allowed so sit in parliament; and, secondly, because he has been guilty of extravagant speculation, creating a loss to his creditors—because he has been a jubilee plunger; an ordinary democratic plunger or a conservative plunger, if you like—
money has caused a loss to his creditors, possibly his butcher and baker—for these two reasons sometimes a discharge has been withheld; but does any one contend that if for the least guilty reason, because he has been guilty of speculation which has caused a loss to honest traders, it is withheld, that it is any hardship to that man that he should endure the slight punishment of standing out of political life until he has obtained his discharge? Surely that is a fair penalty which he should be made to pay? If one might refer for a moment to local experiences, I think I could name a certain local legislator who was declared bankrupt, who forfeited his seat, and who went before the electors a few days afterwards and won his seat back again. For years that man remained an undischarged bankrupt in the legislature, and it was said—I do not say whether it was true or false—that he incurred debt after debt among a body of traders-grocers, butchers, bakers, without any reasonable probability of being able to pay them. Is it right that such a man should sit at the table of the federal parliament to make laws for us? I say, no. He may not be guilty of anything very dreadful, but he is guilty of a wrong. He has wronged petty tradesmen, he has caused a lose to them, and he ought to be punished in some way.

The Hon. E. BARTON (New South Wales):[9.7]

Something has been said about the law of the various colonies. There is no doubt about the law of this colony upon the point. Both the Electoral Act and the Constitution Act refer to this disqualification. The Electoral Act says:

Every holder of

Then, in regard to the vacation of seats, the Constitution Act provides, among other things, that a seat shall become vacant if a member

shall become bankrupt or an insolvent debtor within the meaning of the laws in force within the said colony relating to bankrupts or insolvent debtors.

That is the law as far as it exists in New South Wales but matters go, further in England apparently, for I find the following in Anson's "Law and Custom of the Constitution." The author says:

Bankruptcy is a disqualification for election, and, should it befall a person already elected, it incapacitates him from sitting and voting. The disqualification can be removed by the annulment of the adjudication in bankruptcy, or by a grant of discharge, accompanied by a certificate that the bankruptcy was not caused by misconduct.

This matter goes so far that it relates equally to the House of Lords, for the author says:

A further limitation on the powers of the Crown must be noted in the case of bankrupt peers. The Bankruptcy Act of 1883 disqualifies them
from sitting and voting; but an unrepealed clause of the Bankruptcy Disqualification Act, 1871, provides that a "writ of summons shall not be issued to any peer for the time disqualified from sitting or voting in the House of Lords."

So that the disqualification applies even to a peer. Now, I take it there is no great hardship in this matter. It has been well pointed out already that if a person becomes bankrupt or insolvent under circumstances which do not imply any dishonesty on his part, there is no difficulty about his obtaining his discharge.

The Hon. J.H. CARRUTHERS:

The election may be over in the meantime!

The Hon. E. BARTON:

It may be over, and it may be also that cases will occur here and there in which a provision of this kind may operate with some hardship. But we are dealing with the protection of the commonwealth, and we ought not to leave the commonwealth unprotected in a very important matter simply because some person may at some time suffer a hardship. The question is, what is the interest of the state? We know that the safety of the state is the highest law, and is it to the interest of the state to allow all these matters to be left open, in order that in occasional cases some hardship may not exist? That is not the way in which we ought to deal with the matter. Unless I am mistaken, our line is to see that the general interest of the state is, so far as is possible in a constitution, without undue limitations, protected, even though in cases here and there some hardship may be created. If we depart from that line, then the probability is that we allow interests of the state to suffer materially, simply because somebody may at some time or other, of which we know nothing, and under circumstances of which we know nothing, be subjected to a hardship.

The Hon. J.H. CARRUTHERS:

Would it not be sufficient if you were to provide that any person who has been refused his discharge shall be incapable of being elected or sitting?

The Hon. E. BARTON:

I do not think so.

Mr. SYMON:

Supposing that he were elected, in a week or two he might have to vacate his seat again?

An Hon. MEMBER:

Suppose he never applied for his discharge? The Hon. E. BARTON: I do not think that would meet the case; and I think we are on safer ground if
we let these matters stand as they are. I do not wish to take up any stand of
blind conservatism. This is not a matter of conservatism, but of looking
after the interests of the commonwealth, and nothing else, and I take it that
we are to weigh those two things in the balance—the possibility during a
long track of time of some hardship occurring to some innocent person,
and, on the other hand, the very great probability that, without some such
provision, there will be danger to the commonwealth; and if we do that, we
can make only one answer.

The Hon. I.A. ISAACS (Victoria)[9.12]:

I should like to follow the same lines as the hon. member who has just sat
down. The Victorian Constitution Act Amendment, Act of 1890 provides—
first as to the Legislative Councillors, that, amongst other persons, no
person who has been attainted of any treason, on convicted of any felony
or infamous offence, within any part of her Majesty's dominions, or who is
an uncertificated bankrupt or insolvent, shall be capable of being elected or
continue to be a member of the Council; and, as to the Legislative
Assembly, the same act provides, in the 125th section: No person, being an
uncertificated bankrupt or insolvent, shall be capable of being elected a
member of the Legislative Assembly; and, if he is so elected, the act goes
on to say that his election shall be void. I think it is perfectly plain that the
highest concern that we have in this matter, as we have to choose between
the inconvenience of a private individual and the safety of the public, is to
look after the safety of the public. If a man becomes insolvent, either
compulsorily or voluntarily, he is under the control of a court immediately.
He is liable to be called up for examination; his conduct is liable to be
inquired into, and if the court should find him guilty of any improper
conduct, he may be subjected to punishment more or less severe. Surely a
person under a cloud for the time-being ought to stand aside until his
conduct has been thoroughly cleared—in the interests of public morality he
ought to keep a stain off the highest court of the country. Surely it is his
duty to stand aside, and if so, it is for us to see that the law is made
perfectly clear to, if necessary, compel him to do so.

Paragraph 2 agreed to.

III. Is attainted of treason or convicted of felony or of any infamous
crime:

his place shall thereupon become vacant.

The Hon. E. BARTON:

An amendment to this paragraph has been suggested by Sir Samuel
Griffith, to which the hon. member, Mr. Dobson, has already referred, and
I should like to mention it. It may be that the Committee will think that it is superior to the present provision, and the matter goes a little beyond mere drafting. That is why I think I am bound to mention it at once.

The Hon. I.A. ISAACS:
Does the hon. and learned member propose to adopt the words?

The Hon. E. BARTON:
The words in the clause are:
Who is attainted of treason or convicted of felony or any infamous crime.
Sir Samuel Griffith has endeavoured to make the matter a little more specific, and the Committee will judge whether it is desirable to adopt his suggestion, which is, that in place of the words "felony or any infamous crime," we should insert the following words:-

Any offence of such a nature that by the law of the state of which he is a representative, the person convicted of it is liable to undergo deprivation of liberty for a term of three years.

If we are not going to leave the definition of felony or infamous crime to a conception we may have of it at different times, there is something definite here laid down as to liability to sentence which would make a disqualification. I have not risen for the purpose of supporting the suggested amendment; but I think it highly necessary that in a case of this kind such an amendment should be laid before the Committee.

The Right Hon. C.C. KINGSTON:

The Hon. E. BARTON:
A great many people have asked me that question, and I have asked the question myself. The right hon. member will remember the story of the speaker who said, "If the hon. member continues his conduct I shall have to name him." To that the member replied, "What then, Mr. Speaker?" and the Speaker had to confess that he did not know.

The Right Hon. C.C. KINGSTON:

The Hon. J.H. CARRUTHERS:

The Hon. E. BARTON:
I take it that the term "public" defaulter covers more cases than that. It must cover cases in which persons who have given no opportunity for the law to act upon them are still liable to its penalties. That would be the position of a person who absconded. A public defaulter might also be a person who as an accountant to the Treasury, was in default.

The Hon. H. DOBSON:
Or a man who had not paid his land-tax!
Mr. HIGGINS (Victoria)[9.17]:

The phraseology of this clause is almost the same as that used in the Constitution of Canada, which was drafted by an Imperial draftsman in 1865 or 1866. The Victorian act also contains a very similar provision:

Provided that no person who shall have been attainted of any treason or convicted of any felony or infamous crime in any part of her Majesty's dominions shall be capable of being elected a member of the said assembly.

I admit that the words in the clause are not so definite as we should like; but it would be better not to depart from them without very good reason. Especially would it be well not to insist upon the three years' conviction. Many a man who gets two years is as big a rogue as the man who gets three years.

Mr. WISE:

In New South Wales the distinction between felony and misdemeanour depends upon the length of imprisonment to which the offender is liable!

Mr. HIGGINS:

I think it will be better to adhere to the provision in the clause. In doing so we shall be adhering to the provisions of the constitutions of Canada and of Victoria, and, I believe, New South Wales.

The Hon. I.A. ISAACS (Victoria)[9.19]:

I would direct the attention of hon. members to the proposed amendment of Sir Samuel Griffith. I must confess that I do not think we should adopt it as it stands.

It says:

An offence of such a nature as by the law of the state-
Why not also an offence against the federal law?

Mr. SYMON:

There will be no criminal offences under the federal law, except offences against the federal government!

The Hon. I.A. ISAACS:

A man might commit a crime under the federal law, and he should be equally disqualified.

Mr. SYMON:

Surely the hon. and learned member would not admit such a man to the federal parliament!

The Hon. E. BARTON:

There will be no criminal offences under this constitution!
There may be criminal offences incidental to the constitution. For instance, there might be a customs declaration amounting to perjury. Why it should not apply, to any penalty, or to any misdemeanour which is of an infamous nature, I cannot imagine.

An Hon. MEMBER:
Surely it does!
The Hon. I.A. ISAACS:
No; these are the words:
By the laws of the state of which he is a representative he is not capable of being chosen or elected.
The idea might be right, but it require
The Right Hon. C.C. KINGSTON (South Australia)[9.21]:
I trust the Drafting Committee will not fail to exercise a liberal discretion in striking out words which they do not understand, and that they will put in words which can be understood by persons commonly acquainted with the English language.
The Hon. E. BARTON:
The words "public defaulter" are used to define a certain class of defaulter!
The Right Hon. C.C. KINGSTON:
I know something is meant, but it would be infinitely better if we know precisely what is meant. There are these terms "public defaulter" and also "infamous crime." Other expressions should be used more readily "understanded of the people." The Drafting Committee might reconsider paragraph 3.
Mr. WALKER:
I understand the hon. member, Mr. Barton, thinks that the Drafting Committee will accept Sir Samuel Griffith's suggestion!
The Hon. E. BARTON:
They will deal with it!
Mr. GLYNN (South Australia)[9-23]:
I would direct the attention of the hon. member, Mr. Barton, to the words "until the disability is removed by a grant of a discharge." I would suggest that those words should be left out, because there is a possibility of removal of a disability by annulment or adjudication in some of the colonies, in which case there would be no grant of a discharge. Then there might be a composition or an arrangement entered into.
The Hon. E. BARTON:
That would be a reason, not for leaving out the words, but for adding others!
Sir JOHN FORREST (Western Australia): In the Constitution Act of Western Australia, which is the most recent, it is provided that no person shall be qualified for a seat in the Legislative Council or Legislative Assembly if he be an uncertificated bankrupt, or a debtor who has made a deed of arrangement, or who, in any part of her Majesty's dominions, has been attainted or convicted of treason or felony. That is wider than the provision now proposed, because it makes no provision for a man who purges his offence with regard to treason or felony.

Mr. SYMON: Does not the hon. member believe that it ought to be so?

Sir JOHN FORREST: I am not expressing an opinion about that; but I say that there is nothing unreasonable in the proposal contained in this bill. In Victoria, I believe, there is the same provision as I have quoted with regard to Western Australia. This matter was discussed in 1891, and provisions were inserted. I think there was a division, and the question was decided by a large majority. I cannot agree with the hon. member, Mr. Carruthers, in thinking that a person who has become insolvent-

The CHAIRMAN: I will ask the hon. member not to refer to questions of insolvency.

Sir JOHN FORREST: I would only point out the present provision is much more liberal than that contained in the constitution most recently granted, and it is more liberal than the provision in the Victorian act. We cannot go very wrong in accepting this.

Question-That paragraph 3 stand part of the clause-resolved in the affirmative.

Clause 46 (Place to become vacant on happening of certain disqualifications) agreed to.

Clause 47 (paragraph 2). 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.

Sir E. BARTON (New South Wales): There is a slight amendment I should like to make here, which I think would be an improvement. It has been suggested by Sir Samuel Griffith that after the word "agreement," to make the clause more binding, and I
think, perhaps, it is desirable, we should insert the words, "from any part or share of it, or any benefit or emolument arising from it." I move:

That the paragraph be amended by the insertion after the word "agreement," line 6, of the following words:-"or any part or share of it, or any benefit or emolument arising from it."

Amendment agreed to; paragraph, as amended, agreed to.

Clause 47 (paragraph 3). 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.

Mr. GLYNN (South Australia)[9.27]:

I think that an addition ought to be made to this paragraph, so as to prevent persons who hold, perhaps, one-third or one-half the capital of a company from being still entitled to sit in parliament. We know perfectly well that the disqualification which is intended to apply to an individual is very often got rid of by that person floating his business into a company and retaining perhaps five-sixths of the capital. That is an evasion of this provision which I do not think ought to be allowed to continue. If it is put in the constitution it will be very hard to get rid of it. I would suggest that some limitation be put on the extent of the capital of the company which a particular individual can hold.

The Hon. R.E. O'CONNOR:

How can you draw a hard and fast line of that kind?

Mr. GLYNN:

Of course it is very difficult to draw a hard and fast line. On the other hand I think it is a monstrous injustice that a man may float his private business into a company with a capital perhaps £500,000, hold himself £400,000 worth of that capital, and be entitled to sit in parliament, notwithstanding this provision. It is making fish of one a fowl of another.

The Hon. J.H. HOWE:

There is another side to that!

Mr. GLYNN:

There are generally two sides to a question, and I am discussing the right side. I would suggest whether we ought not to add to the paragraph these words:

And the person holds law than one-twentieth of the capital of the company.

The Hon. J.H. HOWE:

That is absurd!
Mr. GLYNN:

Does the hon. member think, then, that a person should be disqualified from being concerned in an agreement from which he has a benefit of, perhaps, £20,000 as a private individual, and if he floats that into a company and retains £17,000 out of the £20,000 interest he can still sit in parliament?—or does he think that a man in a colossal concern, or brewery, of the value of £200,000, can float it into a company and retain £150,000 worth of capital, and still maintain his seat in the house, while the man who enters into an agreement with the commonwealth amounting altogether to £1,000, is disqualified to sit in parliament? I think the thing is monstrous. We know perfectly well that in some of the state legislatures persons who control enormous firms which have entered into contracts with the respective states still retain, under the guise of simply being directors of a company, their seats in parliament. I think that that ought to be prevented. At all events, I shall test the feeling of the Committee on the point by proposing the addition of the words I read to the paragraph.

The Hon. I.A. ISAACS (Victoria)[9.29]:

Before my hon. and learned friend moves his amendment, I want to substitute the word "twenty-five" for the word "twenty," in line 4 of the paragraph. The object of the clause is to prevent individuals making a personal profit out of their public positions; and, following the general exemption, the clause goes on to say that the prohibition is not to extend to an agreement made by an incorporated company consisting of more than twenty persons, if the agreement is made for the general benefit of the company. In Victoria, by recent legislation, there is what is called a proprietary company—that is to say, a private individual having a business may incorporate his company. It is really a private concern or firm, and as long as it does not exceed twenty-five shareholders, he can have many of the benefits and escape a good many of the liabilities of incorporated companies.

Mr. GLYNN:

How does it prevent dummying?

The Hon. I.A. ISAACS:

It does not prevent it; I want to guard against it. They are called companies, but they are really, in the majority of cases at all events, private concerns.

Mr. WALKER:

One-man companies!

The Hon. I.A. ISAACS:

They are really one-man companies. I can understand the case of a person in Victoria who is a member of the federal parliament, who would
escape if the word "twenty" remains, by floating his business into a proprietary company not exceeding twenty-five persons. He would be able to contract with the Government, and have no disability. If we extend it to twenty-five persons it covers every other colony and Victoria as well.

The Hon. S. FRASER (Victoria)[9.32]:

There is no virtue in numbers. I do not object to twenty-five; I only say there is no more virtue in twenty-five than in twenty. A man may have thousands and tens of thousands of pounds in a company of twenty-five, twenty-six, or thirty, or more persons, and he may have a very small interest indeed in a company of twenty. That, however, would not in the slightest degree influence me one way or the other. It is impossible to draw the line. A man may be the proprietor of a paper company. He may not be able to sell one shilling's worth of paper to the Government, and yet his interest may be infinitesimally small. If we fix the number at twenty-five instead of twenty, it may be on a par with our colonial acts. If we go the full length, we ought to exclude bank shareholders who deal with the Crown through the departments. We cannot draw a hard and fast line in cases like this. If we did, the result would be all kinds of complications.

The Right Hon. C.C. KINGSTON (South Australia)[9.34]:

I hope we shall amend the clause so as to make the provision something real, instead of the sham and farce it is under existing legislation. I think we can provide against abuse of the provision which occurs every day in connection with colonial legislatures. At present we have in various colonial constitutions this exemption in favour of incorporated companies. What is the result? A private individual who is a representative cannot sell a bag of flour to a government. He cannot, if he is in parliament, contract for the insertion of advertisements in the newspaper of which he is the proprietor, although there may not be more than £5 or a few shillings involved. On the other hand, if the business is big enough to warrant him in floating it into a company, although he practically retains the whole interest himself, he can engage in business arrangements with the government involving hundreds and thousands of pounds. I know of cases in our own legislature, I make no complaint of the action of those who have been concerned in the formation of these companies. I believe they have done good work which has profited the government, and they have every reason to be proud. But I say that the thing in its present condition is absolutely indefensible. We are "straining at a gnat and swallowing a camel." Hundreds of thousands of pounds in connections with government work go into the pockets, properly, of government contractors who are
members of parliament, who are protected through the formation of their businesses into limited companies. Now, ought that to be so? Surely we cannot justify the continuance of a thing of that sort. Knowing the way in which it is abused, is it not honest either to strike out all limitation, or, at the least, to provide so that the existing condition of affairs shall not be continued, when you catch the smaller man who is not worth catching, and let the big one go free whose operations ought to be dealt with? Under these circumstances, I shall be found supporting the amendment moved by my hon. friend, Mr. Glynn, or any other amendment which will make the thing a substantial reality and not a delusion and a snare. I understand the hon. member, Mr. Glynn, proposes that where there is a substantial interest retained by the member of parliament in

The Right Hon. C.C. KINGSTON:

It proposes to take away the benefit of this exemption from companies in which a member of parliament holds a substantial interest-say one-twentieth of the whole concern. I should be prepared to go for the striking out altogether of this exemption.

The Hon. Sir J.W. DOWNER:

So would I!

The Right Hon. C.C. KINGSTON:

If the hon. gentleman will take the sense of the Convention on the point-

The Hon. Sir J.W. DOWNER:

The right hon. gentleman would make the limitation more stringent; I would make it less stringent!

The Right Hon. C.C. KINGSTON:

The hon. member would allow all these arrangements between the member of parliament and the federal government to go on, of course taking some care that they were made public. I am not at present prepared to do that, though certainly that position would be much more logical than penalising the private individual, and exempting the public company - striking at the small transactions, and winking at the large ones. I should like to see the exemption in favour of a company struck out, and, if anything of that sort is moved, I shall be found supporting it.

Mr. HIGGINS:

Suppose the federal government keeps some money at a bank, what about the shareholders of the banking company?

The Right Hon. C.C. KINGSTON:

You cannot define the nature of the transactions; but it seems to me that it is just as possible to make arrangements which you ought not to make
with banking companies as with other companies - arrangements in connection with the handling of money and the depositing of public cash. No doubt arrangements may be made profitable to the state and profitable to the bank; but I think it is a pity that huge transactions of this sort should be going on when any member of parliament is interested in them to any considerable extent. You would not allow it if it were the case of a member of parliament who was the sole proprietor of a business trading in his own name. Why then should you allow it when it is done through the medium of a company in which the member of parliament may retain, practically, the whole of the interest? Under these circumstances, if there be an opportunity - I do not propose to move in the matter myself - to strike out the whole of the exemption in favour of an incorporated company, I shall support the proposal. I would support anything which would have the tendency, which I believe the amendment of my friend, Mr. Glynn, will have - that of limiting these exemptions, and preventing persons from doing indirectly, through the medium of an organisation, that which they cannot do directly. That which by the general provisions of this clause is intended to be prohibited in the case of private individuals ought to be in all cases prohibited when members of parliament are substantially concerned.

The Hon. Sir J.W. DOWNER (South Australia)[9.41]:

I think it inexpedient to allow members of parliament to have any contractual relations which might suggest to any one that their position might be impure. But all these precautions which have been taken from time to time arose when things were not done in the broad light of day in the way in which they now are. Nowadays everybody knows something more about every one else's business, unfortunately, than he does about his own. I think it is scarcely necessary that, with the great publicity which we enjoy through the medium of the press, and of which we are all so proud, the publicity which is given to the concerns of all of us, that we should surround ourselves with precautions which operate as a limitation upon the operations of the government rather than produce as a result, the purity of members. As a matter of fact a coach and four can be driven through this act of parliament, as it can be through all acts of parliament with similar provisions. In making any provision of this kind, you add to the original offence the further offence of duplicity, in that persons do their dirty work through other persons. There is some nominal contractor who is put up - the real motive power being concealed. And so things will go on, and your acts of parliament will become a perfect sham in their working. They will prevent no dishonesty and will become objects of scorn to the whole community. Now, I say that, at a time when we had not so much publicity,
when it was thought good enough to look after one's own affairs, and not to bother so much about the affairs of other persons -

An Hon. MEMBER:
   Good old times!

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The Hon. Sir J.W. DOWNER:
   I expect that they had their demerits, but I think they had their merits too. But when this flashlight is always about us, and when everyone sees everything that everyone else is doing publicly - I make that qualification - what is the good of putting into an act of parliament provisions intended to produce purity, and which can only have the effect of producing fraud and deception? I have said in our own House that I think the time has almost come when we should do away with all these provisions. If the matter is looked at honestly and fairly, we limit the power of the Government to make the contrast best in their own interests. If they cannot do that, then persons who want to contract with the Government are careful of any contractual relations they have with them. The thing is not done in their name, but it is done in the name of some one else, and as we know, as the Premier of South Australia knows, and he agrees with me to a great extent, in what I am saying, I am sure-as we all know, these things are done, and will be done.

The Hon. S. FRASER:
   I, do not think they are done to any great extent. That certainly is not the case in our colony, and I know a good deal about it.

The Hon. Sir J.W. DOWNER:
   There it may be from companies.

The Hon. S. FRASER:
   Not at all!

Mr. SYMON:
   It is not worth talking about!

The Hon. Sir J.W. DOWNER:
   I do not think there is anything at all in it. I think that you might remove the provision and do no harm, or that you might keep it in and do no good. But I agree with the hon. member, Mr. Fraser, entirely, in saying "that whether you make the number 20 or 25, it does not make much, difference.

The Hon. S. FRASER:
   It makes no difference at all!

The Hon. Sir J.W. DOWNER:
   It is a perfect farce to think you make any difference by a limitation of
that kind. Neither do I think that the amendment suggested by the hon. member, Mr. Glynn, will make any difference. I do not care whether it is or is not carried. I am satisfied that the clause should stand, but I would be better satisfied if it were struck out, for I think that when we have reached a condition of advancement we should not make provisions which, under the guise of preventing frauds, would limit the powers of the government, and prevent them from making contracts which would be most beneficial to them, except at the expense of driving their contractors to underhand proceedings, which are against the law and injurious to the community.

The Hon. S. FRASER (Victoria)[9.47]:

In the case of large shareholders, such as the right hon. member, Mr. Kingston, has mentioned, who have no control of the management, it would be absurd to make them liable to penalties in this manner. A man who was a very large shareholder might be a member of parliament, and he might have nothing whatever to do with the management of the company, he being neither a director nor an official of the company. Of course he would not have in the least degree control over its affairs, and in that case it would be absurd simply because he had a large interest in it to make him amenable to this law. But in the case of private persons who are supplying the departments of the government, they, through the various means at their disposal, could influence heads of departments and others who took delivery of goods, and it would be very wrong to open a door of that kind to them.

Mr. HIGGINS (Victoria)[9.48]:

I think that if we were to adopt the exclusion of the clause as suggested by the right hon. member, Mr. Kingston, we should be interfering with a large class of distinctly honest transactions. If we were to leave out this clause it would mean that supposing that I happened to be holding five shares in a hardware company, and it came to be known that that hardware company had sold some fencing wire to any department of the commonwealth I should have to vacate my seat. That is going to an extreme; but at the same time it should be remembered that the one-man companies are often the source of great abuse. I have heard of some cases where a company consisting of one man has been able to get very good contracts from the government whom he supported for the time being. There is one feature in all these one-man companies that may enable you to reach such fellows—that is, that in the one-man company the man who really gets the profits is the managing director or general manager, and he has always got his thumb on the operations of the company, so I think it would be possible to make a
limitation on this clause to the effect that it is not to apply to any agreement made and entered into by any incorporated company consisting of more than twenty persons, if entered into for the general benefit of the company, and if the member of the senate or the house of representatives is not a director or manager or official of the company. These companies cannot be carried on for a man's particular benefit unless there is a provision in the articles that he has control of their operations, or unless he is general manager or advising director.

An Hon. MEMBER:

What is the English law?

Mr. HIGGINS:

The English law, apart from express statutes, gives us no protection. There is a broader aspect of this question, and that is, ought we not to give to the federal parliament the power as fraud multiplies to multiply the provisions against it? We cannot make adequate provision in the constitution; but there is no reason why the federal parliament should not be allowed to add to these disqualifications. In clause 31 we say

until the parliament otherwise provides the disqualifications of a member of the house of representatives shall be as follows.

I think, therefore, we should make it clear that the federal parliament should have the right to provide a new disqualification.

The Right Hon. C.C. KINGSTON:

It will not have that right unless we give it to them expressly!

Mr. HIGGINS:

We ought to give them the right, and I think it is a question for the Drafting Committee to consider whether the clauses, as they stand, allow it. to them. I think that they do; but if they do not we ought to see that this power is given to them. We ought not to define in the constitution what kinds of fraud and misdoing should prevent a man from holding a seat. As we are agreed upon this subject I think the leader of the Convention might make a note of it, and ask the Drafting Committee to see that power is given to the Federal Parliament.

Amendment (the Hon. I.A. ISAACS) agreed to.

Mr. GLYNN (South Australia)[9.54]:

I move:

That the following words be added to the clause: -"and the person holds less than one-twentieth of the capital of the company."

I dare say the drafting of this amendment could be improved, but I wish to have the principle affirmed. The practical effect of the amendment will be that if a man holds less than £1,000 worth of shares in a company whose
capital is £20,000, or if he holds less than £5,000 worth of shares in a company whose capital is £100,000, he may sit; if he holds more he cannot.

The Hon. S. FRASER (Victoria)[9.55]:
The twentieth of £10,000 would-be only £500, but the twentieth of a millon would be an immense sum, so that the provision would be inconsistent and absurd.

Mr. GLYNN:
Will the hon. member accept one-tenth?

The Hon. S. FRASER:
No fractional amount will make sense of the clause, because it all depends upon what sum has to be divided. To make sense of it you must state the amount in pounds sterling.

Mr. SYMON:
If a man wants to evade it he can easily do so!

The Hon. S. FRASER:
If a man has nothing to do with the management of a company it does not matter what interest he has.

Question-That the words proposed by Mr. Glynn be added to the clause-put. The Committee divided: Ayes, 7; noes, 26; majority, 19.

AYES.
Cockburn, Dr. J.A. Walker, J.T.
Dobson, H. Wise, B.R.
Holder, F.W. Teller,
Kingston, C.C. Glynn, P.M.

NOES.
Barton, E. Howe, J.H.
Briggs, H. Isaacs, I.A.
Brown, N.J. Lee-Steere, Sir J.G.
Brunker, J.N. Lyne, W.J.
Crowder, F.T. O'Connor, R.E.
Deakin, A. Quick, Dr. J.
Douglas, A. Solomon, V.L.
Forrest, Sir J. Symon, J.H.
Fraser, S. Trenwith, W.A.
Gordon, J.H. Venn, H.W.
Grant, C.H. Zeal, Sir W.A.
Hackett, J.W.
Question so resolved in the negative.
Paragraph, as amended, agreed to.
Clause 47 (paragraph 4). 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.
Amendment suggested by the Legislative Council of New South Wales:
Omit the paragraph.
Amendment negatived; paragraph agreed to; clause, as amended, agreed to.

The CHAIRMAN:
I will not put the proposed new clauses suggested by the Legislative Council of South Australia-47A and 47B-because there are questions involved in those clauses which have already been decided.
Clause 48 (paragraph 1). 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 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.
Amendment suggested by the Legislative Assembly of Victoria:
Line 3, after "office," insert "except that of a justice of the high court."

Mr. WISE:
Would it not be preferable, sir, to put first the amendment suggested by the Legislative Council of New South Wales- to omit the second paragraph because it includes the less amendment suggested by the Legislative Assembly of Victoria? If the paragraph is struck out-

The CHAIRMAN:
If it is decided that the words shall stand, we can put it. This amendment comes first. We cannot amend the paragraph if the Committee decide that these words shall stand. The object is to permit of a member of parliament acting as a justice of the high court.
The Hon. E. BARTON:

If the amendment is agreed to it will make the clause read as follows:-

If a member of the senate or of the house of representatives accepts any office-except that of a justice of the high court-of profit under the Crown.

It seems to me a very strange and clumsy proposal. It seems that if a person accepts any office of profit under the Crown his seat will become vacant; but if he accepts the office of a justice of the high court he shall still hold his seat. I think that must be a mistake-an inadvertence.

The Hon. J.H. GORDON (South Australia)[10.6]:

Apart altogether from the question of the phraseology of the clause, which can be altered by the Drafting Committee, what is meant can be easily understood, and I am strongly opposed to it. I do not see for what reason there, should be an exception in favour of a gentleman who is chosen as the justice of the high court, and no exception made in favour of gentlemen who are chosen to other offices.

Mr. WISE:

The proper course is to strike out the second paragraph altogether; that is what is intended!

Mr. HIGGINS:

The first paragraph is all right, and it ought to apply to judges!

Mr. WISE:

Exactly; negative the amendment!

Amendment negatived; paragraph 1 agreed to.

Clause 48 (paragraph 2). 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.

Amendment suggested by the Legislative Council of New South Wales:

That paragraph 2 be omitted.

The Hon. E. BARTON (New South Wales)[10.7]:

I am in favour of the amendment of the Legislative Council of New South Wales. We had considerable debate about this matter in Adelaide, and we had a narrow division. I think some of those who voted in that division afterwards regretted their vote. I do not wish to reiterate the strong arguments which were used against this provision in Adelaide. It is enough to say that it is a kind of provision which leads to the doing indirectly of that which it forbids to be done directly, it is not a desirable thing to insert in any constitution, simply because it is a matter of legislation, and a matter
for which the commonwealth has to provide itself. Will hon. members recollect that we refused to insert the suggested new clause of the Tasmanian Parliament to the effect that a member of a house of the parliament of a state should be incapable of sitting in either house of the parliament of the commonwealth, and that the ground of our refusal was that it was not our province to encumber the constitution with a body of laws for the commonwealth, which certainly ought to be more competent than we to make laws for itself? When we remember that that was the reason why we refused to insert a provision of that kind, how much more strongly does such a reason apply here? The other case was one in which there might be some show or reason for saying that it was a constitutional provision. Who can say, however, that this is anything else but a mere matter of law—a mere matter of deciding in what way the commonwealth should deal with the, position of its own members in relation to the acceptance of a certain office. One can understand that a person accepting an office of profit under the Crown should vacate his seat; but to say that no person being a member, or within six months of his ceasing to be a member, should be qualified or permitted to accept or hold any office, the acceptance of or holding of which would render him incapable of being chosen or of sitting as a member, means this: The disqualification which would attach to him as a member is prolonged against him after he ceases to be a member. Now that cannot be a question relating to the constitution. It is not a constitutional provision at all. It may find its place in the body of laws the commonwealth may make, and it may be that the commonwealth should make a law on the subject. But if it be granted that it is necessary, as well as right, that the commonwealth should make a law on the subject, that is not the slightest reason for putting it in the constitution.

An Hon. MEMBER:

Is it not the law in some of the colonies now?

The Hon. E. BARTON:

Yes, they have made laws on the subject. What I say is that it may be a proper thing for the commonwealth to make a law on the subject, but that is no reason why we should make a law to bind the commonwealth on the subject. We ought to get rid of encumbering provisions of this sort. If the commonwealth chooses to legislate on the subject, let it, but it is not for us to compel it to do so.

The Hon. J.H. GORDON (South Australia):

I think the provision is one which ought to, stand. There is no relation between this question and the question we discussed and settled with
regard to dual membership—membership in the federal house and membership in the state house. In that case there was no question of the purity of parliament; the purity of the motives animating the members of the federal parliament could not arise. But this is a question directly affecting the purity of parliament. The only fault I have to find is that the interregnum of six months is too short, I think it ought to be twelve months.

The Hon. E. BARTON:

Make it ten years!

The Hon. J.H. GORDON:

There is reason in all things, and I think twelve months a reasonable period. I think in all the colonies this provision prevails.

The Right Hon. Sir JOHN FORREST:

No!

The Hon. J.H. GORDON:

In nearly all the colonies, and in all the colonies that have had long experience of responsible government.

The Right Hon. Sir JOHN FORREST:

Does it exist in South Australia?

The Hon. J.H. GORDON:

Yes, not by statute but by resolution of the House, and I think the right hon. gentleman will find that it will be desirable to have a similar law in the colony of Western Australia. It is a most wholesome provision, and the reasons for it are patent to every body. During the first session of parliament the commonwealth cannot exercise any control whatever, over the actions of the government, and as I said before, the only fault I have to find is that the inter-regnum is too short.

The Right Hon. Sir JOHN FORREST (Western Australia) [10.14]:

I can see that this provision might act injuriously. Some of the very best men whom you might require to fill high public offices might be members of parliament, and under this clause the area of selection would be restricted. My experience has not been very great, but it has been sufficient to show me that a government has no great desire to give their friends in parliament public positions, as by doing so they would weaken their support.

The Hon. J.H. GORDON:

But they could bribe thei

The Right Hon. Sir JOHN FORREST:

I do not think we need make this provision at the present time. If the federal parliament likes to make the provision, let it do so. I think that, especially in the early days of the commonwealth, it would be unwise to
restrict the area of selection especially in regard to judicial offices. I do not want to say anything in favour of legal members of parliament; they can generally do far more than take care of themselves; but it occurs to me that some of the most experienced and able lawyers in these colonies are to be found in members of parliament. No one will deny that, and in the early days of the commonwealth I should be sorry to see this clause find a place in the constitution. As time goes on it may be found necessary; if so, the federal parliament can legislate as may be found desirable.

Mr. GLYNN (South Australia)[10.16]:

I am inclined to move that the words "or within six months of ceasing to be a member" be struck out. If members wish to strike out the whole paragraph they can do so.

An Hon. MEMBER:

Strike it out altogether!

Mr. GLYNN:

If that be the wish of the Convention I will not make any proposal, but I would say this: that in the opening of a commonwealth parliament it is not likely that any member of the ministry would be bribed out of it, and in the filling of a judicial office the government would not be likely to go to members of the opposition.

Th Hon. E. BARTON: That is just where they would go!

Mr. GLYNN:

I was about to say that at the opening of the parliament for twelve months or two years it is not likely that there would be any opposition or government party. The opposition, therefore, would not exist from which any choice could be made.

Mr. HIGGINS (Victoria)[10.17]:

I voted in favour of this clause last time, and no subject has given me greater trouble in deciding how to vote this time than has this particular clause. What I feel is this: that the object is to prevent political appointments. At the same time the danger is infinitesimal as compared with the advantage of having a free selection; and that is where I feel myself in a difficulty. I voted last time in favour of this provision, because I said to myself, "What is sauce for the goose is sauce for the gander," and if you apply this rule in Victoria to all officials other than judges and the Agent-General I see no reason why it should not be applied also to these latter officials under the commonwealth. It ought to be applied altogether or not at all. I said to myself, "If you apply this to a man who is an expert
draftsman, or to a, surveyor who has been in parliament, it ought to apply
to any other functionaries whatever. I cannot draw any line. If you can
draw, any line between the two classes I will give way." I felt in that
difficulty; but I have come to this conclusion: that it ought not to apply to
any official, because the chances of log-rolling are so infinitesimal. Is it
likely, as the Right Hon. Sir John Forrest said, that the government would
give a good billet to one of its supporters and get him out of the house? I
could understand a government giving a billet to a person in consideration
of future services; but when you are dealing with past services it is quite a
different matter.

An Hon. MEMBER:
They might want to get rid of a dangerous opponent!

Mr. HIGGINS:
It has been said, in the case of the Victorian parliament, that a certain
gentleman was made Agent-General, because he was a dangerous
opponent; but I would ask the hon. gentleman, Mr. Holder, whether the
danger of that occurring is so great that we ought in this constitution to
provide against it, having regard to the way in which you hamper the
selection on the part of the government?

Mr. WALKER:
It will drive good men out of parliament!

Mr. HIGGINS:
I do not think it will. Honestly, I think that when it comes to a mere
question of chance one way or the other, a man who wants to serve his
country will do so in spite of this clause, no matter what may happen. I was
anxious to hear further argument on the clause before dealing with it. As
matters at present stand, I must say that the inconveni-
[Page 1032] starts here
ces are so great to my mind as to over-ride a possible corrupt case, and,
therefore, that I shall vote against the clause.

The Hon. F.W. HOLDER (South Australia) (10.21):
I did not intend to repeat what I said at Adelaide; but it appears to be
necessary to point out one or two things. The object of those who support
the clause is to prevent parliament from being made a stepping-stone to
some permanent government office, and that we should prevent parliament
being made such a stepping-stone is, I think, very necessary. I think it is
better to remove even the possibility of mischief rather than to grieve
afterwards when mischief has been done, because we cannot cure it. I want
to put this point in answer to the argument of the hon. and learned leader of
the Convention, which seemed to be a very weighty argument. He said,
"Why not leave the matter to parliament? Was there, under ordinary circumstances, any reason for such a step as we propose to take?" Under ordinary circumstances, I think that parliament might very well be left to take care of itself in this matter, and under ordinary circumstances, I would be content to leave Parliament to pass such legislation dealing with this question as it thought fit; but, as I put it in Adelaide, I now put before hon. members this consideration: Almost immediately the commonwealth comes into existence, there will have to be appointed four justices of the high court, a chief justice, an agent-general, and—if we retain, as I hope we shall, the clause providing for an inter-state commission on railways-three or four officials, making nine or ten persons, who will receive very high salaries and occupy very important offices; and I think the fact that, before any legislation can be passed by the commonwealth parliament, there will be those nine or ten offices to fill, demands some action at our hands that would prevent parliament from being made a stepping-stone; and I hope that we shall not be unwilling to take that action now the opportunity presents itself to us. I hope the Committee will determine to keep within the four corners of the bill the clause that was inserted at Adelaide on this question.

The Hon. R.E. O'CONNOR (New South Wales)[10.24]:

(New South Wales)[10.24]: There is one view of this matter which appears to have been lost sight of in this argument—that is, the interest of the public itself. It is all very well to say that we should not make parliament a stepping-stone to these offices; but suppose that it is in the interest of the country that these appointments should be conferred on particular men who happen to be in parliament, are the hands of the commonwealth to be tied so that it shall not have the opportunity of appointing the best men simply because they happen to be in parliament? An answer to that argument may be, we are so afraid to trust parliament, so afraid to trust the ministry for the time-being, so afraid to trust those distinguished men who maybe appointed to some professional office, either judicial or engineering office, or some office of that kind, that we must embed in this constitution a provision which may probably, in time to come, narrow the selection of the best men for high public offices. That is a supposition that public criticism, the capacity for smelling out jobs, the ingenuity which is displayed in discovering any possible corruption that exists in regard to any great appointment, will not exist in the commonwealth parliament as it does here. It cannot be supposed for a moment that if there is any corruption in regard to the appointment of a high public officer, such as the commissioner for railways, or a judicial officer, it would not be exposed, and the ministry which made it held up to
opprobrium. If the person most fitted for the office happens to be in parliament, why should
he not, in the interests of the public, be appointed, even though he may be
the supporter, or a dangerous and inconvenient opponent, of a party? The
main consideration is surely the public interest, and considering the large
trust which we are placing in the federal parliament, and the enormous
powers which we have given them in every direction, we may fairly allow
them to administer these matters subject to the criticism of an opposition,
and under the eyes of the press and public. It is to this criticism that we
must look for the maintenance of the purity of parliament.

An Hon. MEMBER:
Is there not a provision of this kind in all the constitutions?
The Hon. R.E. O'CONNOR:
No. That, to my mind, would be no reason why it should be placed in this
constitution. There is no such provision in the New South Wales law.
Mr. LYNE:
I think that a resolution was passed by the Assembly on the subject,
though I am not certain. I think it was passed after the late Sir Henry
Parkes appointed Mr. Thompson to a position.
The Hon. R.E. O'CONNOR:
Such a resolution may have been passed; but I do not remember it. It is
no argument in favour of this provision that one house passed a resolution
which no subsequent parliament thought of sufficient importance to
embody in an enactment.
The Hon. E. BARTON:
Such a resolution could only govern the house that passed it!
The Hon. R.E. O'CONNOR:
Yes, of course. It is the interests of the public which we have to consider
in this matter. If we wish to leave the selection of these high officers as
unfettered as possible, we should trust the federal parliament, and leave it
to the ordinary operations of the criticism of the opposition and of the press
to see that purity is observed in these matters. I think that provision is
unworthy, of the constitution, unnecessary, and against the public interest.
The Hon. S. FRASER (Victoria)[10.29]:
I am perfectly satisfied that the executive of a new commonwealth would
never commence its career by appointing incapable men. Therefore, there
is no necessity for the clause. I could easily name men against whom no
colony could make the slightest objection. The sphere of selection is very
wide, because there are so many men in the six colonies to choose from.
The Right Hon. C.C. KINGSTON (South Australia)[10.30]:

Although there is a great deal in favour of the suggestion that this should be left to the federal parliament to deal with as they please, the clause is only of a tentative character. It says that until the parliament otherwise provides this shall be the rule. Now, what is the position? That during the first session of parliament, before in the natural order of things the federal parliament will be called upon to deal with general questions, a large amount of patronage will require to be exercised, much more than at any other stage of the federal history, because, of course, the various departments and establishments will have to be set up. All that this clause says is that at that period, when this protection is most required, unless the federal parliament provides otherwise that shall be the rule. If they do not provide otherwise, they can do as they please. But if we err at all it is on the side of safety, throwing around the proceedings of the federal executive a certain safeguard which can be removed at the pleasure of parliament. But until removed it will prevail for the good of the community.

Question-That paragraph 2 stand part of the clause-put. The Committee divided:

Ayes, 10; noes, 19; majority, 9.

AYES.
Cockburn, Dr. J.A. Kingston, C.C.
Downer, Sir J.W. Lyne, W.J.
Grant, C.H. Solomon, V.L.
Holder, F.W.
Howe, J.H. Teller,
Isaacs, I.A. Gordon, J.H.

NOES.
Barton, E. Higgins, H.B.
Briggs, H. Lee-Steere, Sir J.G.
Brown, N.J. O'Connor, R.E.
Brunker, J.N. Quick, Dr. J.
Crowder, F.T. Symon, J.H.
Deakin,
Dobson, H. Walker, J.T.
Forrest, Sir J. Wise, B.R.
Fraser, S. Teller,
Glynn, P.M. Hackett, J.W.

Question so resolved in the negative. Paragraph agreed to; clause, as amended, agreed to.
The CHAIRMAN: The next suggestion is made by the Legislative Council of New South Wales; but, inasmuch as it involves a question already decided by the Committee, I will not put it. It is a suggestion to insert a new clause after clause 48.

Clause 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, site 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.

Dr. QUICK (Victoria)[10.37]:
I desire to draw attention to the provision which the clause makes for a penalty. At an earlier stage of the bill a provision providing for a penalty for a breach of the law against plural voting was said to be a blot on the bill, and was struck out. In this clause, not only is an offence created, but a penalty is also created in the constitution. If the Committee was right in striking out the penalty against plural voting, I apprehend that this penalty should also be struck out and the clause be reconstructed, providing for a simple prohibition against doing certain acts; because if the rule is good in the case I mentioned I think it ought to be applied all round.

The Hon. E. BARTON (New South Wales)[10.38]:
I quite appreciate what my hon. and learned friend has said, and practically it comes to this: we have not thought it well in this constitution to make penal provisions, and therefore, with regard to the one man one vote question, we have left out the words about a misdemeanour, and the words of punishment that follow it. Having done that I think it is quite consistent that we should leave matters of penalties to be provided for by the laws of the commonwealth. I quite accept the suggestion of my hon. friend; but as we will be adjourning in two minutes I will ask him to leave the matter to the Drafting Committee. I will make a suggestion to the Drafting Committee to reduce this clause to a simple prohibition, so that the law of the commonwealth may provide a penalty afterwards.

Clause agreed to.

Clause 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

The CHAIRMAN:

On this clause two amendments are suggested by the Legislative Council of New South Wales; but inasmuch as they relate to a matter already decided, namely, the question of federal dominion, I will not put them. The
Legislative Assembly of New South Wales, the House of Assembly of South Australia, and the Legislative Council and House of Assembly of Tasmania also suggest that the clause should be left out. It involves the same question as has been decided.

The Hon. E. BARTON (New South Wales)[10.40]:

In that case I would ask the Committee to leave the clause standing for the present, as it is intimately connected with clauses 21 and 43, and I think also with clause 32. The Drafting Com-

mittee were asked to take the clauses into consideration together, which they mean to do. We shall deal with it probably in some form on Friday afternoon.

Clause agreed to.

Clause 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:

The Hon. I.A. ISAACS (Victoria)[10.41]:

Would it be better to strike out the word "standing" so that we may adopt "rules and orders"? I do not know how far the insertion of the word "standing" might cause a limitation. If we omit the word we shall provide for the adoption of sessional orders, or standing orders, or any other kind of rules and orders. The Hon. E. BARTON: I think the word might as well be omitted; there will still be the same power or more.

Amendment (Hon. I.A. ISAACS) agreed to:

That the word "standing" be omitted. Clause, as amended, agreed to.

The Hon. E. BARTON (New South Wales)[10.42]:

I move:

That the Chairman leave the chair, report progress, and ask leave to sit again to-morrow.

I may state that tomorrow we shall have to deal with clauses 52 and 53. From that point—with the exception of clause 69 we have dealt with all the intervening clauses until after the end of Chapter II. Our next work, after dealing with clauses 52 and 53, will be with Chapter III relating to the federal judicature.

Motion agreed to; progress reported.

Convention adjourned at 10.43 p.m.
Wednesday 22 September, 1897

Commonwealth of Australia Bill-Darling and Murray Rivers-Adjournment.

The PRESIDENT took the chair at 10.30 a.m.
COMMONWEALTH OF AUSTRALIA BILL.
In Committee (consideration resumed from 21st September, vide page 1035):
Clause 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:-
1. The regulation of trade and commerce with other countries, and among the several states;
2. 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;
3. Raising money by any other mode or system of taxation; but so that all such taxation shall be uniform throughout the commonwealth;
4. Borrowing money on the public credit of the commonwealth;
5. Postal, telegraphic, telephonic, and other like services;
6. 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;
7. Munitions of war;
8. Navigation and shipping;
9. Ocean beacons an buoys, and ocean lighthouses and lightships;
10. Astronomical and meteorological observations;
11. Quarantine;
12. Fisheries in Australian waters beyond territorial limits;
13. Census and statistics;
14. Currency, coinage, and legal tender;
15. Banking, the incorporation of banks, and the issue of paper money;
16. Insurance, excluding state insurance not extending beyond the limits of the state concerned;
17. Weights and measures;
18. Bills of exchange and promissory-notes;
19. Bankruptcy and insolvency;
20. Copyrights and patents of inventions, designs, and trademarks;
21. Naturalisation and aliens;
22. Foreign corporations, and trading or financial corporations formed in any state or part of the commonwealth;
23. Marriage and divorce;
24. Parental rights, and the custody and guardianship of infants;
25. The service and execution throughout the commonwealth of the civil and criminal process and judgments of the courts of the states;
26. The recognition throughout the commonwealth of the laws, the public acts and records, and the judicial proceedings, of the states;
27. Immigration and emigration;
28. The influx of criminals;
29. External affairs and treaties;
30. The relations of the commonwealth to the islands of the Pacific;
31. 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;
32. The control of railways with respect to transport for the military purposes of the commonwealth.
33. 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.
34. Railway construction and extension with the consent of any state or states concerned.
35. 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;
36. 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;
37. 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.

Amendment suggested by the House of Assembly of Tasmania:
Omit the words "for the peace, order, and good government of the
This is an amendment which was made in the legislature of Tasmania at the instance of the Hon. A.I. Clark. That gentleman has furnished these reasons for the amendment, and, perhaps, in justice to him, I ought to read them:

These words are copied from the several acts of the Imperial Parliament providing for the establishment of legislatures in the various Australian colonies, and are perfectly appropriate when used in reference to the establishment of the legislature which is to possess plenary legislative powers, and have unlimited jurisdiction on all questions relating to the protection of life and property, and the enforcement of contractual rights of every kind; but it is very doubtful if they ought to find a place in connection with the definition and delegation of limited legislative powers which do not include matters relating to the daily protection of life and property, or to enforcement of private rights and obligations in general. It is true that they find a place in the 91st section of the British North America Act, which establishes a federal convention for Canada; but the primary object of that act is to limit the powers and jurisdiction of the provincial legislatures, and to vest the residuum of legislative authority in the Dominion of Canada in the federal parliament. The words in question may, therefore, fitly find a place in that act, and they were relied upon in the case of "The Attorney-General of Canada versus the Attorney-General of Ontario, which was decided by the Privy Council last year[L.R.A.C. 1896]> to uphold the act of the Dominion Parliament, which had been challenged on the ground that it had encroached upon the domain of the provincial legislatures. That decision, in its effect, appears to me to be, an argument against the insertion of the words in question in connection with the definition and delegation of the legislative powers of the parliament of the commonwealth, because they might, in some unforeseen and unexpected controversy, afford ground for an argument in favour of the jurisdiction of the parliament of the commonwealth in matters which the several states might claim to be wholly within their own legislative powers. It cannot be contended that they are required for the purpose of giving the parliament of the commonwealth full power to legislate with regard to all the subjects mentioned in the sub-sections of section 52; and, if they are not required for that purpose, they must inevitably encourage the contention that they are inserted for some additional purpose. But, if their insertion in not intended to add in any way to the powers of parliament, in relation to the matters mentioned
in the sub-sections of section 52, then they violate the canon of drafting, which requires that no unnecessary words should be used in giving expression to the intention of the legislature. They are very properly inserted in section 53, because that section confers upon the parliament of the commonwealth plenary and exclusive powers in regard to the several matters mentioned in the sub-section of that section. But their presence in section 52 tends to create a resemblance in the scope of the powers conferred by the two sections, whereas it would be much more desirable to make the difference in the purport of each section as apparent and emphatic as possible.

I have read these reasons through very carefully, and I have been unable to discover that any of the evils which my hon. and learned friend, Mr. Clark, fears may be expected from leaving these words as they are. The powers are powers of legislation for the peace, order, and good government of the commonwealth in respect of the matters specified. No construction in the world could confer any powers beyond the ambit of those specified.

The Hon. N.E. LEWIS (Tasmania)[10.35]:

I should like to submit for the consideration of the leader of the Convention the question whether the words which the legislature of Tasmania have proposed to omit might not raise the question whether legislation of the federal parliament was in every instance for the peace, order, and good government of the commonwealth. Take, for instance, navigation laws. Might it not be contended that certain navigation laws were not for the peace, order, and good government of the commonwealth, and might there not be litigation upon the point? We are giving very full powers to the parliament of the commonwealth, and might we not very well leave it to them to decide whether their legislation was for the peace, order, and good government of the commonwealth? Surely that is sufficient, without our saying definitely that their legislation should be for the peace, order, and good government of the commonwealth. I hope the leader of the Convention will give the matter full consideration with a view to seeing whether these words are not surplusage, and whether, therefore, they had better not be left out of the bill altogether.

The Hon. E. BARTON:

The suggestion of the hon. member will be considered by the Drafting Committee.

Amendment negatived.

Sub-clause 1. The regulation of trade and commerce with other countries and among the several states.

Amendment suggested by the Legislative Assembly of Victoria:

Add at end of sub-clause "Provided that all fermented, distilled, or other
intoxicating liquors or liquids transported into any state or territory or remaining therein for use, consumption, sale, or storage therein, shall upon arrival in such state or territory be subject to the operation and effect of the laws of such state or territory to the same extent and in the same manner, as though such liquors or liquids had been produced in such state or territory."

The Hon. A. DEAKIN (Victoria)[10.39]:

This is a proposition which has been accepted in substance by all the legislatures, as the leader of the Convention will observe. It is different in form in our case, because it was thought advisable that the provision should be practically identical with that in the American act, to which reference is made in the margin, the celebrated Wilson act. I lay no stress upon the form. The Committee may regard the proposition as identical with those submitted in the other colonies. I shall be quite content if the Drafting Committee will take the matter into consideration as to which is the superior shape in which to embody the proposal. This amendment is not sought with a view to any extension of the powers of the states, but is proposed to secure the retention of a power which every colony at present enjoys—which every colony, apparently, desires to con-

The Hon. I.A. ISAACS (Victoria)[10.41]:

I should like to draw the attention of the Committee to the reason for the necessity of inserting such words if the Committee are desirous that a state shall have the power of prohibiting the sale of intoxicating liquors within its own boundaries. There is one great difference—I might almost call it in this respect a fundamental difference—between the Constitution of the United States and our constitution as we propose to make it. In the United States there is, as we know, free-trade between the states. But that can be stopped at any moment by Congress. Congress has absolute power tomorrow to impose duties even as between the states. In the constitution as we propose to make it, the commonwealth parliament is not to have that power. Now, the question arises in this way in regard to the sale of intoxicants: a state in America has no power itself to impose any duties, or to put any trammels upon inter-state commerce. Consequently, even in the case of intoxicating liquors that are brought from another state or from abroad, a state can impose no restriction upon the sale or commercial intercourse in regard to those liquors so long as they are retained in their original packages, and in the hands of the original importers. In the case of Leisey versus Hardin decided in 1889 by the United States courts, it was
held that a state had no such power. That decision gave rise to great dissatisfaction, and Congress, by passing the Wilson act of 1890, made a law almost in the words proposed by the legislature of Victoria.

The Hon. A. DEAKIN:

We only omitted three words, I think!

The Hon. I.A. ISAACS:

Yes, in substance it is the same. The matter coming on for decision again in the case of re Rahrer in 1890 the Supreme Court of the United States held that Congress having power to impose those restrictions in regard to inter-state commerce, and having legislated in that direction, it was perfectly competent to do so. If we do not put in similar words, a subsequent clause 89, saying that inter-state commerce shall be absolutely free, would prevent even the commonwealth parliament from making such a provision as is now suggested. Therefore it is necessary, if we retain clause 89, to insert in the constitution itself some provision such as we now suggest.

The Hon. R.E. O'CONNOR:

Would your amendment enable a state to prohibit the importation of liquors into that state?

The Hon. I.A. ISAACS:

No. It would enable the state to make the same law, in regard to imported liquors, as it makes in regard to liquors produced within its own boundaries, that is all. It would not allow the state to make distinctions between liquors produced within its own limits and liquors imported from abroad. They are put on the same footing; there is no preferential law. In the United States a state could say, in regard to its own liquors, without the intervention of Congress, "We will not allow the production or the sale of any liquor produced within the state," because that would not interfere with inter-state commerce. But a state could not make a law prohibiting the introduction and sale within its own limits of liquor imported from abroad so long as it remained in the original packages and in the hands of the original importers, and Congress passed a law—the Wilson act—applying to liquor that was imported the same provisions as applied to liquor made in the state.

Mr. WALKER:

Would such a provision make people compulsorily total abstainers in some states?

The Hon. I.A. ISAACS:

Not necessarily. It would allow the state to put imported liquor on
exactly the same footing as liquor made within its own territory.

The Hon. E. BARTON:

The greatest difficulty seems to be that you put the finances of the commonwealth into the hands of any state.

The Hon. I.A. ISAACS:

The same difficulty will arise in regard to excise duty on liquor produced within the state itself.

The Hon. E. BARTON:

It would!

The Hon. R.E. O'CONNOR (New South Wales)[10.46]:

I think we had better leave the clause as it is. I am aware of the decisions to which the hon. member, Mr. Isaacs, has referred, and I think they go to this extent: A state is not allowed to prohibit the introduction of liquor to places within its own boundaries, because prohibition of that kind would interfere with the free course of trade.

The Hon. A. DEAKIN:

Unless it imposes a similar prohibition on its own liquors under the power conferred by the Wilson act!

The Hon. R.E. O'CONNOR:

Exactly. But I am dealing with the question apart from the Wilson act, because, as I understand it, the American Constitution stands very much in the same position, without the Wilson act, as our proposed constitution does.

The Hon. I.A. ISAACS:

No; there is the distinction that Congress has the power, and we would not have the power!

The Hon. R.E. O'CONNOR:

I will deal with that by-and-by. But, apart from the provision as to freedom of trade, the Constitution of the United States is in exactly the same position in regard to this question as our proposed constitution is. The American decisions before the Wilson act went to this extent: A state could not prohibit the introduction of liquor brought from outside, and it could not prohibit the sale in the original packages of liquor brought from outside. But there would be nothing whatever to prevent a state from making such laws as it thinks fit for regulating the sale of liquor in the ordinary way by retail within its own boundaries. For instance, there would be nothing to prevent any state from adapting a local option law—an extension of the local option law such as we have here now. According to the American decisions, a state would have a perfect right to prohibit or to regulate in any way the sale of liquor by retail within its own boundaries, that is to say, it could for instance pass a local option law.
The Right Hon. C.C. KINGSTON:
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The Hon. R.E. O'CONNOR:

No, not in the original packages certainly; but it would allow a local option such as we have here now; that is to say, it would place in the hands of a particular division of the territory power to say whether public houses should or should not exist in that part of the territory. It could regulate the sale of liquors by imposing a very heavy license fee; it could do anything that amounted to a regulation of the sale so long as it did not prohibit a dealing with the original packages. Now, it appears to me, that if you give power of that kind to a state you quite sufficiently provide for any differences there might be between the laws of the different states, and you give full scope to any view there may be in the minds of the majority of the community with regard to the dealing with the consumption of intoxicating liquors.

The Hon. I.A. ISAACS:

The Supreme Court held that the state legislation could not insist on the law to forbid the sale of liquor imported in original packages, and to sell without license!

That may be so; but, to deal with the thing practically, you will hardly have such a thing as the importation of liquor in single bottles. For instance, if a case of brandy is imported, immediately bulk is broken the regulation of the sale comes within the powers of the states. It appears to me that we should not embody in the constitution a provision enabling the prohibition of the introduction of liquor to be made by a state to a greater extent than would be possible if we left it to the ordinary exercise of its freedom. Why should this particular class of goods be treated differently from any other? The amendment says:

Intoxicating liquors or liquids transported into any state or territory.

There are a number of other liquors and goods of different kinds which, if properly used, might be just as deleterious to the public health as this class of goods, and why should we embody in the constitution particular legislation in regard to these matters? There may be some drugs of a poisonous character in regard to which the states will be obliged to legislate. We know that, at the present time, there is in most of the states very stringent legislation regulating the sale of poison. The state takes under its control trade of that kind for very obvious reasons. If the amendment were to apply to the sale of liquors, there would be stronger
reasons for giving the states particular powers to deal with the sale of poisons. There is no reason in the world why any particular article, the sale of which the state may at anytime think fit to regulate within its own boundaries, should be dealt with in the constitution differently from other articles. We ought also to remember that round the liquor question there has always arisen a great deal of social and political controversy, and why should we, in the inception of the constitution, arouse all these diverse and conflicting interests, which an attempt to deal with this question always arouses in local politics, and will arouse in federal politics. I do not mean to say that if it were necessary to deal with the question we should not deal with it; but it is not necessary to deal with it. The proposal is to deal with the matter in a different way from any other kind of trade. It is also pointed out that the carrying of the amendment might put the finances of the commonwealth in a very serious position. We all know that narcotics and intoxicating liquors form the basis of a very large portion of the tariff in the different colonies, and there is no doubt that the federal tariff will be very largely drawn from this source. If you put it into the power of a state to absolutely prohibit the introduction of articles of this kind, you put it in the power of that state to interfere to a very large extent with the revenue of the commonwealth.

Mr. SOLOMON:

The amendment would not interfere with the introduction of liquor into a state!

The Hon. R.E. O'CONNOR:

The explanation of the hon. and learned member, Mr. Isaacs, was that the effect of the amendment would be to give a state power which it does not possess under the constitution as it stands, namely, to absolutely prohibit the introduction of liquor into its territory.

The Hon. I.A. ISAACS:

Only if it made the same laws with regard to the liquor made within its own borders. A state could not give itself an advantage over other states!

The Hon. R.E. O'CONNOR:

Of course. The amendment would give a state the right to absolutely prohibit the introduction of liquor. Under the constitution as it stands, however, a state would have the fullest power to regulate this traffic. We should not deal specially with a particular class of goods, nor should we give the states any larger powers in regard to the liquor trade than they would have in regard to other kinds of trade. The hon. and learned member, Mr. Isaacs, stated that in the United States the federal government had power to deal with this matter; but, whatever there

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may be in his contention, this is a power which should not be dealt with in the constitution. If it could be done, it should be handed over to the federal legislature.

The Hon. I.A. ISAACS:
That is the only way to do it!

The Hon. R.E. O'CONNOR:
The only thing that prevents the federal government from dealing with the question in this way is the prohibition which may be implied from the clause relating generally to freedom of trade—clause 89. I have always thought that the words in that clause are very much too general. It was pointed out in Adelaide, and having thought over the matter since, I have come round to the view, that we should state our meaning there more definitely. There is nothing more dangerous in the constitution than vague general words, the meaning of which we do not at present know ourselves. We ought to be very careful not to leave anything in the constitution which may be seized upon by-and-by to wrest its meaning to something different from what we intended. It seems to me that the clause as it stands is the only bar to legislation of the type of the Wilson act being carried out by the federal parliament, but the better way would be to so amend the clause as to expressly give the federal

The Hon. I.A. ISAACS:
The only way to do that will be to strike out clause 89!

The Hon. R.E. O'CONNOR:
No. An amendment has been suggested which would make the clause read in this way:

So soon as uniform duties of customs have been imposed by the parliament, the free course of trade and commerce between different parts of the commonwealth is not to be restricted or interfered with by any taxes, charges, or imposts.

The Right Hon. G.H. REID:
That will be very dangerous!

The Hon. R.E. O'CONNOR:
Inasmuch as the former section, 89, is the only reason why parliament itself should not deal with it, the better way would be to amend clause 89, so as to ensure that the parliament of the commonwealth shall have this power.

The Hon. I.A. ISAACS:
That would not get rid of this difficulty!

The Hon. R.E. O'CONNOR:
I think so!

The Hon. I.A. ISAACS:
No; because licenses would be a charge or a tax on the sale of liquor, and that would still prevent a state requiring the vendor of liquor imported from another state to have a license!

The Hon. R.E. O'CONNOR:

That can be dealt with. I am now only dealing with the suggested amendment, to show that there is some way of meeting the difficulty. There will be no difficulty in arriving at some amendment of section 89 that will make it perfectly clear that the commonwealth parliament will have power by-and-by to make a law to authorise the states to deal in any way they think fit with the liquor traffic within their own boundaries. It would be better to negative the amendment, and leave the matter to be dealt with in clause 89.

The Hon. A. DEAKIN (Victoria)[11.3]:

Having only moved formally the amendment, I would now ask leave to say a word or two in reply to the criticisms of the hon. member. I quite coincide with his contention, that it is very undesirable to raise in this constitution any question which divides public opinion. I am cordially with the hon. member there; but it is on this account that I have submitted this amendment, because the constitution without this amendment will raise the strongest feeling among a very large section of the population who are amongst the most active politically, and whose antagonism to this measure it; to be deprecated. At present the colonies have absolute power to deal with any liquor imported into the state as they have absolute power over any liquor produced in the state. My amendment is very carefully drawn, so as not to give to the federal parliament any portion of that power which the states at present possess, yet not to bias any parliament either for or against the liquor traffic, but to leave each state, so far as its liquor traffic is concerned, as autonomous as it is at present. It provides the one safeguard that this power shall not be capable of being used for protectionist purposes; enacting that it shall be illegal to deal with imported liquor except on exactly the same terms as with the liquor manufactured in the country. Getting rid, therefore, of the whole question of protection and free-trade, you retain to the states by this proviso the power they now have to settle in each state the liquor question for themselves. That does not raise any issue. By this clause we raise the antagonism of neither one section or the other-the temperance party nor the other party.

An Hon. MEMBER:

If you leave it out you will!
The Hon. A. DEAKIN:

If we insert this proviso we leave things exactly as they are; but if we leave the draft constitution as it is, we make a serious alteration, by depriving the states of a power they now possess in the interests of one particular party. That is to say, the states at present have a power of restriction which could be used in the interests of temperance. The draft constitution, by taking away that power, diminishes that power of the states, and is certain to rouse the antagonism of the temperance party.

The Hon. R.E. O'CONNOR:

What is to prevent the federal parliament giving them that power?

Mr. WALKER:

Will you not bring in a disturbing element with regard to federal finance?

The Hon. A. DEAKIN:

My amendment, instead of introducing a question of discord, provides for leaving the states exactly as they are; it will leave the temperance party and the liquor party exactly as they are. Now I will come to the second point raised by the hon. member, Mr. O'Connor. Why, then, not leave this question to the federal parliament? Because the transfer to the federal parliament would be a deprivation of the states of their rights with regard to this particular question, and those are rights which certain states specially cherish. This question differs very much in each state. In every colony there is a temperance party and an opposing party, and the strength of parties, as well as the character of our several liquor laws, varies greatly. In Tasmania, as I understand, there is no manufacture of spirits. In Victoria and New South Wales there is a considerable manufacture of ardent spirits, and the question of the control of that manufacture is entirely in their hands. In other colonies there is, in a greater degree than in Tasmania, the question of wine production. Victoria, New South Wales, South Australia, are large wine-producing countries, and have very large interests in that direction. That fact has an important bearing on the question. The proposal to remit the whole of the liquor question to the federal legislature while an immense improvement on the draft bill, does demand from the several states a concession of their power which they are very unlikely to grant. It is certainly the next best proposition to my own, but it is not equal to it. The states would realise that it is much more desirable to regulate their own traffic as they please

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instead of handing over to this great body the power of saying whether or not this authority shall be given back to a particular state. Then there is the third objection with regard to the finances. The revenue objection would in future have much greater effect than now. It is quite right that we should
consider the financial question now, and we have to do so; but if the federal government have the sole power of legislating on the liquor question, of course it would be very loth to return to any state this power, if it saw prohibition approaching in that state, because that power might be exercised greatly to the detriment of the federal finances. Consequently, those who look forward to restriction of the liquor traffic must be unwilling to see this power transferred to the federal parliament.

The Hon. R.E. O'CONNOR:

Would there be any difficulty in the way of any state enacting a law to deal with the retail disposal of liquor?

The Hon. A. DEAKIN:

I think there would be always this difficulty: There are no laws more difficult to administer than liquor laws, because while one party in the community strongly supports them, the other portion of the community do not believe that they are conscientiously bound to obey them. In fact, they regard them as an interference with liberty, and do not regard a breach of the liquor laws in the same way as they regard offences against other laws. Any loophole will be taken advantage of, and the cost to any state of administering any restrictive measure in regard to the liquor traffic would be immensely increased if there was any such loophole left as this suggestion implies. Of course the real question, which the leader of the Convention looks at from the broadest point of view, is the financial question. That is, or may be, a serious question. Of course here we deal with possibilities; we do not deal with probabilities. As one who endeavours to keep abreast of information in regard to the liquor trade in all the colonies, I may state that any prospect of prohibition in any of the colonies of Australasia appears to me to be at present extremely remote. It is not within our ken as practical politicians in any of the colonies.

The Hon. H. DOBSON:

We ought to provide for it, ought we not?

The Hon. A. DEAKIN:

So far as I can judge, the temperance party in Victoria is at least as powerful as the temperance party in any colony, and the temperance party in Victoria, even at present, is not only unable to carry prohibition, but it has been unable to defeat measures which have been taken to extend the wine industry, and thus increase the production of intoxicating liquors. Consequently, although the possibility is one to be considered, it is not one of any immediate imminence. If any colony is converted to that way of thinking, it is not likely to be for a long time yet.

Mr. LYNE:

In this colony it is at the present time one of the burning questions!
The Hon. A. DEAKIN:

It is a burning question with us in that sense-in the sense that it is essentially a chief question. But so far as one can judge, the interests rallied against the temperance party, especially the wine-producing interests, which are extending, and the interests of those who are locally engaged in brewing and distilling-producing beer and spirits are powerful, and, in the case of the wine industry, represent growing interests on the other side. It would be very difficult, indeed, to carry prohibition in any state in which a considerable portion of the population are engaged in the growing of produce for the purpose of its manufacture into liquor. In the state of Maine, in America, where prohibition has been adopted, no such production is possible, no such difficulties have been encountered.

Mr. HIGGINS:

The temperance party in Victoria is alarmed at the experience of the temperance party in America, which shows that enactment in the way of the prohibition of the sale of liquor is unconstitutional.

The Hon. A. DEAKIN:

That is so. But the hon. member will notice that the position is somewhat different. Practically, all these colonies can be and are likely to be wine producing, and the creation of that great industry is an argument for those who consider that if any further temperance restrictions are likely to be imposed they are scarcely likely to take the form of prohibition. I do not wish to labour the issue. My answer to the financial difficulty is briefly this: that it has been confronted in the United States. The state of Maine is practically a prohibition state. There are also one or two prohibition states in the west. Altogether some half-dozen of them have so greatly restricted the traffic as to be capable of being referred to as prohibition states; and yet, so far as I have been able to follow it, the question of revenue has not prevailed in the United States as against the question of principle. Prohibition is an important step, and might lead to a readjustment of the federal taxation, not necessarily so; but I fail to see why a prohibition which is practically remote, and which has been encountered and its difficulties solved in the United States, notwithstanding the question of revenue, should operate as a bar to our allowing the states to retain to themselves all the powers in this connection which they at present possess. Important as the question of revenue is, it must yield to the convictions and principles of the great body of the electors. Under those circumstances, the extremely temperate and able criticisms which the hon. and learned member, Mr. O'Connor, has offered in regard to this proposal have not
affected me so fully as his arguments usually do. I submit that, in accepting the amendment, and in leaving the liquor traffic for determination in each state, according to its own principles or political action, we shall be acting wisely for the federation, and in the interests of the federal constitution, which must be submitted to the whole body of the electors.

The Right Hon. G.H. Reid (New South Wales) [11.15]:

I think this is one of those subjects to which the public attach very great importance, and upon which we are not likely, on the present occasion, to come to a final determination. I notice that the division in Adelaide was so close that there was simply a difference of one in regard to dealing with matters of this kind.

The Hon. A. Deakin:

And since then it has been recommended by every legislature!

The Right Hon. G.H. Reid:

Yes; but that does not affect the remark I am about to make. In view of the close division on that occasion; in view of the fact that the Convention will meet under widely different circumstances at the same time, I admit, this difficulty: that under the bill there will probably be a right of free invitation of intoxicating drinks into a colony from another colony, although, at the same time, there will be a power in that colony to pass laws to prevent the consumption of those drinks.

The Hon. A. Deakin:

More or less power to prevent!

The Right Hon. G.H. Reid:

I quite see the difficulty, and I think it is one that perhaps ought to be dealt with, and from that point of view I admit my original remark fails, because I think we must all admit in spite of the close division in Adelaide, that it was always the intention to leave to the different communities their powers of regulating the consumption of intoxicating liquors. I admit that remark disposes of my preliminary remarks as to whether this should or should not be looked upon as a matter of serious discussion. I think we can treat it really, not as a matter of that kind, but as a matter for the insertion of words in clause 89, which will make it perfectly clear that we are not taking away from the states any of their rights in dealing with intoxicating liquors. But what those words should be would be a matter for very serious consideration. No doubt our friends on the Drafting Committee will settle that difficulty, and will probably settle it as experienced statesmen, so that nothing in the clause is to be taken to affect the powers of the states with reference to their expressing the very words we mean. Instead of general words because general words would be very dangerous, I think, in a case of
that kind—it would be better to insert precise words showing exactly what we intend. If we insert such words as "taxes, rates, and imposts," we do not know what meaning may be afterwards twisted into them. My intention is a precise one, and I think the Drafting Committee will be able to put it in precise words. Therefore, I think we might let this matter drop at present, with the understanding that words will be inserted in clause 89 by the Drafting Committee, making the matter clear. I think that will save any further discussion, and there will be no necessity to take a vote now. If it were seriously proposed by any one in this Convention to limit the rights of the different colonies in the important matter of the liquor traffic, it would amount to a new departure altogether, and a new departure of such a serious nature that I do not think we are prepared to discuss it.

The Hon. R.E. O'CONNOR:
No one advocates that!

The Right Hon. G.H. REID:
No; I am sure they do not. Therefore, I do not see any great gravity in the discussion. We all admit that the states are to preserve this right. If they are to preserve this right, it is a mere matter of drafting to see that it is recognised in some part of the bill. We may well, without any division, let the matter stand over until the Drafting Committee insert words somewhere which will raise the point. Then it will be for those who wish to limit the hitherto understood rights of the states to govern their own liquor traffic, to incur the responsibility of such an innovation, to show reasons to the Convention why we should introduce it.

The Hon. E. BARTON (New South Wales)[11.20]:
I see the difficulty of this matter quite as much as my right hon. friend who has just spoken, but I think he will find that the difficulty is just as great in the hands of the Drafting Committee as in the hands of this Committee.

The Right Hon. G.H. REID:
It could bring the question up in a better form!

The Hon. E. BARTON:
No one wants to restrict the States in their right to deal with the consumption of intoxicating liquors. The difficulty that arises is this: if we give them the right of practically taxing the importation of intoxicating liquors—for that is what it may come to—there will probably be a serious derangement of the federal finance. On the other hand, short of doing that, it is very difficult to see how the full rights we want to secure to them can be exercised. That is a difficulty not only of drafting, but a difficulty that may, well tax the
energies and ingenuity of the Convention itself. I quite agree with my right
hon. friend who has just spoken that it would be well not to take anything
like a decision upon this matter at the present meeting. We have to meet
again in Melbourne, and this is a matter which is worth ample discussion,
because I think it will be only upon that discussion—that anything will be
evolved which will give the Drafting Committee a reasonable guide as to
the manner in which the Convention thinks this matter can be solved. One
cannot repeat too often, perhaps, that it seems impossible, to overrate the
difficulty of settling it in such a way as is just and fair to the federal
finance, and at the same time does not in any way impair the rights of the
several states. I think the difficulty is much greater here than in America.
The state in America is one in forty-six, and not one in six, as we propose.
The effect of that is that the proportion in which the federal parliament can
be deranged or disturbed by the action of a state with reference to matters
of this kind is very much smaller than the proportion in which the federal
finance would be disturbed by the action of any one of the three or four
states out of the proposed union. So that the question becomes a much
more serious one in its financial relations than it would be in America. I am
going to ask the Committee to negative them amendments pro forma on the
perfect understanding, in the first instance, that the Drafting Committee
will do what it can to overcome the difficulty; but, apart from that, on the
perfect understanding that this question will be fully discussed and dealt
with at the meeting in Melbourne. On that understanding I think we might
pass on.

The Hon. J.H. CARRUTHERS (New South Wales)[11.25]:

The hon. and learned member will make a very serious mistake if he asks
the Convention to negative this! proposal in order that the matter may be
reconsidered later on. Federation has quite enough enemies, without
creating: any more. We should not allow a division to be taken, or a course
to be adopted, which will only give strength to the opponents of federation.
This matter is looked upon as a matter of morals against money. Men hold
very strong opinions on the subject, and I feel quite sure that if this
amendment is rejected, people will not look to the motives which led to its
rejection; they will not analyse the speech of the hon. and learned member,
and take it that the rejection is merely one to gain time, and to give the
Drafting Committee an opportunity to do their work; but they will look
upon it as a principle, and you will place in active opposition to the scheme
of federation the whole of the temperance parties in the various colonies.
Now, can we afford to do that? We are not asking here to impose any
system of local option or prohibition in the constitution. We are simply
asking to maintain that liberty of the subject and of the state which they
already enjoy. The argument against that is that the federal state must have money. On the other hand, the advocates of this amendment say that morals stand above money; that the states have the right to pass laws which they believe will have a good moral effect upon the community. I ask the hon. and learned member, so that his motives may not be mistaken, so that the work of the Convention may not be mistaken, not to postpone a decision on this question, but to affirm the principle, and, having done so, leave the Drafting Committee, during the next few months, to prepare for our next meeting in Melbourne a clause which will practically give effect to the proposition carried, and safeguard those interests which they deem should be safeguarded. I hope, therefore, the Committee will affirm the principle which has been recommended by every one of the parliaments. We should be flouting the parliaments and the people if we now refused their request to consider this matter, and we should be putting ourselves in a false position if we negatived a provision which I believe is in accord with the principles of a large majority of the Convention itself.

The Hon. F.W. HOLDER (South Australia)[11.27]:

I rose at an earlier stage to speak on this matter, but afterwards the hon. and learned member, Mr. Deakin, put so very ably some of the points I was thinking about, that I deemed it unnecessary for me to say a word. However, there are two suggestions now made with which I wish to deal. The first is that this proposal should be negatived, so that the whole matter may be left to the Drafting Committee to prepare a clause giving practical effect to what is suggested here. If I understand the work that the Drafting Committee is likely to do, it is to give effect not to propositions which we negative, but to propositions which we carry, and if, after we negative this, the Drafting Committee bring up a proposal giving effect to it, I shall be personally very much surprised.

The Hon. E. BARTON:

It is the same course that is taken when you recommite a bill for the purpose of making an amendment. You then negative the proposal at the beginning, not because you are opposed to it, but because you want to pass on to other matters in the bill, intending afterwards to recommite it.

The Hon. F.W. HOLDER:

I understand that we are to have a sort of formal meeting on Friday to consider the draftsman's amendments, at which it will only be necessary to have a quorum; but, if the draftsman's amendments are going to consist in some cases of propositions we have negatived, propositions in direct antagonism to large votes in the Convention, then I think we shall want much more than a quorum on Friday, and that we shall have much more
than a few hours' formal work to do.

The Hon. E. BARTON:

This is more than a question of draftsmanship. It is a question for the Convention; and it is a question with which, as it is composed at present, and with the time at its disposal, the Convention cannot fairly deal.

The Hon. F.W. HOLDER:

With the first remark of the leader of the Convention I thoroughly agree, and I was proceeding to argue that it was not a question for the Drafting Committee at all. That was the first suggestion made to us—that it should be left to the Drafting Committee. The other suggestion is that we should leave it to the Drafting Committee, and that we should negative the whole thing, and leave it to the Melbourne sitting. Is that a proper way to treat the various proposals that have been made as suggestions to this Convention?

The Hon. E. BARTON:

That was done in regard to other things, because it was impossible to get through the bill at this meeting!

The Hon. F.W. HOLDER:

I think we had better close at once if we are going to do that in regard to anything in which there is a dispute.

An Hon. MEMBER:

If hon. gentlemen would not talk, we would soon settle these matters!

The Right Hon. G.H. REID:

That would be a very simple method!

The Hon. F.W. HOLDER:

If we are going to consider nothing but matters about which there is no difference of opinion, we had all better sit still, and let the Chairman put clause by clause, and the sooner we get to the end the better, and about half an hour will do it. But I understand we are going to consider, as fairly and as fully as we can, all matters that come before us, so as to leave the bill in the most perfect form in which we are capable of putting it at the present time; and, as we have a large number of members present—nearly the whole of the Convention, though there are a few notable absentees—I think, out of mere courtesy to the parliaments which have sent these suggestions, out of a due regard to what is required at our hands by these parliaments and the electors, we should do our best to settle the question. What do we gain by postponing the whole matter to Melbourne? If we leave the proposal for reconsideration at Melbourne, the least we can do is to leave it unprejudiced now. Not to put in this amendment is to prejudice the whole
case. In the first place, we prejudice the case by rejecting the amendment; in the next place we prejudice the case by, as the hon. member, Mr. Carruthers, put it, changing altogether the present provisions in the local law. If we leave it to Melbourne, let us leave things precisely as they are to-day.

The Right Hon. G.H. Reid:

That is the proper course!

The Hon. F.W. Holder:

I do not think we have a right to postpone the matter unless we leave things precisely as they are to-day, and we leave things precisely as they are to-day by carrying the amendment of the hon. member, Mr. Deakin. If we do not carry that amendment, we shall have done this in the eyes of the public, and in the eyes of the temperance people, who, throughout the colonies, are very much interested in the matter, and are watching us very closely—we shall have put up several greater barriers than were there before between these people and the accomplishment of an object which they see just ahead, but which I quite agree with the hon. member, Mr. Deakin, is further off than they think. Do not let us alienate their sympathies and make them antifederationists, by the erection of barriers which do not exist today. Why not leave the whole matter in the position in which it now occupies, in which every state is unhampered, in doing what it will? I hope that the Convention, recognising we shall have another opportunity to deal with the question, will out of respect to public sentiment, which is very strong, carry the amendment, in which case we shall leave the question without that prejudice which the negativing of the amendment would lead to.

Mr. Walker (New South Wales)[11.32]:

If this matter goes to a division I shall vote for the amendment, but I think it is only fair to let our temperance friends understand that as the revenue will be considerably affected by the absence of the duties collectable in any state on spirits that state must be prepared, when the time comes for the per capita distribution of revenue, to accept less than the other states, or to make up the difference in some other direction. I think, with the hon. member, Mr. Carruthers, that this is a moral question, and I recognise that morality is above cash.

The Right Hon. G.H. Reid:

Hear, hear. From a banker that is a very large admission!

Mr. Solomon (South Australia)[11.34]:

Really I do not see if the suggestion of the right hon. the Premier of New South Wales is to be carried out what more we want to do now than pass everything pro forma, and leave matters over to be dealt with in
Melbourne.
The Right Hon. G.H. REID:
Or stop!

Mr. SOLOMON:
If, whenever we come across a difficult question, a question concerning which the public are looking to have some idea of the opinion of the Convention, to be discussed in the interval between now and the next meeting, we are going to avoid the subject, we shall do as much harm and, perhaps, more to the cause of federation than we could possibly do by discussing it now fully and fairly. As to the point at issue, having listened to the arguments of previous speakers, I fail to find in one of them a necessity for this amendment. We are dealing now with sub-clause 1 of clause 52. That sub-clause simply gives power to the federal parliament to regulate trade and commerce with other countries, and among the several states. What on earth has that clause to do with the question of whether a state may enact prohibitive laws as to the liquor traffic within its own boundaries?

The Right Hon. G.H. REID:
A good deal!

Mr. SOLOMON:
It appears to me that this is the wrong place in which to deal with the subject.

The Right Hon. G.H. REID:
That might be!

Mr. SOLOMON:
There is a proposal in clause 89, the clause dealing with uniform duties of customs that:

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.

In this clause we have an amendment suggested by two of the colonies, stipulating that although trade and intercourse shall be free throughout the commonwealth each individual state shall have the right to enact laws preventing the introduction of liquor over its boundaries. That is the right place in which to deal with this question. I fail to see that this sub-clause, which deals merely with trade and commerce of other countries and between the states, has anything to do with the amendment suggested by the legislature of Victoria. This clause has nothing whatever to do with the right of the state to restrict the sale of or to regulate the manner in which
liquor shall be sold within its own boundaries. I suggest that the proper course is to negative the amendment proposed by the legislature of Victoria and to deal with the whole question when we get to clause 89, where we can have a much fuller discussion upon it, not only in regard to the right of the states to prohibit the importation of liquor within their boundaries, but as to the responsibility which will be thrown upon the other states by the fact of any individual state prohibiting the introduction of goods which will produce such an important portion of their customs revenue. I will not discuss that question now; but I suggest that the proper place at which to take this general debate would be on clause 89. Our best course would be now to negative the amendment of the legislature of Victoria, leaving it to hon. members to propose some amendment in clause 89 which will carry out that which they desire.

Dr. QUICK (Victoria)[11.38]:

The last speaker, I believe, is one of the strong advocates of state rights in this Convention. He will remember that the other day the right hon. the Premier of New South Wales challenged the advocates of state rights to define those rights, to put in the bill such rights as they claimed were state rights, and in this very clause 52. Now, I would remind the hon. member, and other hon. members who are interested in obtaining, as far as possible, the right of the states to local self-government, that the question involved in the amendment submitted by the hon. and learned member, Mr. Deakin, is one of very great importance indeed. For my part, I think it is one of those state rights which ought to be put in the bill, and not left in any doubt whatever.

Mr. SOLOMON:

Hear, hear; but this is not the right place for it!

Dr. QUICK:

The question whether this is the right or wrong place is a minor question. The question we are dealing with now, and with which we ought, to deal, is whether this state right is to be put into the bill? I shall support the amendment. I do not think the objection raised by the hon. member, Mr. Barton, the revenue objection-is of sufficient importance to justify the rejection, of the amendment, and I will point out the reason why. It is not for one moment suggested that we should take away from the, states the right of imposing liquor laws. Each state will have the right to pass a liquor law—a law for the regulation of liquor. Each state has that right preserved to it under its existing constitution; it consequently has the power reserved to it of reducing the revenue of the commonwealth.
Mr. SOLOMON:
Then where is the necessity for the amendment?

Dr. QUICK:
The second question is, whether the state shall have the additional right of regulating the importation of liquor. I submit that if a state has the right to regulate the sale of liquors produced within its own territory, it also ought to have the right to regulate the sale of liquors imported from other countries.

Mr. SOLOMON:
So they have at the present time!

Dr. QUICK:
No; I do not think they have. I think it is necessary for this amendment to be passed to give the states that right, for, as has already been pointed out, this bill provides that trade and commerce between the various states shall be absolutely free, and this clause is in conflict with that provision, consequently something must be put in to modify, the extreme words " absolutely free."

Mr. SOLOMON:
That is the clause I say it ought to be inserted in!

Dr. QUICK:
I understand that the hon. member, Mr. Solomon, is only arguing that this is the wrong place to put it in that is a minor question; it does not matter whether the amendment is put in here or in clause 89.

Mr. SOLOMON:
There are several other suggested amendments which will come in clause 89!

Dr. QUICK:
That is a matter for the Drafting Committee. I think that this question is one that ought to be considered from a general public federal point of view rather than from a revenue point of view. Serious consequences might follow, as has been suggested by the hon. and learned member, Mr. Barton; but, in my opinion, the question of local self-government is of more importance than the revenue question, and I believe that there are a large number of people in the states who, if they thought they were going to be deprived of the right of regulating the internal liquor traffic of their states, would vote against a constitution that would deprive them of that right of local self-government. Therefore, I contend that that right ought to be secured and placed beyond all doubt, and it can only be secured, and placed beyond all doubt by providing for it in this constitution bill; therefore, I shall vote for the amendment.

Mr. GLYNN (South Australia)[11.42]:
I think this question is a more difficult one than some of the members seem to think. The case of Leisey versus Hardin, decided in America, has shown the necessity of our dealing with this question, because the decision in that case was: that the sale of intoxicating liquors in the original packages in the state was unconstitutional and void. The object of this amendment is to get rid of the effect of that decision.

The Hon. A. DEAKIN:

There have been later decisions in cases in which the Wilson act was challenged, and that act was upheld. The Supreme Court of the United States has held that it provides a solution of the difficulty.

Mr. GLYNN:

It shows the necessity of making such a provision as the one now suggested; but if that be put in, we shall still be faced with a difficulty out of which we should not ask the Drafting Committee to get us, for it would impose almost a superhuman task on the Drafting Committee to say what amendments are really necessary in this clause. I say this because there have been several decisions from 1885 down to last year on this question under the Canadian act, and we shall be bound by those decisions, because some of them are Privy Council decisions-at the same time, I would remark that the provisions of the Canadian act are not exactly the same. They are for the regulation of trade and commerce, not between states and states, but with other countries; nevertheless, if hon. members read them they will find this-

The Hon. A. DEAKIN:

In Canada the central government retains the residue of powers; here they do not!

Mr. GLYNN:

I understand that. One of the grounds of the decision is that a license which amounted, practically, to a prohibition of sale was void-that the residue of powers remained with the central government, and that the local legislatures were limited to such powers as they got by express delegation. But beyond that, there were other grounds: that they had no such power, because it was an interference with the powers of direct taxation conferred on the central government. The upshot of the decision in Canada is that a license that amounts to a prohibition of sale is illegal. I merely mention this for the purpose of showing that you cannot, without considering, this in conjunction with the American cases, say what ought to be done, because clause 89 must be read in conjunction with the sub-clause before us. That is an addition to our difficulty. It does not exist in the case of Canada, and I
say, therefore, that we ought to pass this amendment, and ought also to accept the suggestion of the hon. and learned member, Mr. Barton, and postpone the further consideration of the matter until we meet in Melbourne, because if hon. gentlemen will look through a synopsis of the cases to be found in Wheeler's "Confederation of Canada," published only last year, they will come to the conclusion that it is exceedingly difficult to frame such an amendment of this clause as will place beyond all doubt the question whether the power of prohibition by the states of the sale of intoxicating liquor within their boundaries is preserved.

The Hon. H. DOBSON (Tasmania)[11-45]:

I hope that the Committee will agree to the amendment suggested by Victoria, and which has been supported by the hon. and learned mem

The Hon. E. BARTON:

There is no reason why we should not sit five or six weeks, or even longer, in Melbourne!

The Hon. H. DOBSON:

I think that we shall get very tired if we sit five or six weeks in Melbourne during the hot summer weather. We are doing our work so well that we shall probably not have to sit so long as that in Melbourne; but, of course, we shall sit there longer if necessary. This question is so important and complicated that I think the Drafting Committee ought to have a little more instruction the question of prohibition. It appears to me that those people in all our states who have quite as earnest convictions on this matter as some of our friends have on the question of deadlocks, will not be satisfied if they think the federal constitution is to put a stop to their getting a measure of prohibition. I presume that a zealous teetotaller is always looking forward to the time when he will convert his fellowmen, and win success, and get a measure of prohibition, and, in my opinion, our constitution will have a very great blot upon it unless we do, apart from the question of revenue, provide some means to enable the states to prohibit the importation of liquor, and I think it would help a solution of the matter very much if the constitution at the same time said that a colony like South Australia or Victoria, which is a wine-producing colony, shall not have that important industry taken away from it, but shall be able to manufacture wine, beer, ale, or spirits, but for export only. So I really think the Drafting Committee have to face an important question, not simply that of the carrying of this amendment, which is a very simple matter. They have to consider the question of providing for the question of prohibition, and, at the same time, for providing for the protection of the natural industries of South Australia.
and Victoria, and making the sale of what they produce in harmony with
the prohibition law of any state.

The Hon. S. FRASER (Victoria)[11-47]:

I shall vote for this addition to the bill. In the province of Nova Scotia, in
the Dominion of Canada, there is prohibition, and I think it is only right
that each colony should have the power to regulate its own internal affairs.

The Hon. Sir W.A. ZEAL (Victoria)[11.48]:

I am in favour of this amendment. I would be willing to follow the advice
of the hon. and learned member, Mr. Barton, had not a very important
provision been passed by the Committee last night in regard to the
appointment of people to high positions, which I shall oppose most
strenuously when it comes on for consideration again.

The CHAIRMAN:

The hon. gentleman cannot discuss that matter now.

The Hon. Sir W.A. ZEAL:

I seldom address the Committee, and I think that I might be allowed a
little latitude in explaining why I am going to vote as I shall on this
occasion. I do not think that any hon. member will impute to me that I have
taken up too much time, It has been my continual study throughout the
sittings of this Convention not to repeat myself. I am sorry that while I was
absent last night the clause to which I have referred was passed. In the
present instance I shall vote for the amendment.

The Right Hon. G.H. REID (New South Wales) [11.49]:

Since it is evident that a serious vote must be given on this matter, I wish
to add a word or two to what I have already said. In the first place, it is
clear that under the provision that all the powers that are not expressly
given to the federation are reserved to the states, the power of regulating
the consumption of intoxicating liquors is reserved to each state.

The Hon. E. BARTON:

Quite so!

The Right Hon. G.H. REID:

Therefore, the question about customs revenue is irrelevant. That is a
question of the power that already belongs to the state, it is not a question
we can consider at all. The constitution is so framed that these colonies
will have the power to do what they like in reference to the consumption of
intoxicating drinks within their own boundaries. Therefore, the revenue
question is out of court. It is an incident of what we are doing. The value of
these observations is that they direct the attention of the Finance
Committee to a state of things which must be specially provided for.
Putting aside the revenue matter, as a matter for the Finance Committee to
deal with, we have simply to face the proposition that we must make the
constitution clear upon that point about which there is no real doubt as to
our intentions. Under these circumstances, although I would prefer the
matter to be made clear in another clause, as there is going to be a division
upon the merits of the case, I shall vote for the insertion of the words.

The Hon. E. Barton (New South Wales)[11.51]:

I intend to vote against the amendment. The question of the customs
revenue cannot be lightly disposed of, because as the matter stands now,
the state has power to deal with the consumption of liquor within its
borders. Under the constitution as it stands, it would be in the same
position as the state of Iowa with regard to the law which it passed, that is
to say, it might not be able to deal with the importation and sale of original
packages, but would still have entire right to control consumption. There
may be a great difference between the two powers, and it would make a
great difference to the customs revenue-a difference which I do not think
we can ignore. With regard to the general merits of the question, I think it
would be unwise and impolitic to specially enlarge the powers of the states
in dealing with the sale of one class of goods, while their powers are
limited with regard to the sale of every other class of goods in relation to
the condition of internal politics. If the subject of a sale is anything apart
from intoxicating liquors-it may be a poison, or one of a thousand other
things-while the state can deal with its sale and consumption within its
borders, it cannot prohibit its importation if the commonwealth is to
regulate trade and commerce. If you are to take away this power of
regulating trade and commerce from the commonwealth in respect to one
class of articles, it would be logical to take it away in respect to others.
Imagine the state of chaos which that would produce. You would have
given the commonwealth a nominal power to deal with the regulation of
trade and commerce; but with the other hand you would have taken it
away. If you take it away in regard to this large class of subjects you might
take it away with regard to all subjects.

The Hon. I.A. Isaacs:

There is no power in the commonwealth parliament to deal with this
matter, though there is in the federal parliament of the United States!

The Hon. E. Barton:

There is power to regulate trade and commerce, though clause 89 stands
somewhat in the way, and I propose to amend that clause so as to prevent
the commonwealth parliament from being denuded of the powers it would
otherwise have. To give the states power to deal with the importation of a
class of goods which are the foundation of the customs revenue in all the
colonies, would be an anomalous position to set up. If this power is given in respect to the consumption of alcoholic liquors, you may as well grant it in respect to everything else, and then what becomes of the regulation of trade and commerce by the commonwealth? I suggest that clause 89 should be amended in some such way as will leave the commonwealth in its proper position as the regulator of trade and commerce. Let the states be allowed to deal with the consumption of intoxicating liquors; but do not let them interfere with the trade and commerce of the commonwealth. It does not correctly state the position to say that, by carrying the amendment, you put matters in the position in which they are to-day. Under the commonwealth matters cannot be in the position in which they are to-day. There must be these alterations which are necessitated by the solidification of the states for some purposes, one of which is to give power to the commonwealth to regulate trade and commerce so as to prevent its being hampered by the individual act of anyone state. It is against all principle, and impolitic, to impose a disqualification with regard to this class of goods, which you do not impose with regard to other classes of goods. It would be much more logical to allow the commonwealth to legislate upon the consumption of alcoholic liquors; but that is a power which, I take it, the states will not surrender. In that case, let them be satisfied with the power to deal with the consumption of alcoholic liquors, which they can deal with effectively. Do not let them ask power to control the action of the commonwealth in respect to one of the most essential powers of the commonwealth. If this power is to be given up in regard to one class of goods, let it be given up in regard to all; but, if it is to be retained at all, let it be retained in regard to all.

The Hon. A. DEAKIN:

It is only in regard to intoxicants that a question of principle arises!

The Hon. E. BARTON:

I know that a great many people think that it is against morality to consume alcoholic liquor, while others are actuated by the idea, "I cannot drink, therefore you must not." I am not going to discuss those parts of the question. I want to leave the liquor question as a matter of internal state regulation out of consideration altogether. What I suggest is that the power to regulate consumption which the states possess today, and would possess under the commonwealth, will enable them to do effectually what is wanted. If you give them the power to prohibit importation, this may happen: Goods destined for transit from state A to state C may in some moment of fanaticism be prevented from passing through state B, and thus dealings between state A and state C may be rendered impossible, or else

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very inconvenient, because of the long round about deviation which would be required. Such a state of things would set at nought the powers of the commonwealth to regulate trade. I submit that this cannot, and ought not to be allowed, and that we shall act wisely in negativing the amendment.

Mr. MCMILLAN (New South Wales)[11.57]:

I hope that in discussing this matter our views in regard to the liquor traffic will be carefully excluded. I do not know how this question has been dealt with in other parts of the world; but I can see that by giving the states power to forbid the import of liquor you have an absolute abnegation of intercolonial free-trade. We know very well that in dealing with the customs, if you have an ad valorem duty upon only one article, it leads to a wholesale system of espionage, delay, and inconvenience. I fail to see how you can give power to the states to prevent the importation of liquor unless you give them full power over the means of transit, over their borders. Although an affidavit might be given that there was no spirit on board, a train might be stopped on the border while a search was made under the reasonable belief that there was liquor on board. You might have the whole of the border trade of a state interfered with in that way by the officers of the state. Such a state of things would lead indirectly to the re-erection of what would be practically custom-houses on the border. A vital principle connected with federation from the national and commercial point of view is that it will give absolutely free intercourse between the states. Let the states who want to prevent the consumption of intoxicating liquor within their borders provide that all spirits shall go into public bonds. We can make the selling of spirits a matter for the states to regulate.

An Hon. MEMBER:

That is all we ask!

Mr. MCMILLAN:

Let the states have power to deal with the consumption of intoxicating liquors within their borders; but do not give them a general power to ransack every means of communication across their borders. No doubt great misconstruction will be placed upon the vote which is to be given upon this question. I am anxious that every state should have its own autonomy. I am very anxious that the liquor traffic should be regulated on purely democratic local option principles. At the same time, I think that by doing it as attempted it might be a great blow at intercolonial free-trade.

The Hon. I.A. ISAACS (Victoria)[12]:

I think the observations of the hon. member, Mr. Barton, and the hon.
member, Mr. McMillan, were impelled by views of the Tasmanian and Western Australian amendments. But I would like my hon. friend, Mr. Barton, to see whether he cannot vote for the Victorian proposition, which does not seem to be open to the animadversions he has passed on the others. The difference is essential. I quite agree with my hon. friend that the power of the states to regulate the importation—that is to say, the traffic in the sense of conveyance—is a very different matter from the sale of liquor within the state to the people of the state. We have never attempted in our amendment to interfere with the importation or the transit. Our amendment is as follows:-

Add at the end of sub-clause I "Provided that all ferment.

Mr. SOLOMON:

Is that necessary at all? Is there any portion of this bill which gives over the power of the states to the commonwealth to regulate the traffic in liquor inside the boundaries of the states?

The Hon. I.A. ISAACS:

Yes, in clause 52. The American decisions are very much in point; but the Canadian decisions do not apply at all. Clause 52, when it confers on the commonwealth parliament power to deal with and regulate commerce between states, impliedly by that excludes the states from making any regulations with regard to inter-state commerce, otherwise they might throw everything into disorder.

The Right Hon. Sir E. BRADDON:

But not traffic within their own boundaries?

The Hon. I.A. ISAACS:

No; but the United States decisions are that it is still inter-state commerce, so long as the subject of that commerce remains in the hands of the original importer, and in an unbroken package.

Mr. SYMON:

What you want to do is to regulate the consumption. That is not interfered with!

The Hon. I.A. ISAACS:

As soon as the liquor comes into a state, and goes into consumption or use in the state itself, the state shall have the same power to make regulations with regard to that use or consumption as it can with regard to liquor in its own territory.

Mr. SYMON:

Where is there anything in the constitution to take that power away?

The Hon. I.A. ISAACS:

I pointed out earlier in the day that clause 52, subclause I, prevents a state from making any regulation with regard to importation. It remains inter-
state commerce until the package is broken. Under the decisions of the United States courts, until 1890, when an act of Congress was passed, it was actually held that a state could not insist upon licenses being held for the sale of liquor that still remained in the hands of the original importers and in unbroken packages. It still remained inter-state commerce.

Mr. SYMON:
That is an extraordinary decision!

The Hon. I.A. ISAACS:
It maybe extraordinary at first sight; but the reasons, when looked at, are understandable. Anything else would stop inter-state commerce. Then a bill was passed to enable this difficulty to be got over. When we come to clause 89, providing for absolute freedom of trade, it prevents even the commonwealth parliament from cutting that down. It is necessary to put that in the constitution. In any case, I think this is a fair and reasonable proposal. Looking at it, not as a question of money, but as a question of morality, and in order to disarm a great amount of antagonism that would undoubtedly meet this constitution if we negatived this proposal, it is only right and fair to put this in.

The Hon. E. BARTON:
Leaving it to the Drafting Committee to find the proper place to put it?

The Hon. I.A. ISAACS:
Yes.

The Right Hon. Sir E. BRADDON (Tasmania)[12.7]:
If the hon. member, Mr. Isaacs, is correct, the proposed amendment from Victoria should be altered, so that instead of "or remaining therein" it should read and remaining therein." As the amendment now stands, directly any liquor is imported within the borders of the state, or it may be imported only to pass through, it becomes liable to the laws of that state, and those laws might involve the destruction of the liquor.

The Hon. I.A. ISAACS:
Only to the same extent as liquor produced in that state!

The Right Hon. Sir E. BRADDON:
It might be that the state law would prohibit the export of any liquor or its manufacture.

The Hon. A. DEAKIN:
That is a point for the Drafting Committee!

Mr. LYNE (New South Wales)[12.8]:
I have tried to understand this matter, but my lay mind is unable to understand the position even now. I take it that this Commonwealth Bill is intended to give to the federal parliament power to deal with the
importation all round our boundaries of spirits and wines. My desire is to
give a vote which will allow the state parliament to deal with the sale of
liquor in that state, and to regulate the sale.

An Hon. MEMBER:
The amendment will allow that!

Mr. LYNE:
Or what is commonly known as the question of local option. I know of
nothing in this bill at the present time which will prevent the states
parliament from dealing with any liquor that may be imported into a state,
and which remains there. I was under the impression that no matter how
much liquor was imported into a state, that liquor would be dealt with as if
it were manufactured in the state.

The Hon. A. DEAKIN:
Not unless you pass this amendment!

Mr. LYNE:
The leader of the Convention and the hon. member, Mr. McMillan, have
both taken a line of argument to show that this will interfere very much
with the customs duties on the various borders. Suppose that in New South
Wales the local optionists prohibited the manufacture of wine, whiskey, or
other Spirits.

Mr. SYMON:
That would only be done by the prohibitionists!

Mr. LYNE:
A great many would do so at the present time. In Victoria they
manufacture wine and brandy, and they manufacture other spirits. Would
we have to keep customs officers along the border in order to ascertain
what spirits come into this colony from Victoria?

The Hon. A. DEAKIN:
Possibly!

Mr. LYNE:
According to the arguments of the hon. member, Mr. Barton, and the
hon. member, Mr. McMillan, if you pass this amendment you must know
all the spirits that come from Victoria, to New South Wales for all time, in
order that the sale of those spirits can be regulated by the state laws. If that
is so and I do not wish to be misunderstood in

the vote I shall give on the question-I shall certainly vote against the
proposal.

The Hon. A. DEAKIN:
This proposal will only make spirits coming from Victoria capable of
being dealt with in the same manner as you have decided to deal with your own spirits!

Mr. LYNE:
How are we to keep a record of them? How are we to check them?

The Hon. I.A. ISAACS:
You do not need to check them at all. All liquor would be treated the same wherever it came from!

Mr. LYNE:
Does the hon. member mean to tell me that there is any provision in the constitution which will prevent them being dealt with in the same manner?

The Hon. A. DEAKIN:
Yes; the American decision shows it!

Mr. LYNE:
If that is so I should be quite prepared to vote for the amendment; but I want the Drafting Committee to make it absolutely clear that there shall be no check on free interchange across the borders between one state and another. If that is done I am quite prepared to accept the amendment, provided that the legal interpretation is correct.

The Hon. E. BARTON:
What is wanted by the amendment is to give certain powers of dealing with the sale as well as the consumption. The states at present have every power of dealing with the consumption of alcoholic liquors, and the constitution will give them every power. What is asked for here is that, inasmuch as they might have to deal with the importation, there shall be a power which will enable them to deal with the sale of goods in the package in which they are imported into the state.

Mr. LYNE:
Yes. The leader of the Convention says it is desirable to give the state power to prevent the importation. I do not want to give the state that power.

Mr. SYMON:
But this would do it!

Mr. LYNE:
One leading barrister on one side says it will do it, and another leading barrister on the other side says it will not. I do not think that, as between states, anything of this kind should take place.

Mr. MCMILLAN:
If the hon. member crossed the border, they would ransack his baggage, and see if he had any spirits in it!

Mr. LYNE:
I do not think that, as between states, that should be done. I wish it to be
clearly understood that we are not voting against leaving to the state the power of dealing with the regulation and the consumption of spirits inside the colony. I want to give a vote which will prevent the possibility of a state interfering with the importation, through the customs, of spirits. When it comes into the state, let the state have the control and the sale of it, but nothing further.

Mr. SYMON (South Australia)[12.14]:

With all due deference to the hon. member, Mr. Deakin, it seems to me that the amendment goes very much further than is intended, and the difficulty present in the mind of the hon. member, Mr. Lyne, is a real and substantial one. Undoubtedly the power which will be reserved to the state under the amendment would be a power which might be exercised to prevent all importation of liquor into the state. The position is this: that the state is to have the same power of dealing with imported liquor as with liquor manufactured within its own boundaries. That is clear, and, of course, on the face of it, there will be no difficulty; but the state will have the power of prohibiting the manufacture of liquor within its own boundaries, and of prohibiting the sale. The result under the amendment will be that it will have the power of prohibiting importation.

The Hon. A. DEAKIN:

We all agree to that!

Mr. SYMON:

If the Committee intend that shall be the result, so far so good; but if we adopt that course, and give this power of absolute prohibition to the state - a prohibition of sale which will be equivalent to a prohibition of importation-we give to the state the power of cutting away the whole of the customs duties arising-from the importation of those particular articles. That would disarrange and dislocate the whole of our fiscal policy. That, surely, cannot be the intention of the Committee for one moment.

The Hon. A. DEAKIN:

Where are state rights now?

Mr. SYMON:

The state rights are ample. The national power which is handed over is the power of controlling the customs revenue. If we hand over that which lies at the very basis of the federal system we band over that power. That we have agreed to give. That is a state right which we have surrendered; but if we surrender it with the one hand much as we value the rights of the states, we do not want to go through the extreme farce of taking it back with the other; and that is

The Hon. E. BARTON:
That is mere consumption!

Mr. SYMON:
Yes, consumption. Then it should be left entirely unrestricted, and that of course does not affect the substratum of all our federal system, namely, the control of customs and excise.

The Hon. E. BARTON:
Without this amendment it would be so under the bill!

Mr. SYMON:
That is what I venture to think; but if the desire of the Convention is to hand over to the state the power of abolishing the importation, manufacture, as well as the consumption of all liquor in the state, we ought to do it with our eyes open. I am not in favour of that, for the reason, as I say, that it cuts away the whole of the power of the national government over the federal customs in respect of that particular and prolific source of revenue. Without going into the question of the different views as to the consumption or use of alcoholic liquors, it is essential that power should be preserved to the respective states. The proposal, however, is going a great deal too far if it is to have the effect of retaining in the states the power of withdrawing from the federal government a very large portion of their revenue.

The Right Hon. C.C. KINGSTON (South Australia)[12.19]:
I understand the effect of the American decision is this: that if we retain the bill in its present shape we cannot prohibit the sale within a state by an importer of alcoholic liquor in the original package.

Mr. SYMON:
Why should we?

The Hon. I.A. ISAACS:
Or even to require a license for the sale!

The Right Hon. C.C. KINGSTON:
Thus the position is this: that the state in South Australia could legislate to prevent a winegrower selling to a third party a cask of wine of his own manufacture; but if that cask of wine were imported from another colony he could sell it without restriction. The position is monstrous, and I shall vote for the amendment.

Question-That the words (Victorian amendment) proposed to be inserted be so inserted-put. The Committee divided:

Ayes, 28; noes, 11; majority, 17.

AYES.
Abbott, Sir Joseph Higgins, H.B.
Berry, Sir G. Holder, F.W.
Briggs, H. Howe, J.H.
Question so resolved in the affirmative. The Hon. Dr. COCKBURN (South Australia)[12.25]: I wish to refer to a question of considerable importance that has been discussed before, but for which, so far, no provision has been made. I want to put in these words:

And the parliament may provide for the prohibition of the introduction of vegetable and animal diseases from one state to another.

This is very important to all the colonies, and it is important in a great degree to the colony of New South Wales. I do not want to take up time, but I should like to have these words inserted as an instruction to the Drafting Committee. At present the different colonies have these powers; but when the commonwealth comes into existence, under the clause relating to the equality of trade, any regulation or law made to this effect will be null and void. I would ask the representatives of all the colonies, what would that mean? We have at present unfortunately, decimating the herds of an adjoining colony, a disease known as "tick fever," which the people of New South Wales, Victoria, and South Australia proper, do not mean to allow to be admitted within their borders.

Mr. HIGGINS: You want to prevent the stock from coming in!

The Hon. Dr. COCKBURN:
We want the federal parliament to have that power if it pleases. Under this bill it will not have that power.

The Hon. I.A. ISAACS:
Why is it not sufficient to let the state protect itself?

The Hon. Dr. COCKBURN:
I do not think this Committee is favourable to giving the state that power.

The Hon. I.A. ISAACS:
It has got it, as to disease from abroad!

The Hon. Dr. COCKBURN:
No, it has not. I would be glad if the hon. and learned member could point out where the state has that power.

The Hon. I.A. ISAACS:
If the hon. member will look at clause 106, which is one adopted from the American Constitution, he will see that it provides:

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.

The Hon. J.H. GORDON:
That does not go as far as prohibition!

The Hon. Dr. COCKBURN:
I thought the hon. and learned member would probably allude to that clause, and I think he will see that it only gives the power of inspection, and the power to charge fees for inspection, and does not give the power to prohibit.

The Hon. R.E. O'CONNOR:
There will be power on the part of a state to prohibit!

The Hon. Dr. COCKBURN:
There will not be such a power, because any law made by a State, or even by the commonwealth parliament, which may have the effect of derogating from the freedom of trade or commerce will be absolutely null and void. A law prohibiting the passing of cattle over the border of Queensland into New South Wales will, to a great extent, interfere with freedom of trade. A law prohibiting the introduction of vines into South Australia, where we have no phylloxera, and where we mean to keep free from that scourge, would be interfering undoubtedly with freedom of commerce.

The Hon. I.A. ISAACS:
The leader of the Convention has said that he intends to amend clause 89!

The Hon. Dr. COCKBURN:
As long as I have an undertaking that the leader of the Convention will,
in any clause he may choose to name, provide for the placing of this very necessary power in the hands of the federal parliament, I am satisfied. I would rather see the power in the hands of the states, and in Adelaide I tried to get that brought about, but the Constitutional Committee were against me.

The Right Hon. C.C. KINGSTON:
I think the states would be the best authority!

The Hon. Dr. COCKBURN:
I endeavoured to enforce that view as a member of the Constitutional Committee in Adelaide, but I failed to do so. It was pointed out to me that if the power were left in the hands of a state it might use it in such a way as not only to protect itself from disease, but to derogate from freedom of trade and commerce, and to set up protection for certain producers within its own boundaries.

The Hon. E. BARTON:
I intend when we reach clause 89 to move an amendment which may possibly satisfy the hon. member. Would it not be well to take the discussion upon that clause?

The Hon. Dr. COCKBURN:
We have discussed, and arrived at a decision upon, the matter which has just been under consideration, and I do not see why we should not now arrive at a decision upon this question. It is a matter of vital concern to New South Wales. This colony does not want tick fever, and there must be some power to prohibit its introduction into the colony, by giving this power to the commonwealth parliament or to the state parliaments. If we do not adopt some means of preventing the ravages of disease, not only the stock owners of New South Wales, but the owners of the dairy herds of Victoria, and the vignerons and fruit-growers of South Australia will be found resisting federation, no matter what its advantages may be, feeling, as they might, that federation would be not only an opportunity for the introduction of freedom of trade but for the spread of disease. We should have my right hon. friend, Sir John Forrest, also protesting—and we know that he has taken measures which are, if anything, too stringent, to protect Western Australia from these pests; we know that he is keenly sensitive in these matters, from a desire to keep his colony free from disease. I wish to save a repetition of the debate, and, therefore, I would suggest that words should be inserted in this clause. They will be an intimation to the Drafting Committee to insert suitable words in any clause they may think proper. The words I propose to insert are to this effect:

And the parliament may provide for the prohibition of the introduction of
vegetable or animal disease from one state to another.
The Hon. S. FRASER (Victoria)[12.34]:

With regard to tick and other diseases, it will undoubtedly be the first
duty of the commonwealth parliament to localise any disease of the kind.
In South America they have localised the tick, and in Queensland it is now
localised. In Queensland they will not allow cattle to travel south of a
certain parallel; and if Queensland can localise a disease, would not the
dominion parliament be also likely to take a similar course if it were found
that any plague of the kind were not localised?
The Hon. Dr. COCKBURN:

I am proposing now to give power to do that!
The Hon. S. FRASER:

The time is now when the tick scare is passed and gone. Inoculation is
pretty well known to have been a complete success, so that, as far as that
particular disease is concerned, there need be no great alarm. Queensland is
much more in advance in the matter than was Texas, where they had the
plague for a hundred years. In Queensland Dr. Hunt and others have been
taking steps to guard against the spread of the disease, and they have been
eminently successful.
The Hon. E. BARTON (New South Wales)[12.36]

leave it to the state parliaments instead of to the commonwealth parliament
to deal with this matter. I am rather under the impression that the states
would know best to what extent the introduction of disease would affect
them. The commonwealth parliament will have to deal not with local but
with national interests, and I think it would be better, therefore, to leave
this matter in the hands of the individual states.
The Hon. Dr. COCKBURN:

When I made that proposal in Adelaide it was pointed out that the states
might misuse the power!
The Hon. E. BARTON:

If the power exists at all it should exist in the hands of the state subject to
its being annulled if it be found that the regulations made are merely a
cover for fiscal change, and are not for the bond fide purpose of excluding
a disease.
The Hon. Dr. COCKBURN:

I should be very much better pleased, if the leader of the Convention will
assist me in the matter, to see this power placed in the hands of the state
parliaments!
The Hon. E. BARTON:
The Drafting Committee will have time to-morrow to deal with various matters, and I think we shall be able then to frame a clause which can be considered by the Convention on Friday, dealing with the hon. members suggestion.

The Hon. Dr. COCKBURN:

I merely wished to save time now. I feel that the common-sense of the Convention will insist that some power of the kind should be given to some authority in the commonwealth.

Mr. SYMON (South Australia)[12.38]:

Surely the states have not taken from them the right to pass such measures as would be necessary for the health of their citizens and their flocks and herds. I think it would be monstrous to say that this constitution extended, so as to prohibit that which is peculiarly a state interest, from being adequately protected.

The Hon. I.A. ISAACS (Victoria)[12.39]:

As I shall not be here after today, I should like to say as to this matter that, no doubt, the leader of the Convention, and my hon. friends who are associated with him upon the Drafting Committee, will give consideration to the question whether it is necessary and advisable to put in special words as to the states' right to do a certain thing of this kind, that is, by way of specifying it in this instance, and omitting the specification of a thousand and one other instances of equal importance. I think that we should frame our constitution carefully, so as not to take away the rights of the states in such a matter as this. My hon. friends will also bear in mind the immense power that, in the United States Constitution, there is still residing in the states over such a case as this, under what are known as police powers. Under those police powers the states have, as has been held by the highest tribunal of the United States, the fullest means of protecting the lives, the health, the safety, and the comfort of their residents, so long as they do not entrench upon the specific powers given to the United States Central Government, for the benefit of the general community. It has always power to draw the line between the two, and a great number of decisions have been given, and it is admitted that the Supreme Court of the United States has held the balance fairly. Questions have arisen from time to time as to how far the states have exceeded their powers when they have excluded paupers, criminals, and goods, and every time the courts have strenuously upheld the rights of the states to do it, so long as they do that in honest and bona fide protection of their own citizens; but, wherever their actions went beyond that, and entrenched on the inter-state commerce provisions of the constitution entrenched upon the provisions
that applied to the national government—the court has not failed to put down its strong hand, and insisted that the statute of the state was unconstitutional, and in that way has held the balance fairly. So long as that is done, while giving the commonwealth parliament the fullest power to protect the national interests, I think there will be no difficulty in the state protecting its own individual interests the same as the states of the United States do now.

The Hon. R.E. O'CONNOR (New South Wales)[12.42]:

It may be interesting for the hon. and learned member, Dr. Cockburn, to hear this very concise statement of the law of the United States, which would be exactly applicable to this proposed constitution, and very much on the lines that the hon. and learned member, Mr. Isaacs, has just stated. I am citing from a well-known book, Ordronaux's "Constitutional Legislation." At page 296 he says this:

By, parity of reason addressed to the protection of the public health, states may exercise their police powers to the extent of prohibiting both persons and animals, when labouring under contagious diseases, from entering their territory. They may pass any sanitary laws deemed necessary for this purpose, and enforce them by appropriate regulations. It is upon this reserved right of self-protection that quarantines are permitted to interfere with the freedom of commerce and of human intercourse. But this power is not without its limitations, and its exercise must be restricted to directly impending dangers to health, and not to those who are only contingent and remote. Hence, while diseased persons or diseased animals, and those presumably so from contact with infected bodies or localities, may be prevented from entering a state, any general law of exclusion, measured by months, or operating in such a way as to become a barrier to commerce or travel, would be a regulation of commerce forbidden by the constitution. Such a statute being more than a quarantine regulation, transcends the legitimate powers of a state.

So it is quite clear that all the powers are left in the state, which are necessary for the preservation of the health of the inhabitants and of the property by the state. Those powers would include power to deal with such diseases in the vegetable world as the hon. and learned member; Dr. Cockburn, has spoken of, and also with animal diseases. It was suggested in Adelaide that these powers might be used in such a way as to have a protective influence in favour of certain states.

Mr. SYMON:

That would be in conflict with the constitution!

The Hon. R.E. O'CONNOR:

I was going to point that out. There are a number of decisions in
America, as has been pointed out by my hon. and learned friend, in which on that very ground or similar grounds it has been held that the law, not being a bona fide exercise of the police powers, is not within the powers of the state. Of course, there is another question behind all that, which I think is a very important one, that is, considering the immense traffic, say, in cattle, that there is right across this continent, the infrequency of habitation, and the difficulties of enforcing the quarantine laws from state to state, whether such a disease, for instance, as the tick disease should be dealt with by the authority of the commonwealth instead of by the states themselves. It is a very important question, and there are many difficulties in the way of its being dealt with by the federal authority. One of the chief of them is, I think, the impossibility of the federal authority administering an act of that kind without having an enormous array of officials and immense expenditure. As we all know, there are in each colony laws-affecting contagious diseases of cattle or sheep, and they are all administered by local bodies, The machinery and administration are simple, and the laws are cheaply worked in the various districts themselves. But if you place them under the federal movement, to be operated by federal officers, you render an

immense machinery necessary to carry out the very simple objects which are carried out by the local bodies at the present time. It appears to me that the balance of reason is in favour of leaving things as they are, leaving power in the states to deal with all those matters that come under the head of police powers in the United States, the infection of animals, the infection of vegetables, the introduction of, animal and vegetable diseases. There is ample power to deal with them, and I think that the matter might be left in that way.

The CHAIRMAN:

I would point out that there is no question of quarantine or quarantine regulations before the Committee.

The Hon. Dr. COCKBURN (South Australia)[12.47]:

I think we should renew this debate at some future period. In reply to the hon. and learned member, Mr. O'Connor, I may say that I am not at all sure that our proposed constitution does not go further in reference-to free-trade between the states than the American Constitution does, and therefore, it might require some further provision in view of the very strong words which it contains, although such a provision might not be necessary in America. Words simply prohibiting the introduction of actual disease would not be sufficient. I admit that the decision which has been quoted
relates also to anything that has been in contact with any disease in anyway. But it would be necessary in many cases actually to prohibit the introduction of all cattle and all vegetables of a certain character. If Queensland were to relax her local quarantine regulations, it might be necessary for the adjoining colony to prohibit a single hoof of cattle from crossing the border, and this might be held to be an absolute derogation from freedom of trade, unless there were special provision in the constitution dealing with it. It might be necessary for South Australia to prevent the importation of any portion of a vine, and this might be said to seriously derogate from freedom of trade between the colonies. I ask the Drafting Committee to be exceedingly careful in the matter. I think the power does not exist, and I am sure that it should exist for otherwise we should find that the opposition to this constitution bill, if it is assumed that there is no such power given, would be of a very fierce and vehement character.

Mr. HIGGINS (Victoria)[12.49]:

I think that I can reassure the hon. and learned member to some extent. He has raised an important point, and I do not think that we should reserve these important points until we meet in Melbourne, but should settle them now if we can do so.

The Hon. E. BARTON:

In how many weeks? We have not finished one provision in two and a half hours!

Mr. HIGGINS:

But this is one of the most important parts of the bill. I think it is our duty, not to have tentative solutions, but to make the best solution we can, and I feel, now that this question has been raised, it is our duty to devote ourselves to it. The hon. member is quite right in saying that the proposed bill goes further in the direction of providing for free intercourse and freedom of trade between the states than does the American Constitution. It goes much further.

An Hon. MEMBER:

By reason of the general words in clause 89. It is proposed to eliminate those words!

Mr. HIGGINS:

Yes; I made a note of that. It is perfectly clear that under the American Constitution a state can make a law preventing the sale within its own borders of animals having any disease, and to prevent the introduction of such animals, into its territory.

The Hon. Dr. COCKBURN:
There is no doubt about that!

**Mr. HIGGINS:**

The hon. and learned member is quite right in saying that if clause 89 remains as it is the states of the

Australasian commonwealth will have no such power. A good example of the application of this law in America is given at page 104 of Baker's "Annotated Constitution of the United States":

The statute of Minnesota approved April 16th, 1889, entitled "An act for the protection of the public health, by providing for inspection, before slaughtering of cattle, sheep, and swine designed for slaughter for human food" is unconstitutional and void in so far as it requires, as a condition of sales in Minnesota of fresh beef, veal, mutton, lamb, or pork for human food, that the animals from which such meats are taken shall have been inspected in that state before being slaughtered. The inspection thus provided for is of such a character, or is burdened with such conditions, as will prevent the introduction into the state of sound meats, the product of animals slaughtered in other states.

To make an inspection law was prima facie within the powers of the state of Minnesota; but the state legislature went beyond its powers in enacting an act which provided for an inspection of such a character as to interfere with the sale in Minnesota of meat brought from other states. Under the bill, as it stands, measures to prevent the introduction of tick will be beyond the powers of the states to enact. Under the American Constitution, full power is given to provide against the introduction of tick into a state; but if in preventing the introduction of tick or other disease, an undue interference with the course of trade is created, which protects one state against the other states, the courts will interfere, and say

**The Hon. E. BARTON (New South Wales)[12.53]:**

I intimated a little earlier - I do not know that the hon. and learned member, Dr. Cockburn, heard me—that I intended to make clause 89 read in this way:

So soon as uniform duties of customs have been imposed, trade and intercourse throughout the commonwealth is not to be restricted or interfered with by any taxes, charges, or imposts.

If this amendment is made, the matter maybe considered in connection with clause 99, which provides that:

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 parliaments of the several states, are reserved to, and
shall remain vested in, the parliaments of the states respectively.

At the present time this power exists in all the states; but if the amendments I have suggested be carried the prohibition of the importation of diseased animals or plants will not be a matter of taxes, charges, or impost. Therefore, the power to prevent the introduction of diseases would still remain with the states, except in so far as any state law was found to be an intentional derogation from the freedom of trade. I think that if we amend clause 89 in the way I suggest the object of the hon. and learned member, Dr. Cockburn, will be met; but if it is not met I will undertake to deal with the matter in any way that he suggests.

The Hon. Dr. COCKBURN:
I am quite satisfied!

The Hon. I.A. ISAACS (Victoria)[12.56]:
Will the hon. and learned member also take note in this connection of the concluding words of clause 95? That clause must be brought into accord with clause 89 as amended. I would also point out with regard to the word "country" that some little difference of opinion may arise as to the meaning of that word. The sub-clause relates to "countries" and to "states." "States" we know are such parts of Australia as are within the commonwealth. If any colony stands out it may be a little doubtful whether it will be a "country." Would Queensland, if it stood out, be a "country"?

The Hon. R.E. O'CONNOR:
A territory would be either a state of the commonwealth, or another country!

The Hon. I.A. ISAACS:
The word "country" might mean an independent state.

The Hon. E. BARTON:
I will keep the matter in mind, though I fancy it is all right!

Sub-clause 1 agreed to.

Sub-clause 2. 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:

Amendment suggested by the Legislative Council of New South Wales:
To leave out the words "Customs and excise and bounties, but."

The Hon. E. BARTON:
It was intended by this amendment to make subclauses 1 and 2 read
together in this way:

The regulation of trade and commerce with other countries, and among the several states; 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.

The object was to confine the regulation of trade and commerce to the enforcement of uniformity in duties. That was one reason; but I am bound to say that there was another reason. It was stated by one or more gentlemen concerned in the amendment, that it was the preliminary step to the prevention of the commonwealth having anything to do with the collection of customs duties.

The Hon. I.A. ISAACS (Victoria)[2.2]:

I wish to draw attention to the very important question of excise. A very valuable report has been drawn up in Victoria by an Accountants Committee, composed of gentlemen of considerable experience and recognised worth, namely, the Secretary for Trade and Customs, Dr. Wollaston; Deputy Commissioner of Taxes, Mr. Bruford; Accountant of the Treasury, Mr. S.T. Allen; Acting Accountant, Post and Telegraph Department, Mr. Cumming; Assistant Government Statist, Mr. Fenton. At the request of the Government they drew up a report which will be found valuable, in connection with the financial proposals generally. On this particular clause there is a very full reference to the meaning of the word excise." At the present day the word excise " has a very much wider meaning than we intend in this bill. It includes in England all auctioneers' licenses, gun licenses, licenses of various descriptions, taxes on carriages.

The Hon. E. BARTON:

Does it not include those by definition?

The Hon. I.A. ISAACS:

I do not think so. What we intend by excise would be covered by the definition in this report, "a duty chargeable on the manufacture and production of commodities." The word is variously defined in standard dictionaries. We should give attention to this matter, so as not to be carried further than we intend to go. In modern times, excise is used as a very wide term.

The Hon. E. BARTON:

In the American Constitution do they not use the words "customs and excise"?

The Hon. I.A. ISAACS:

I do not think so in this sense. They get all their powers under the heading "regulation of commerce with foreign nations and among the several states."
The Hon. E. BARTON:

May I refer the hon. member to the second part of the first paragraph of section 8 of the United States Constitution, in which it is provided that duties, imposts, and excises shall be uniform throughout the United States. It is quite clear that the word "excises" is used there in the sense of excise on the manufacture of commodities. It has been held all along that it does not interfere with the regulation of trade by way of licenses by the states.

The Hon. I.A. ISAACS:

The word "excise" has a different meaning I am sure. It is called in some work "internal revenue." The word "excise," as used in the American Constitution at that time, would probably have a very different meaning from what we now understand by it. I should like to direct the hon. member's attention to the latter part of the sub-clause. After stating that the customs, excise, and bounties should be in the competency of the federal parliament, and providing for uniformity, it goes on to say, "and that no tax or duty shall be imposed on any goods exported from one state to another." A little difficulty exists in the minds of some people as to what relation that bears to customs, excise, and bounties. It would be worth considering whether it should be placed under that provision at all. In the United States it is under another department altogether and has a different relation. The provision there is in section 9 of article 1, sub-clause 5. That sub-clause is included among the powers which are denied to the United States; that is to say, powers which are expressly kept back from the federal parliament, and it is intended to say to them, "While you have in general terms plenary powers as to commerce between the various states and between the states and other countries, yet you must not put on an export duty in respect of any goods exported from a state, no matter to what place the exportation goes. Putting the provision in this place may be the means of giving it a different meaning. First of all, it is limited to goods exported from one state to another, so that it would be open to put an export duty on goods going, say, from South Australia to England or to any other place not being in the commonwealth.

The Hon. J.H. GORDON:

Would that be objectionable?

The Hon. R.E. O'CONNOR:

An export duty could not be imposed on goods coming from one state and not on the same goods coming from another state.

The Hon. I.A. ISAACS:

An export duty would not, I take it, be customs. It would hardly be
excise, and it would not be a bounty. I will not be here to-morrow, and perhaps I may be permitted to draw attention to clause 106. That clause would not under the decisions of the United States courts, apply to any exports or imports between states. It applies solely to imports and exports as between the commonwealth and foreign countries. It is important to remember that. In connection, too, with what the hon member, Dr. Cockburn, said this morning, it would hardly apply to meet the case he wanted as between the colonies; but under a well known decision of the United States courts it is restricted to the case of imports from abroad.

The Hon. R.E. O'CONNOR:

How will that limit the construction so that it will apply only to exports to foreign countries, and not to a state?

The Hon. I.A. ISAACS:

The history of the case to which I refer was gone into by a learned judge-Justice Miller. He said that the reason of it was this: that a state was not to be allowed to levy any charge upon goods coming into the commonwealth from abroad, except for the purpose of executing the inspection laws of the state; that it was part and parcel of the United States Constitution; that in no case should a state have the right to put a duty on as between itself and any other states; but it had a right to protect itself from imports from foreign countries, so far as was necessary to execute its police powers. He went into the history of the whole matter. It would take up too much time to go through it now; but I will give my hon. and learned friend the name of the case and the reference, and he will find from the judgment that the whole matter is dealt with in a masterly manner, historically, and legally.

The Hon. J.H. GORDON:

Will the hon. member point out any objection to a state being allowed to impose an export duty on its own products, so long as between the states the interchange on that product is free?

The Hon. I.A. ISAACS:

There is no case that I know of where the state would be allowed to impose an export duty.

The Hon. J.H. GORDON:

Is there any reason why it should not be so?

The Hon. I.A. ISAACS:

It would interfere with the commerce as between the commonwealth and other countries, or between the state and other states, and the object of the Commonwealth Bill here, as of the United States Constitution there, in respect of trade and commerce, is to have uniformity of trade as soon as
that trade ceases to be confined to the limits of the particular state. In relation to other countries the United States is one. In relation to the other states, no state is to get a preference; therefore, it is, in fact, according to the constitution itself, and according to the decisions, undoubted law that as long as the state commerce is internal no one has a right to say that it shall not be under the control of the state. As soon as it ceases to be confined to the state itself it then comes under the general supervision of the national government.

The Hon. R.E. O'CONNOR:

It would take away the power to make commercial treaties if one state had a right to impose an export duty!

The Hon. I.A. ISAACS:

Yes. I have made these observations because it seemed to me important to bear the matter in mind.

The Hon. E. BARTON (New South Wales)[2.17]:

I am very much obliged to the hon. member for pointing out these matters. The first part of his remark, taken in connection with the able paper which has been written by the hon. gentleman whom he named, will, I think be a great assistance to the Convention. As far as the drafting matter is concerned I think we may promise that we will see if there is an necessity

In the earliest English excise ordinances, introduced by Pym, in 1643, the excise duty imposed was on the manufacture of commodities; but since that date, there have been constant additions to the taxable list.

That is illustrated by references to the cases in English legislation, in which the name of "excise" has been applied, even to such cases as licenses granted to auctioneers. The paper goes on to say:

Although in Great Britain the original meaning of the word is being restored to that which it bore in Pyms ordinance-and the substitution of Inland Revenue Commissioners for Excise Commissioners is evidence of this-yet the meaning is not sufficiently certain to allow of the word standing without a definition, and we would suggest that it should be defined as follows: "Excise' shall mean the duty chargeable on the manufacture and production of commodities."

They go on to show that, in all the tables they use, they have adopted that meaning. I am rather under the impression that, looking at the interpretations which have been given to excise in the sense in which that term is used in the Constitution of the United States-and we know that the meaning given to it has been such as not to interfere with the regulation of their own internal concerns by the states on such matters as the granting of licenses to hawkers, auctioneers, and so on-I am rather of the opinion that
the use of the word as it occurs in this bill will be held to carry with it the same meaning; but, if on consideration we find there is any doubt about that, I think it will be a comparatively easy matter to provide for it. I quite recognise the force of the remarks of the hon. member with regard to clause 106.

**The Hon. I.A. Isaacs:**

I may mention that the cases to which I refer are those of Woodruff versus Parham (8 Wall 123), and Brown versus Houston (114 U.S. Ref.). The first case is the one, if I remember rightly, in which Justice Miller delivered judgments showing the whole of the reasons.

Amendment negatived; sub-clause 2 agreed to.

Sub-clause 3. Raising money by any other mode or system of taxation; but so that all such taxation shall be uniform throughout the commonwealth.

Amendment suggested by the Legislative Council of New South Wales:

That sub-clause 3 be omitted.

**The Hon. E. Barton (New South Wales)**[2.19]:

This is another matter in which the Legislative Council of New South Wales were under the impression that too much revenue-raising power would be given to the commonwealth, and that the result would be over-taxation. I urged, without avail, that, if the commonwealth had to raise a certain amount of money, if it had not the right to raise it by other sources of revenue than customs, it would still raise the same amount, and the aggregate of taxation would be the same, but that argument did not prevail.

Amendment negatived; sub-clause 3 agreed to.

Sub-clause 4 (Borrowing money on the public credit of the commonwealth) agreed to.

Sub-clause 5. Postal, telegraphic, telephonic, and other like services.

Amendment suggested by the Legislative Assembly of South Australia:

At end of sub-clause add, "outside the limits of the commonwealth."

Amendment suggested by the Legislative Assembly of Western Australia:

At end of sub-clause add, "outside the limits of any state."

**The Right Hon. Sir John Forrest (Western Australia)**[2.21]:

The reason why this proposal came from the Legislative Assembly of Western Australia was that there seemed to be a general opinion that postal and telegraph matters inside the colony could be better managed by the local government than by the federal government, especially at the present time, and for many years to come. I do not mean to say that if we were a settled country, with all our telegraph lines built, or the main portion of
them, there would be any necessity for this proposal. But, seeing that these colonies are only in their infancy, and that their post and telegraph systems are part of the social life of the community, it seemed to us that to intrust to a far away authority the building of telegraph lines and the extension of postal services, would be most vexatious. When we wanted to build a line of telegraph for a distance of 10 or 12 miles, or to establish a new post-office, perhaps only a dozen miles away from an existing post office, it would be obviously inconvenient to have to communicate with the central government. It seemed to us that to intrust local requirements of that kind what might be called every day occurrences to a far away authority would be vexatious, and lead to a great deal of friction. Although there may, perhaps, be some objection to this proposal, still, I feel sure that in all the colonies, and especially in the colony I represent, there is a very strong feeling that we should not hand over the local post and telegraph services to the control of the commonwealth. We quite admit that it is of national importance that there should be a federal union in regard to the post and telegraph services, and, as a matter of fact, such a union now exists. As far as the commonwealth is concerned, it is not necessary to have a federal government in order to federalise the post and telegraph services, because they are federalised at the present time. There is a thorough understanding, not only between these colonies, but throughout the whole of the British Empire, and indeed I may say throughout the world, in regard to the post and telegraph services. Everyone knows of the Postal Union, and I think every one of the colonies is now embraced in that union. So that there would be no advantage in a federal control of the post and telegraph services, because in this respect we are already federalised. But while we are federalised, and have all the advantages of federal Union in regard to postal matters, money orders, and all things appertaining to that service, still we have complete control over our own telegraph system, the building of telegraphs, and the arrangement of our postal services. For my part, I see no reason why the present system should not continue, as it works exceedingly well, and there is no friction between the colonies with regard to postal matters. They have conferences now and again to arrange matters, and I see no reason why the present system should not continue, instead of the service being handed over to the federal government. There maybe reasons why it should be part of the federal machinery. If that is the case, the only course open to us is to ask that the federal government shall have power only outside the limits of the commonwealth, and should have no authority within the states, with regard to these matters.

Question-That the words proposed to be added (South Australian
amendment) be so added-put. The Committee divided:
      Ayes, 10; noes, 24; majority, 14.
      AYES.
      Briggs, H. Kingston, C.C.
      Cockburn, Dr. J.A. Lee-Steere, Sir J.G.
      Douglas, A. Venn, H.W.
      Forrest, Sir J.
      Gordon, J.H. Teller,
      Holder, F.W. Crowder, F.T.
      NOES.
      Abbott, Sir Joseph Howe, J.H.
      Barton, E. Isaacs, I.A.
      Berry, Sir G. Leake, G.
      Braddon, Sir E.N.C. Lewis, N.E.
      Brown, N.J. Lyne, W.J.
      Brunker, J.N. O'Connor, R.E.
      Deakin, A. Quick, Dr.J.
      Dobson, H. Solomon, V.L.
      Glynn, P.M. Symon, J.H.
      Hackett, J.W. Zeal, Sir W.A.
      Henning, A.H.
      Henry, J. Teller,
      Higgins, H B. Walker, J.T.
      Question so resolved in the negative.
      Sub-clause 5 agreed to.
      Sub-clause 6. 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.
      Amendment suggested by the Legislative Assembly of South Australia:
      Transpose words "military" and "naval."
      The Hon. E. BARTON:
      This is a matter, I think, which it would be well to leave to the Drafting
      Committee.
      Sub-clause agreed to.
      Sub-clause 8 agreed to.
      Sub-clause 9. Ocean beacons and buoys, and ocean lighthouses and
      lightships.
      Amendment suggested by the Legislative Assembly of Tasmania:
      Omit "ocean," wherever occurring.
      The Hon. N.J. BROWN (Tasmania)[2.32]:
      The reasons given, I believe, for omitting the word "ocean" were placed
before the Tasmanian legislature by a nautical gentleman who has taken part in several conferences on lighthouses and other matters under the control of the Marine Board. He pointed out that it was absolutely impossible to define what was an ocean light and what was not.

The Hon. E. BARTON:
I presume the word "ocean" is used to make a distinction between ocean and river beacons!

The Hon. N.J. BROWN:
The gentleman to whom I refer, a member of the Marine Board at Hobart, said that he had come to the conclusion, which I have mentioned, as the result of the experience of the board—that often what was from one point of view a river beacon or light was from another point of view an ocean light, and vice versa. He said that if it were intended to place all these matters under the control of the federal authority, as he presumed it was, he recommended strongly for the reasons I have given that the word "ocean" should be struck out. I do not profess to have any technical knowledge of the subject. I simply state the reasons which were advanced for striking out the word.

The Hon. Dr. COCKBURN (South Australia)[2.34]:
I think this amendment is quite right. We hope to see some of our navigable rivers, if not the whole of them, under the control of the Commonwealth, and the clause as it stands would limit too strictly the definition. The commonwealth would not be able to interfere with some small buoy or beacon on some out of the way stream unless the stream was under its control, and if the stream were under its control it would be necessary that it should have control of buoys and beacons.

The Hon. J. HENRY (Tasmania)[2.35]:
I think this amendment deserves some consideration. I very much regret that the right hon. the Premier of New South Wales did not comply with my suggestion that the report of a commission of marine experts dealing with this question, which was presented some three or four years ago, should be laid upon the table. In that report the marine experts say that they experienced the greatest difficulty in distinguishing between what were ocean lights and what were harbour lights. As to buoys and beacons, I fail to see why the federal government should have control over buoys and beacons at all. I am not aware of any ocean buoys and beacons. All that I am acquainted with are confined to harbours.

Mr. SOLOMON:
No, take Torres Straits!

The Hon. J. HENRY:
Are they ocean beacons?

Mr. SOLOMON:

Yes!

The Hon. J. HENRY:

I was not aware of that. There is a number of beacons in Port Philip, which may be regarded as an inland sea, and it would be most difficult in that case to distinguish them from ocean beacons. The commission to which I refer found it so difficult to distinguish between ocean and harbour lights that they gave the thing up in despair.

The Hon. E. BARTON:

When was their report presented?

The Hon. J. HENRY:

Some three or four years ago, I understand. The report was not printed; but I think the papers are available in this colony. A similar difficulty to that experienced by this commission of experts may be experienced by the federal parliament when they come to inquire into what are ocean and what are harbour lights, and also as to what are ocean buoys and beacons. If there be any ocean beacons in Torres Straits, the federal parliament might have control of them; but if you take the ordinary buoys and beacons in Port Phillip, for instance, which is an inland sea, they should be under the control of the local marine authorities. I think it would be better to strike out the word "ocean" altogether, and to allow the federal parliament to take over the control of all lighthouses. It is obvious that buoys and beacons can be best managed and controlled by the local marine authorities. I forget what the figures were; but I think it was found that there were 200 or 300 lighthouses in regard to which the commission was unable to distinguish and separate harbour from ocean lights.

The Hon. A. DOUGLAS (Tasmania)[2.38]:

I am afraid the same difficulty will arise if you strike out the word "ocean." Ocean buoys and beacons are properly in the hands of the federal government; but it is not intended that their control shall apply to harbours. In Tasmania, we have some navigable rivers. At the heads are what may be termed ocean lights; but, if you take the Tamar from beginning to end of the 30 or 40 miles of river, you will find a number of buoys and beacons. There is one almost every half mile or mile, and it seems absurd that these should be handed over to the federal government. On the other hand, ocean lights are easily defined. On going up Port Phillip Bay, you find buoys and beacons in all directions, and surely they are not to be put under the federal government? They should be under the local harbour trust. The gentleman
at whose instance this Amendment has been made—who profess to be a navigator has had some little difficulty in connection with these matters in connection with the Marine Board. These are really local matters, and can only be effectually managed by the local harbour trust. This question was well considered by a portion of the Tasmanian Parliament, who could not agree with the suggestion made by the Legislative Assembly. I hope that the word "ocean" will not be struck out.

The Hon. E. BARTON (New South Wales)[2.41]:

The insertion of the word "ocean" is intended to preserve the line of demarcation that generally exists between federal powers and state powers, the commonwealth being intrusted with matters that are external, and matters of internal regulation, being intrusted to the several states. I take it that an ocean light is such a light as enables a ship to find her way on the ocean when she is trying to make port. We are leaving the control of, and the revenue from, services connected with this matter in the hands of the states. Any dues that may be collected for the use of their harbours belong to them, and the same as regards the rivers, and it is out of that revenue that they can make provision by way of setting up beacons for guidance by day or night, and lights for night. The proper source of revenue from which to use these provisions for the lighting of harbours and rivers are the dues derived for the use of the harbours and rivers, and as these remain in the hands of the states, it is right that the states should undertake the slight burden of lighting, as a matter of internal concern, its harbours and rivers, whilst the external provision for enabling the commerce of the commonwealth to reach the commonwealth is a matter of regulation that may fairly be left to the commonwealth. I do not think that with lines of demarcation of that kind there will be any serious difficulty in saying what an ocean light or what a harbour light is. The difficulty that now arises is because experts in this, as in everything else, are in the habit of running away from a common-sense view of matters.

Amendment negatived; sub-clause 9 agreed to.

Sub-clause 10-Astronomical and meteorological observations-agreed to.

Sub-clause 11. Quarantine.

The Hon. R.E. O’CONNOR (New South Wales)[2.43]:

I think there is a matter connected with this clause which deserves consideration. In the first place, we ought to be clear in our minds what we intend to, cover by the word "quarantine" The word "quarantine" in its original meaning no doubt applied only to the quarantine of ships—the quarantine of forty days required under the old laws for the purification of a ship from disease. But I think the meaning of quarantine has gradually, extended much beyond that, and the word is now applied to an enclosure to
prevent diseases that have been contracted on board ship from spreading to the land. It means general powers of isolation in all cases. I think we ought, in the first place, to decide whether we intend to interfere with the general health powers which the states now possess, and ought, perhaps, to retain, or only with those matters which are generally spoken of as marine quarantine. The question is whether we should give power to the commonwealth under any circumstances to legislate in regard to those matters that belong to the care of the public health in the different states?

The Hon. I.A. ISAACS:

They would not do that, unless they thought that the health of other states was concerned!

The Hon. R.E. O'CONNOR:

This is one of those cases in which we should first of all decide on a policy, and then make a definite provision. As to what the policy should be, it appears to me that the commonwealth power should extend only to those matters that affect the health of the commonwealth from outside. Therefore I am prepared to move:

That the word "quarantine" be omitted with a view to insert in lieu thereof the words "public health in relation to infection or contagion from outside the commonwealth."

I will point out one reason why a provision of that kind is necessary. Supposing that all the colonies were not included in the federation, you might have smallpox, or some other contagious disease, in one colony which was not in the federation, and along the whole line of the boundary it would be necessary to make exactly similar provisions to those which would have to be made at the seaports. Now, under the head of "quarantine" I doubt very much whether such a power would be included; whereas if you say that the power is to be over matters connected with the "public health in relation to infection or contagion from outside the commonwealth," you state accurately what you mean." It appears to me that those words cover every possible case you want to deal with, and would make a line of demarcation between diseases that arose or spread within the states themselves which is a matter that ought to be dealt with by the health authorities of each state -and diseases that arose outside, which undoubtedly could be dealt with properly only by one authority for the whole commonwealth. In the first place, as far as policy is concerned, that is a matter for the Committee to decide. If hon. members decide as to policy, then how it is to be expressed is more or less a matter of drafting. But if the matter is considered worthy of consideration, I will move the
insertion of the words I have suggested.

The Hon. I.A. ISAACS (Victoria)[2.48]:

I hope that the hon. and learned member will not move an amendment to that effect. I think that the meaning of the word "quarantine" is pretty well known. There is no doubt that leaving the sub-clause as it is preserves to every state the power that it now has to make laws in relation to all such subjects. It does not vest an exclusive power in the commonwealth to pass such laws. The state can pass its own law, and alter it as it pleases; but I think it is well to do as was done in the Canadian act in that respect-to give a power which the commonwealth might, in case of emergency, employ for the sake of the general health power to make a law respecting quarantine, as it is generally understood, so as to preserve all the ports of the commonwealth, not only from infection from abroad, but also from the danger of any infection which might have reached one port of the commonwealth spreading to the rest of the commonwealth. I think that there is no great harm in retaining the word "quarantine," and that, if we were to eliminate this word, the day might come when we would very much regret having done so.

The Hon. R.E. O'CONNOR:

The subclause as it stands now provides for the quarantine of animals.

The Hon. I.A. ISAACS:

I believe it would include the quarantine of animals if those animals when slaughtered would go into consumption as food, and might thereby affect the public health.

The Hon. Dr. COCKBURN:

What about the quarantine of dogs?

The Hon. I.A. ISAACS:

I think that the federal parliament should have the power to deal with this matter if it thinks fit to do so, While the states might be left to protect themselves, surely, no harm would be done if we enabled the federal parliament to do more than any state could do, that is, give protection to the whole commonwealth.

The Right Hon. Sir E. BRADDON (Tasmania)[2.52]:

At the present time an arrangement has been come to by the joint action of the various colonies in regard to the quarantine of animals. The inspectors of stock meet from time to time, and agree to regulations which are afterwards enforced by their various governments.

The Hon. I.A. ISAACS:

But any one of the colonies may at any time withdraw from the compact!
The Right Hon. Sir E. BRADDON:
Yes. Of course it is not desirable that any colony should withdraw.

The CHAIRMAN:
Does the hon. and learned member, Mr. O'Connor, intend to move an amendment?

The Hon. R.E. O'CONNOR:
No. I see that there is sufficient reason for leaving the words in the clause. I drew attention to the matter because I thought it was worthy of consideration, and when we meet again perhaps some improvement may be suggested.

Sub-clause 11 agreed to.
Sub-clause 12 (Fisheries in Australian waters beyond territorial limits).
Amendment suggested by the Legislative Council of South Australia:
Add "and in rivers which flow through or in two or more states."

The Hon. J.H. GORDON (South Australia)[2.55]:
The argument which was used in support of the suggested amendment was that no coherent or consistent control of fisheries in a river could be exercised by any one state where that river ran through two or more states.

Question-That the words proposed to be added be so added--put. The Committee divided:
Ayes, 13; noes, 19; majority, 6.
AYES.
Brown, N.J. Howe, J.H.
Cockburn, Dr. J.A. Kingston, C.C.
Crowder, F.T. Lee-Steere, Sir J.G
Downer, Sir J.W. Quick, Dr. J.
Forrest, Sir J. Solomon, V.L.
Glynn, P.M. Teller,
Holder, F.W. Gordon, J.H.
NOES.
Abbott, Sir Joseph Isaacs, I.A.
Barton, E. Lewis, N.E.
Berry, Sir G. Lyne, W.J.
Braddon, Sir E.N.C. O'Connor, R.E.
Brunker, J.N. Symon, J.H.
Carruthers, J.H. Venn, H.W.
Deakin, A. Walker, J.T.
Dobson, H. Zeal, Sir W.A.
Hackett, J.W. Teller,
Higgins, H.B. Wise, B.R.
Question so resolved in the negative.

The Right Hon. C.C. KINGSTON (South Australia)[2.58]:

I should like to suggest to the Drafting Committee that they might consider a couple of points in connection with this sub-clause. The first is the substitution of the word "Australasia" for the word "Australia." "Australasia" is the term generally employed throughout the bill. The other point, which is more important, is that some provision might be inserted defining the term "Australasian waters." I do not know if the hon. and learned member, Mr. Barton, is satisfied in his own mind as to what meaning would be attached to the term. I think that there was some provision in connection with the Federal Council by which, under an imperial order, these waters were defined; and legislation was adopted by the colony of Western Australia and Queensland in [P.1074] starts here

the exercise of powers conferred on the council in regard to these matters. The clause applies only to matters beyond territorial limits, which increases the difficulty.

The Hon. E. BARTON (New South Wales)[2.59]:

This is a matter of very great difficulty, and it may be that it will have to be provided for by a definition. However, the subject will come under the consideration of the Drafting Committee, and I hope some more concise provision may be determined upon. The existing provision seems to me a possible source of confusion.

Mr. SOLOMON (South Australia)[3]:

Is the hon. and learned member, Mr. Barton, aware what the international law is with regard to these fisheries? I mention it specially because in the northern portion of Australia, when pearling boats proceed from Thursday Island and Port Darwin to the coasts of New Guinea and Macassar, the Dutch men-of-war interfere with vessels outside an 8 or 10 miles limit of the coast. I would ask attention to be given to the question as to what should be the limit of Australasian control in adjacent waters, and information might be obtained as to the exercise of authority by those foreign nations in the waters adjacent to their coasts.

Sub-clause 12 agreed to.

Sub-clauses 13 and 14 agreed to.

Sub-clause 15. Banking, the incorporation of banks, and the issue of paper money.

Amendment suggested by the Legislative Assembly of New South Wales, and the Legislative Council of Tasmania:

After "banking" insert "excluding state banking not extending beyond the limits of the state concerned."
Amendment suggested by the Legislative Assembly of Victoria, and the 
Legislative Council of South Australia:
After "banking" insert "excluding state banks."

The CHAIRMAN:
0n this sub clause the Assembly of New South Wales, the Assembly of 
Victoria, the Council of South Australia, and the Council of Tasmania, 
have suggested amendments which, although not in the same words, are 
practically identical.

The Hon. J.H. CARRUTHERS (New South Wales)[3.2]:
I trust the Committee will agree to the amendment suggested by four 
parliaments of five of the colonies. If hon. members will look at sub-clause 
16 with regard to insurance, it will be found that the draft bill provides for 
insurance, excluding state insurance not extending beyond the limits of the 
state concerned. So that in the next sub-clause, the principle which is being 
contended for in the proposed amendment is practically conceded. We 
know that state banking is coming into favour in the Australasian colonies. 
It is not proposed to interfere with federal control of state banking when it 
goes beyond the limits of the state concerned. It seems to me to be purely a 
matter of state concern when the banking is limited to the state. As the 
proposal has been suggested by four colonies I shall content myself with 
supporting the amendment, and I shall call for a division upon it.

The CHAIRMAN:
Perhaps I ought to point out that there is a substantial difference between 
the suggestions of the Victorian and South Australian Parliaments, on the 
one hand, and those of New South Wales and Tasmania, on the other In the 
one case, state banks are excluded simply; in the other, state banks are 
excluded when they do not extend beyond the limits of the states 
concerned. I will put the question in this form:
That the following words be inserted after the word "banking," 
"excluding state banking.
If that is carried, the remaining words may be inserted.

The Right Hon. Sir JOHN FORREST (Western Australia)[3.6]:
We have in our colony what we call an agricultural bank, established for 
the purpose of encouraging the cultivation and improvement of 
the land, and to make advances to farmers. Would that be regarded as a 
state bank?

The Hon. Sir J.W. DOWNER:
Is it a Government bank?
The Right Hon. Sir JOHN FORREST:
Yes; under a statute.
The Hon. Sir J.W. DOWNER:
Then, it is a state bank!
The Hon. E. BARTON:
We might say, banks that advance the moneys of the state!'
The Right Hon. Sir JOHN FORREST:
I am sure no one wants to interfere with these local institutions established for state purposes only.
Mr. WALKER:
I would suggest that we should ask the Drafting Committee to carry out a suggestion made by Sir Samuel Griffith with regard to state banking!
The Hon. E. BARTON:
The Drafting Committee will consider that!
The Hon. C.H. GRANT
was understood to say that he hoped the Committee would accept the proposed amendment. State banking, was one of the most important matters that the individual states could deal with. He hoped the Committee would give the states a free hand, as far as possible, in dealing with their own banks.
Mr. GLYNN (South Australia)[3.8]:
Unless we have a definition of the words "state bank" there will be a great deal of trouble. In no country in the world is there a real state bank. The Bank of France is not a real state bank. The directorate, whose appointment is partly controlled by the government, exercise certain rights under charter. They can issue notes, and they have other privileges. The German bank is not a state bank. It has certain privileges, and enters into contracts with the government, and it is regulated by act of parliament. We know the Bank of England is not a state bank. It has the exclusive right to issue notes within a certain distance of London, the issue being regulated by charter. It has certain other rights including the transaction of government business. I examined the constitution of all the banks in 1891 in connection with the establishment of a state bank, and I found that there was not in the world an institution that could be called purely a state bank. The bank in South Australia is not a state bank. It is simply established under an act of parliament, for the purpose of acting as a medium between borrowers and lenders. The government has some control over the board, and eventually the mortgage bonds are guaranteed by the government. It is not a state bank, because the state receives no profit. Considering that there has been no purely state bank established, if we put these words, a "state bank," into the constitution, it will be inferred that we intend to include
these imperfect government banks, which are a cross between an ordinary bank and a state bank. If we leave the clause as it stands, we shall be led into all sorts of difficulties and possible litigation.

Mr. SYMON:

The difficulty might be got over by leaving out the words proposed to be inserted, and by adding at the end of the sub clause the words that it shall not apply to any banking operations carried on by the state.

The Hon. E. BARTON:

Suppose they issue paper money?

Mr. SYMON:

We might provide that it shall not apply to any banking operations carried on by the state except the issue of paper money.

Question resolved in the affirmative.

Amendment agreed to.

Question-That the words "not extending beyond the limits of the states concerned" be inserted-resolved in the affirmative.

Sub-clause 15, as amended, agreed to.

Sub-clause 16. Insurance, excluding state insurance not extending beyond the limits of the state concerned.

Amendment suggested by the Legislative Council of New South Wales:

Before "Insurance" first occurring insert "Assurance and and."

The Hon. E. BARTON (New South Wales)[3.12]:

The reason that this amendment was proposed was because of a doubt entertained by the gentleman who moved it as to whether "assurance" was not the proper term to apply to policies upon lives. I do not know that there is very much in it. We know that the ordinary application of the term "assurance" is to life insurance, and the ordinary application of the term "insurance" is to fire and marine insurance. At the same time, I have not any doubt in my own mind that the word as originally used covers the whole case.

Amendment negatived.

Amendment suggested by the Legislative Council of New South Wales:

Omit "excluding state insurance not extending beyond the limits of the state concerned."

Amendment negatived.

Sub-clause 16 agreed to.

Mr. HIGGINS (Victoria)[3.13]:

I should like to remind hon. members that in Adelaide I moved the insertion of a clause as to conciliation and arbitration in connection with
industrial pursuits. I do not intend to push that matter now. I think it is desirable to avoid contentious matter as much as possible, but I wish to intimate that at the adjourned meeting in Melbourne it is my intention to make an effort to enable the federal parliament to establish councils of conciliation and arbitration with regard to industrial pursuits which are not confined to any one colony.

Sub-clauses 17 and 18 agreed to.

Sub-clause 19 (Bankruptcy and insolvency).

Amendment suggested by the Legislative Council and Legislative Assembly of New South Wales, and by the Legislative Council of Tasmania:

After "insolvency" insert "and lunacy."

The Hon. J.H. GORDON (South Australia)[3.15]:

I do not see how that can be allowed to pass unless we also hand over to the federal parliament the control of the lunatic asylums.

The Hon. Dr. COCKBURN:

And the hospitals!

The Hon. J.H. GORDON:

And the hospitals. The control of lunacy necessarily includes the accommodation for lunatics. Unless the buildings are handed over to the federal parliament, I fail to see how that authority can exercise any power over the inmates thereof.

The Hon. J.H. CARRUTHERS (New South Wales)[3.16]:

This proposal is not one to give exclusive right to the federal parliament in regard to lunacy matters at all. It is only a proposal to empower the federal parliament, where it becomes a matter of federal concern, to legislate in regard to lunacy. Hon. members—especially those who have held executive office—know that the lunacy question is on

The Hon. J.H. GORDON (South Australia)[3.17]:

I think the question of a lunatic coming from one state to another is a matter for the states themselves. When I had the honor of being Chief Secretary we had great trouble with lunatics coming from New South Wales to South Australia. It was a constant source of irritation between the officials of the two colonies. I am bound to say that I think my friends are looking at the matter from an exceedingly provincial point of view. I admit that the colony of New South Wales made a fair arrangement, by which there was a small charge, involving no profit to South Australia. We took care of their lunatics, cured them, and sent them back, and, for all I know, some of them may have become members of parliament.
The Hon. J.H. CARRUTHERS:
That shows it is a federal matter!

The Hon. R.E. O’CONNOR (New South Wales)[3.18]:
We ought to be careful not to load the commonwealth with any more duties than are absolutely necessary. Although it is quite true that this power is permissive, you will always find that if once power is given to the commonwealth to legislate on a particular question, there will be continual pressure brought to bear on the commonwealth to exercise that power. The moment the commonwealth exercises the power, the states must retire from that field of legislation. I quite agree with the hon. member, Mr. Gordon, that it is impossible to deal with the question of lunacy apart from the question of the cure and control of lunatics, and also the law relating to the disposal of the property of lunatics in the different states. It seems to me to be entirely a matter of state concern. I am quite aware that, in the interchange of lunatics up to the present time, New South Wales perhaps has not got the best of the bargain. But that, it appears to me, is a small matter compared with the inadvisability of loading up the commonwealth unnecessarily with the powers which must be involved in taking charge of this particular department of administration.

Amendment negatived; sub-clause 19 agreed to.
Sub-clauses 20, 21, and 22 agreed to. Sub-clause 23 (Marriage and divorce).
Amendment suggested by the Legislative Assembly of South Australia:
Omit the sub-clause.
Amendment suggested by the Legislative Assembly of Tasmania:
Omit the sub-clause; insert, "The status in other states of the commonwealth of persons married or divorced in any state."

Mr. GLYNN (South Australia)[3.22]:
There is a very strong opinion in South Australia, and I believe it is shared by a considerable number of the electors of the proposed commonwealth, that this subclause ought not to be kept in.

The Right Hon. G.H. REID:
The hon. member voted for it in Adelaide!

Mr. GLYNN:
I am representing the opinions of others rather than my own. There is a very strong objection in the province of South Australia to bring down the notion of the dissolubility of the marriage tie to the level to which it has come in some of the other colonies. In 1892, the legislature of New South Wales passed an amending divorce bill, by which the possibility of getting divorce was rendered exceedingly easy. That was followed in Victoria in 1893 by an act under which a man can get a divorce practically for habitual
drunkenness, which might be defined as drunkenness evidenced by a series of convictions during six months, desertion for three years, and a certain amount of cruelty. If we take the period from 1886 to 1890, before these divorce laws were enacted in New South Wales and Victoria, we find that the number of divorces in New South Wales was 210; in Victoria, 124; in Queensland, 26; in South Australia, 23; in Western Australia, 8; in Tasmania, 15. Between 1891 and 1894, instead of there being 210 divorces in New South Wales, in that period there were 841; in Victoria, 356, as against 124; and as regards the other colonies which stick to the old notions of marriage in Queensland, 22 as against 26; in South Australia, 25 as against 23; in Western Australia, 8 as against 7; and in Tasmania an increase from 15 to 17. If you come to 1894, the figures will show the difference of opinion on this point in the various colonies In 1894, there were 369 divorces in New South Wales, 87 divorces in Victoria, only 6 divorces in Queensland, 5 divorces in South Australia, 1 divorce in Western Australia, and 5 divorces in Tasmania.

The Hon. I.A. ISAACS:

These laws were introduced for the purpose of separating people who were not suited to each other!

Mr. GLYNN:

No matter what may have been the intention in passing the laws, I would point out that there has been an enormous increase in the number of divorces, consequent on the enactment of those laws in Victoria; and New South Wales; that the people in South Australia and several other colonies are pretty, well satisfied with the obligation of the marriage-tie which at present exist. I would also point out, if the question of morality and respectability is concerned at all, that with the exception of the United States, Denmark, and Switzerland, Australia, taking an average of the lot, is in the unenviable position of having the highest rate for divorces in the civilised world.

Mr. WISE:

They get married so much quicker!

Mr. GLYNN:

The statistics, do not hear the hon. member out, because Coghlan shows that the number of marriages, according to population, is not-so much greater.

Mr. WISE:

I said "quicker"!

Mr. GLYNN:
The hon. member's grammar is not correct, so that I will not say any more on that point. The position I take is this: that very many persons in South Australia object to the notion of the marital tie being dragged down to the level of New South Wales. I do not wish, to be offensive; but I make that observation because there is a very strong opinion on the subject in South Australia. The chances are that the wishes of the house of representatives, which will represent the colonies of New South Wales and Victoria, will be those which will pass the legislation. The number of representatives in the house of representatives will be very much greater for the larger colonies than for the smaller colonies. The number which will represent the smaller colonies, or one or two of them, at all events in the Senate, will scarcely have the power to stay legislation if it be insisted on in the house of representatives. On the whole, I think, as there is not very much benefit to be gained by an assimilation of the laws relating to divorce, we ought to strike out the sub-clause. It can only relate to divorce, because it has been decided in Canada that the uniformity of the solemnisation of marriage is not affected by the provision relating to marriage and divorce. You have to leave out the subject of marriage whether you like it or not, but you need not include the subject of divorce unless you please.

Mr. WISE (New South Wales)[3.28]:

I think we ought to avoid, as far as possible, introducing into the constitution anything which is likely to cause a difference between the commonwealth, and the states, and this is emphatically one of these subject's about which stronger differences of opinion may prevail in one part of the continent than those which prevail in the other, and if they, do arise they are differences of opinion which no amount of argument is likely to alter because they are based on sentiment and tradition. In a very able paper which has been circulated by Mr. A.I. Clark, and which most members of the Convention have seen, he calls attention to the impracticability in Canada of carrying into effect the corresponding provision in the British North America Act. It is quite true that we do not have here the great differences of sentiment in a matter of this kind which exist between the Catholic provinces and the Protestant provinces of Canada. We may have similar differences of sentiment, perhaps on a smaller scale; and in all social questions such, for instance, as marriage, each community might be allowed to legislate according to its own ideas of right and wrong, always preserving such supreme control on behalf of the commonwealth as is necessary to prevent scandals from people having one status in one state,
and another status in another state. I submit that the whole of the objections which have been raised, very forcibly, by the hon. and learned member, Mr. Glynn, in which I concur, will be met by striking out the words "marriage and divorce," and adopting the amendment suggested by the Parliament of Tasmania. That will enable each colony to recognise the laws as to marriage and divorce that may, be passed by any other colony-to recognise the judgment of the divorce court and the validity of the marriage. We may look forward to the time when those colonies will be split up. Take an illustration: Suppose we were to have a settlement composed largely of Germans or Italians, or a settlement, composed largely of Anglicans, or of Catholics, or, at any rate, in which either of these denominations largely preponderated. In New Zealand one of the provinces for many years was composed almost exclusively Of Anglicans, and another of Scotch Presbyterians, and we know that the ideas of those communities on the subject of divorce would be as wide apart as the poles.

The Hon. R.E. O'CONNOR:
Would not the amendment favour the formation of such communities?

Mr. WISE:
I dare say it would. But is there any solid advantage to be gained by taking away from the states the right of making their own laws on this particular subject. Should we not be raising difficulties that are endless without gaining special advantage? If there is a common sentiment all over the community, there is no subject upon which that common sentiment will make itself felt in the legislature of the state more than in a matter so closely affecting the social life as marriage and divorce. Uniformity-if there is any desire for uniformity-will come naturally and speedily by itself, whereas any attempt to enforce uniformity, where there is no, desire for uniformity, may lead to great difficulties. Seeing that there is no advantage to be gained by retaining the sub-clause, while there is a risk of disadvantages, I propose that we should strike it out, and adopt the amendment of the parliament of Tasmania.

The Hon. C.H. GRANT (Tasmania)[3.33]:
It appears to me that the amendment of the subsection agreed to by both houses of the legislature of Tasmania, as more clearly defining what is intended by the use of the words, "marriage and divorce," should be agreed to. The words as they stand are too general. But I do not suppose it is proposed to use them to a greater extent than in the amendment. Each state has its own marriage laws. They are not uniform, and it would be better for the present to leave the exceedingly important question of the marriage law to each state. But it might be provided that the federal parliament, having the assent of the states, should eventually; have the power to evolve an
uniform law of marriage. As regards divorce and the status of the parties affected under the present laws, there cannot be a doubt but that uniformity of proceeding would be advantageous throughout the states, the law being framed on that of

the colony that gives the greatest facilities for granting divorce, whenever reasonable cause can be shown therefore. Since the law only recognises marriages as civil contracts or partnerships, it would seem intolerable that when the partners can prove the impossibility of their maintaining friendly relations, they should be compelled by law to make a semblance of doing so, and both lives be in effect wasted. For the present the amendment proposed under which the status of parties married or divorced could be made uniform throughout the states would appear to provide for all requirements.

The Hon. R.E. O'CONNOR (New South Wales)[3.34]:

The amendment does not cover the same ground as the sub-clause. It covers only part of it, and if the sub-clause is to contain the words proposed, there will be no necessity for it. What is meant by "the status in other states of the commonwealth"? It simply means, as far as marriage is concerned

Mr. SYMON:

A scandal!

The Hon. R.E. O'CONNOR:

Persons who according to the law of the state in which they reside, would have no chance of being divorced, may become domiciled in another state by living there a certain time, and then, according to the laws of that state, may obtain divorce for reasons which, in their own state, would have been ludicrous as a ground of divorce.

The Hon. I.A. ISAACS:

In some cases they may be divorced without a domicile!

The Hon. R.E. O'CONNOR:

Yes; but, in any case, either party to a marriage, by coming under the laws of another state, may obtain a divorce under circumstances which would not justify the divorce if he or she had remained in the original state. All these circumstances seem to me to point to the conclusion that, unless we wish to repeat in these communities the condition of things which has obtained in America, it is necessary to provide for uniformity in the law of divorce, and holding the views I do on this question, I hope that the result of a uniform law of divorce will be something considerably better than the existing state of things—of which my hon. friend, Mr. Glynn, complained that it will be a law which will represent the average sentiment of the
whole community, and, after all, in matters of this kind, if we get the average sense of the community over whom the laws are to operate, we cannot very much complain.

If there is one subject more than another which should remain in the bill in its present form, it is the subsection with which we are now dealing.

The Hon. Sir J.W. DOWNER (South Australia)[3.38]:

I entirely agree with what my hon. and learned friend, Mr. O'Connor, has just said. I would ask hon. members to recollect the view we have taken about the condition of the English law with respect to marriage with a deceased wife's sister. I think every colony has petitioned the English Parliament on that subject. I know that when we were at home in 1887, we all agreed in making a particular request to the Imperial Government to bring in an act to prevent the unpleasant and anomalous condition of the laws by which people married in the colonies, when they reached England, were not married. We only have to remember the attitude we took when we were unanimous amongst ourselves against the mother country, which has a different line of legislation, to understand that we ought to do that amongst ourselves which we wanted England to do towards us. What subject is more fitted for general legislation? In what subject do we want a universal law more than that dealing with the most sacred relations that concern not merely the individuals who are parties to the contract, or whatever you please to call it, but also those who are to come afterwards? Any one who seriously considers the social feelings of pain and grief, and worry and trouble caused by a differentiation of the laws of the colonies, as between themselves, on this most vital subject, must agree that something ought to be done to prevent the anomaly continuing. As the hon. and learned member, Mr. O'Connor, has said, we in the profession know what takes place. If a divorce cannot be obtained in Adelaide, we tell them to go somewhere else, and they go and acquire a domicile there. I am not ashamed to have been one to tell them that. If they-acquire domicile, the divorce will be good enough; but in some cases they get divorce without acquiring domicile, and the result would be, if the matter came to be questioned, that the divorce would not be a divorce at all.

The Hon. I.A. ISAACS:

The court has to be satisfied that there is a domicile!

The Hon. Sir J.W. DOWNER:

But if there were no genuine domicile, there would be no divorce. There is another reason against the existence of different laws in different colonies. The arguments, as far as I can see, are altogether one way. I can
understand the position of those who say there should not be divorce from any cause at all; but all that is past and gone, and we will not allow the domination of any church to interfere with these relations. And now that the whole of the British dominions have recognised that there should be divorce for certain causes, it becomes very important that, in all English-speaking communities, we should have the law uniform, as far as we can.

The Hon. I.A. ISAACS:
This is only that the federal parliament shall have the power!

The Hon. Sir J.W. DOWNER:
It is a highly proper power, and it will probably be exercised at the earliest possible moment.

Mr. WISE:
They will get into trouble very quickly if they do exercise it!

The Hon. Sir J.W. DOWNER:
In my opinion they will get into trouble if they do not.

Mr. WISE:
Why put in what will be a source of strife?

The Hon. Sir J.W. DOWNER:
I do not think it will create the slightest trouble. I do not believe the cause of federation will lose a vote through it. I do not believe any man here or elsewhere will vote against federation on account of this subclause being put into the bill. I think it is a necessary one, and that it is more a matter for federal control than are many other things which are contained in the bill.

Mr. GLYNN (South Australia)[3.44]:
In England, Ireland, and Scotland there are three different laws as to divorce. There is none in Ireland; there is divorce under certain conditions in England, and under different conditions in Scotland. I think that tells largely against the position taken up by the Hon. Sir John Downer,

Sub-clause 23 agreed to.

Sub-clause 24. Parental rights and the custody and guardianship of infants.

The CHAIRMAN:
The Legislative Assemblies of New South Wales and South Australia, and the Legislative Council of Tasmania, have suggested that this sub-clause be omitted.

The Hon. J.H. HOWE (South Australia)[3.45]:
I move:
That the following words be added to the sub-clause:-"also invalid and
old age pensions."

This is a matter to which I have given a good deal of thought. If I could see my way clear to say that it was purely a state matter, I would not trouble the Convention with it. I mentioned the subject in Adelaide, and since then I have read a great deal of literature on the Subject, and I have come to the conclusion that if there be one thing more than another which it should be within the power of the commonwealth to make provision for it is old age. It is a question which has occupied, and is occupying the attention of the foremost statesmen of the world.

The CHAIRMAN:

The hon. member had better make his amendment the subject of a distinct sub-clause, it has no relation to the sub-clause before us.

The Hon. J.H. HOWE:

I will bow to the suggestion of the Chairman.

The Hon. J.H. CARRUTHERS (New South Wales):[3.46]

I hope the Committee will strike out this sub clause. It is proposed by the legislative assemblies of New South Wales and South Australia, and by the Council and Assembly of Tasmania, that the sub-clause should be omitted. I can apply no better arguments than those which the hon. and learned member, Mr. O'Connor, used just now with reference to lunacy. The hon. and learned member said that where a permissive power was given there was pressure brought to bear for the exercise of that power, and that when it was exercised in one direction pressure was brought to bear that it might be exercised to the fullest extent. Applying that argument to lunacy, if we had this power exercised at all, we should find strong arguments used for the taking over of our lunatic asylums. If the power in this sub-clause were exercised at all, a strong argument would be offered for the state taking over the whole of the benevolent institutions of the various colonies which have to deal with children, and they would become federal institutions. If you do that you must do what the hon. member, Mr. Howe, proposes. If you interfere with the children in these institutions you will have to take over the institutions for the infirm and the old. Now, there is a decided objection in this colony to any federal interference with what the people conceive to be matters most sacred in the family. We have in this colony a law modelled upon the English law dealing with the custody of children and with parental rights. That question of parental rights is one which opens up a very large range of questions. We may have all sorts of interference between parents and their children under a proposal of this character. The state laws, up to the present, have been perfectly effective to deal with this question, and I think the argument of hon. members against
applying federal action to lunacy apply equally well against federal action in this matter. I shall apply those arguments now in my vote.

The Hon. E. BARTON (New South Wales): This may not be a matter of as great importance as are some of the other matters in the clause, but I think it is worth consideration. I will put it to my hon. friend that if the commonwealth are empowered to legislate on the subject of marriage and divorce without having the power to legislate as to the children, the issue of the marriage, this complication may arise—that the judge, having to pronounce a decree of divorce or of judicial separation, and having also to deal with the question of the custody of infants, if the commonwealth cannot legislate in regard to both subjects, will administer one law with respect to the issue relating to divorce, whilst the consequent portion of the decree dealing with the custody of the children will have to be under a totally different and varying law.

The Hon. I.A. ISAACS: Why not add the words "in relation to divorce"?

The Hon. E. BARTON: If the subclause can be amended in the direction which the hon. and learned member suggests, my objection will have disappeared, and there will be a reasonable consistency in the law. I think the difficulty might be overcome by inserting before the words "parental rights" the word "also," and at the end of the sub-clause the words "in relation thereto."

Mr. SYMON (South Australia): Is it worth while to deal with the matter in that way? If you give the federal parliament power in relation to marriage generally and divorce generally, then anything that concerns parental rights and the custody and guardianship of infants is connected with either one or the other. It seems to me that if you intrust the federal authority with the power of dealing with marriage and divorce, which involves everything relating to the highest earthly ties—that of marriage—it ought, consequent on that, also to regulate the custody of infants. It does not involve what the hon. member, Mr. Carruthers, seems to think is in the minds of many who see some objection to this—that it might empower the federal authority to interfere with domestic relations in some mysterious manner so as to reduce children to a position of slavery. This is a control that seems to me to be consequent upon marriage, and which might come into operation, perhaps, in relation to all matters of divorce; but it is not confined to matters of divorce, and might depend simply on marriage when the question of divorce does not arise. It will, perhaps, be better to leave the sub-clause as
it is and consider the matter further later on.<

The Hon. E. BARTON:
Before the hon. and learned gentleman sits down he will, perhaps, deal with what I forgot, namely, a suggestion from the hon. member, Mr. Carruthers, that if this power were granted it would involve the probability of the commonwealth having to take over the control of the institutions?

Mr. SYMON:
I did not think that the hon. member, Mr. Carruthers, seriously meant that.

The Hon. J.H. CARRUTHERS:
That argument was successfully used against me in regard to lunatics!

Mr. SYMON:
I am sure that the hon. member will be able to successfully dispose of it when it is next used against him. It would be just as reasonable to adopt the suggestion of the hon. member, Mr. Howe, and say that the federal authority are to take control of all institutions for the care of the aged and infirm. I think that hon. members will, on consideration, see that there is no parallel between the cases, and, that as this affects one part of the relationship of the citizens to the commonwealth, it ought fairly to be under a uniform law and under federal control.

The Hon. C.H. GRANT (Tasmania):
I think that the words as they stand, "custody and guardianship of infants," are rather too wide. It seems to me that these words, without any qualification, would apply to destitute children. It would be better for the state authorities to control the custody and guardianship of infants, because they are immediately on the spot. They have opportunities of inquiring into the relationship of the children and their parents, and into their condition if they are destitute and neglected. Therefore, I think it is advisable to omit those words, and allow the sub-clause to remain as proposed to be amended by the leader of the Convention.

The Hon. Sir J.W. DOWNER (South Australia):
I think it would be better to leave the sub-clause as it is. I can understand that it will be a very good thing for each state to make its own laws with respect to parental rights and the custody and guardianship of children; but supposing that the children went into another state, and were thus taken away from the law of which the previous state approved, and came under the law of another state which had altogether a different method of dealing with such matters, and under which the parent was not able to again get the custody of his child, or the guardian was not able to again get the custody
of an infant, what could he do? He could not proceed under his own law. His own law might be good enough, but the person that he wanted to proceed against would be out of the jurisdiction of his state.

Mr. SYMON:
And the order would not have any force!

The Hon. Sir J.W. DOWNER:
The order would not have any force. The result would be that, however good his own law was, he would be unable to enforce it because the law of the other state was of a varying character.

The Hon. J.H. CARRUTHERS:
Sub-clause 26 provides for that!

The Hon. Sir J.W. DOWNER:
That is only an evidence clause, and will not have the slightest effect in this matter.

Mr. SYMON:
The hon. and learned gentleman's point is a point of jurisdiction!

The Hon. Sir J.W. DOWNER:
Yes; and it has nothing whatever to do with that. The order would be good enough as a record of the action of the court in the first-named state, but it would not be a record of the court in the other state; nor would it make the law of the other state subsidiary to the law of the state which contained that record.

The Right Hon. C.C. KINGSTON:
Does the hon. and learned member read the word "recognition" as meaning proof?

The Hon. Sir J.W. DOWNER:
It is no more than recognition; it means what it says. The word is plain enough.

The Hon. J.H. CARRUTHERS:
Look at sub-clause 25, which says:
The service and execution throughout the commonwealth of the civil and criminal process, and judgments of the courts of the states.

The Hon. Sir J.W. DOWNER:
But it must be in respect of a matter over which the court has jurisdiction.

Mr. SYMON:
Suppose you change the domicile!

The Hon. Sir J.W. DOWNER:
That will not operate to give jurisdiction. I think that when we have given the most sacred of all relations-the, relation of marriage-over to the commonwealth, and very properly, it follows, as a matter of course, that we must do this. Parental rights-that is all we propose to give to the
commonwealth. The commonwealth parliament can make a definition and pass a uniform law.

**Mr. SYMON:**
That is incident to the marriage law!

**The Hon. Sir J.W. DOWNER:**
It comes from the marriage law, and ought to flow as a corollary. It is a corollary as far as marriage is concerned.

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**The Hon. R.E. O'CONNOR:**
It would not necessarily follow the law of husband and wife!

**The Hon. Sir J.W. DOWNER:**
We are only talking about parental rights; that is the right of the parent over the child!

**The Hon. J.H. CARRUTHERS:**
If the hon. and learned member is willing to hand over the rights, why not the obligations?

**The Hon. Sir J.W. DOWNER:**
If the hon. member would like them added I have no objection; but if the hon. gentleman wants to exclude them, I cannot see that any difficulty need arise. So far as I know, the laws of all the colonies are exactly the same in respect to the matters mentioned here, and there is very little probability of their being any different, so far as parental rights and the custody and guardianship of infants are concerned. We want to prevent the possibility of any difference, that is all, and to give the federal parliament power to legislate on the subject if they please. I can see difficulties that might arise in the enforcement of state laws through the child or infant being taken away from the custody of its parent or guardian, and being out of the jurisdiction of the court of the state in which the parent or guardian resides, and I think it is necessary to have one uniform law on this matter as well as in regard to marriage and divorce.

**The Hon. J.H. GORDON (South Australia)[3.59]:**
I think we are quarrelling about terms and not about substance. I believe that the hon. member, Mr. Carruthers, agrees with almost everyone of us that as regards parental rights and the custody and guardianship of children so far as divorce is concerned, power should be given to the commonwealth; but this clause goes much further and includes the whole region of, parental rights and the custody and guardianship of children.

**The Hon. E. BARTON:**
Put in the words "and in relation thereto" before "parental rights"!

**The Hon. J.H. GORDON:**
That will cover the whole ground. All our acts relating to the custody and guardianship of children have relation to parental rights.

Mr. SYMON:

Suppose a child is deserted?

The Hon. J.H. GORDON:

That suspends the parental custody; but the parental liability remains. I think that the amendment suggested by the hon. and learned member, Mr. Barton, covers the whole ground.

The Hon. E. BARTON:

I move:

That the figures "24" be omitted with a view to the insertion of the words "and in relation thereto."

This will confine the operation of the subclause to the rights and obligations arising out of divorce suits. The other matters to which attention has been directed will be considered by the Drafting Committee.

The Hon. J.H. CARRUTHERS (New South Wales)[4.3]:

I would point out that if we are going to deal with the service and process of writs in regard to this matter in one state when the parent resides in another, it will be just as well for the Drafting Committee to consider the aspect of the case in relation to deserted wives. If the amendment of the hon. and learned member, Mr. Barton, is carried, I think we might leave the matter to the Drafting Committee.

Amendment agreed to.

Sub-clause 24, as amended, agreed to.

The CHAIRMAN:

The hon. member, Mr. Howe, can now move his proposed new sub-clause.

The Hon. J.H. HOWE (Western Australia)[4.4]:

I consider that it is the duty of the commonwealth, rather than of the states, to undertake the work of providing for the invalid and aged poor of the commonwealth. The matter was dealt with in Adelaide, when some of the leading legal members of the Convention took the position that the question was more a state question than a commonwealth question. Since then I have considered it carefully, and the more I have read and thought over it, the more I am convinced that this work should be undertaken by the commonwealth. I consider that no more important question than this could occupy the attention of the Convention. The question is one which is now occupying the attention of all the learned and able statesmen of Europe. Great philanthropists all over the world are
trying to find a solution for this dreadful calamity. In every civilised community we find men who have given their best mental and physical labour to the state becoming, in their declining years, through no fault of their own, a burden to their friends, who cannot afford to maintain them, or entering charitable institutions, and finally finding a pauper's grave.

The Hon. E. BARTON:
Does not this matter stand in the same category as state banking and state insurance?

The Hon. I.A. ISAACS:
The adoption of the hon. member's amendment might seriously perplex the Finance Committee!

The Hon. J.H. HOWE:
The German Empire has adopted the system of providing invalid and old-age pensions. In Germany it is compulsory for those in fixed employment, and for employers, to contribute to a fund which is subsidised by the Government. Then when a man comes on the fund he does not come upon it as with us a man comes upon the charitable institutions of the country. He can hold up his head among his fellow-men. This law prevents a man who has fulfilled all the obligations of citizen, husband, and father from becoming a pauper in his declining days.

The Hon. H. DOBSON:
Is not this purely a state matter?

The Hon. J.H. HOWE:
If I thought so I would not bother the Convention about it. The people who would benefit most by such a provision are a moving population. They are engaged in seeking work all over Australia, and are constantly going to those places, which, for the time being, are more prosperous than other places. Our labouring classes will be a nomadic race for a considerable time to come. If the state took this matter in hand, and made payments compulsory, it could not follow a contributor to the fund from one state to another. The duty is one which can only be performed by the federal authority. At the present time there are no fewer than 12,000,000 of people in Germany

perhaps, are not able to keep them, but that the commonwealth shall provide the means from this fund to which they have contributed whereby they can live. I hope the Convention will agree to these words being inserted. I am sure that if they do so, the federal parliament will be able to formulate a scheme whereby my object can be achieved, and thereby crown itself with glory. I am sure hon. members have read the literature of the subject, and no one can do so without coming to the conclusion that it
is a blot, and one that should be removed as speedily as possible from all
civilised communities.

The Right Hon. C.C. KINGSTON (South Australia)[4.11]:

I know that the hon. member, Mr. Howe, has taken a very deep interest in
this matter for a considerable time, and that he feels most warmly and
properly with regard to it. I should be delighted to do anything in my
power to assist him. If he goes to a division I shall be found recording my
vote with him, because, although there may be some force in the argument
that the matter is one more likely to be dealt with satisfactorily by the state
authority, still, at the same time I do not understand that the hon. member
proposes to deprive the state authority of the power of dealing with it if it
so desires. On the contrary, he proposes to insert this amongst the list of
concurrent powers both of the commonwealth and of the state, so that
either may deal with it, and there is no fear whatever that one would desire
to exercise that power to the prejudice of the other. No doubt also the
federated authority will be armed with greater power for giving effect to
anything it may desire, for the reasons which my hon. friend and colleague
has pointed out. At the same time I am inclined to think that it is now a
little late in the history of our Sydney sittings to deal with the question
satisfactorily, and I put it to the hon. member whether it would not be
better not to press it to a division just now when we will not have an
opportunity of discussing it as fully as we otherwise might and as its
importance deserves, but rather reserve it, as another question has been
reserved, for final decision in Melbourne.

The Hon. J.H. HOWE:

I did that at the last sitting!

The Right Hon. C.C. KINGSTON:

I simply suggest it to the hon. member for his consideration. If he goes to
a division I will vote with him. At the same time, I suggest the alternative
course with every desire to assist him in the accomplishment of what he
wishes, and he can rely upon me at all times to do so.

The Right Hon. G.H. REID (New South Wales) [4.14]:

I hope the course suggested will be adopted by the hon. member, because
it will not prejudice the adoption of the proposal. If it had been suggested
as an amendment by any of the parliaments, it might prejudice it. But he
can bring it up as a proposition of his own in Melbourne. It is altogether
too important a question to deal with now.

The Hon. J.H. HOWE:

I gave up my right to deal with the question at Adelaide

The Right Hon. G.H. REID:

The hon. member may have given up his right in order to deal with it at
the final sitting, but this is not the final sitting. This is a very large question, and it is embarrassed by a number of considerations. For instance, the different colonies have already a number of subjects of legislation which come very close to this. If the commonwealth and the states are thrown into collision on this matter I do not think it would help the object in view; between the two stools it might come to nothing. For instance, in a state there might be a very advanced state of things; everything might be ripe for legislation. What a grand excuse it would be for a government to urge, "Oh, this matter is in the commonwealth constitution. Let us wait till the commonwealth takes the matter in hand." In that way the benefits of the system might be deferred indefinitely, whereas in some of the different colonies it might rapidly ripen. As far as I can see, this bill does not contain anything which impinges on this subject of old age pensions, whereas the powers of the states, do contain a number of things in the same category. It is questionable whether we should take up a movement of this sort in connection with a strictly limited federation.

The Hon. I.A. ISAACS:

Could we deal with the subject except in connection with charitable institutions generally?

The Right Hon. G.H. REID:

That might be so, but I cannot speak positively without full consideration. The hon. member can see from the appearance of the Convention that this is not a favourable time to suggest any new thing, however good it my be.

The CHAIRMAN:

There is a suggestion on the subject from the Council of South Australia.

The Right Hon. G.H. REID:

In that case it may be necessary to deal with it. We might deal with it in some way now on the understanding that it will be fully considered in Melbourne.

The Hon. E. BARTON (New South Wales)[4.19]:

A much more comprehensive suggestion has been made, which I indorse. It is now 4.20, and the Convention is not going to sit to-morrow. It will only meet on Friday to incorporate in the bill amendments which have been rendered necessary. I regard it as hopeless to now get through all the bill. If we deal only with matters of course we shall not be able to do more than get through this clause, clause 53, and postponed clause 69. Then we shall have dealt with the whole of the bill up to clause 70. I suggest that
there should be an understanding that the consideration of the bill should be renewed in Melbourne at clause 71, on the understanding that any part which we do not consider now shall be taken up at once in Melbourne. I am only pointing this out to show the hon. member, Mr. Howe, that his position will be only the same as that of anybody else if he accepts the suggestion which has been made. My, proposal will be this: that we take the rest of the bill simply pro forma so as to get the bill printed with the amendments. We will recommit the bill pro forma on Friday and incorporate the amendments as far as we have gone. As to the rest it will be a complete understanding that we reconsider the bill in Melbourne at the point where we left off. Then the adoption of the report would be followed by a motion for recommittal with regard to every portion of the bill which we have not touched, and also with regard to every portion which Queensland wants reopened.

The Hon. J.H. Gordon:
Or any member of the Convention!

The Hon. E. Barton:
Or any member of the Convention-at any rate with regard to all those points which Queensland wants reopened, and all which we have not touched. The reason I suggest this is that the printer must be got to work to-night, and we cannot let the printer have the bill, so far as we have gone, unless we adjourn before tea.

The Hon. I.A. Isaacs:
Does not the hon. and learned member intend to sit tonight?

The Hon. E. Barton:
I think it would be advisable to adjourn before tea; otherwise the Drafting Committee would not be able to deal with the bill to-morrow. As far as I can see it is essential that this suggestion of mine should be adopted. I make it in the interests of the bill and of hon. members. The hon. member, Mr. Howe, will see that I am not endeavouring to shelve his amendment, but am only asking that we should stop at the present point our practical work, and let us all be treated alike as to what follows in Melbourne. If we, pro forma take the other clauses of the bill, it is only to enable the printer to get to work, also to enable the Drafting Committee to get to work tomorrow, and to enable any drafting amendments to be dealt with on Friday.

The Right Hon. G.H. Reid:
Then this matter will come on again in its proper place in Melbourne?

The Hon. E. Barton:
Yes, we shall begin at this very point in Melbourne. The adoption of the
report Will be an order of the day for our first day's meeting in Melbourne, and I undertake to recommit the measure then for everything that is required.

The Hon. J.H. GORDON:
If the clauses which we have not dealt with are passed pro forma, can we consider suggestions of the different parliaments? Is it not a statutory obligation that we should consider them?

The CHAIRMAN:
We are bound to consider the suggestions of the various parliaments!

The Hon. E. BARTON:
Yes; but that statutory obligation is fulfilled if we consider them in Melbourne. Of course I can quite see one objection to which this course is open, and that is that there might be some supposition that we have taken all the rest of the bill in globo, finally. But I think that that can be met by the very nature of the procedure we are undertaking, and by the proceedings of the Convention, which show that we are simply not concluding the work, but breaking it off, so as not to waste any further time. If the suggestion I make is not adopted, hon. members will see the difficulties which arise. I shall to-day or to-morrow have to move that we report progress, and ask leave to sit again on the 20th January. The result of that proceeding would be not only that the Drafting Committee cannot meet to put the amendments in the shape in which the Convention would like them to be, but we cannot have the bill printed for the purpose of circulation in the country, and for the purpose of people understanding really what has been done. I therefore throw out the suggestion for hon. members to consider, especially in view of the fact that to finish the bill now is hopeless; and apart from that, we all understand for ourselves that it is intended to finish it in Melbourne.

The Right Hon. Sir JOHN FORREST:
Suppose we place an asterisk against the clauses which have not been dealt with?

The Hon. J.H. GORDON (South Australia)[4.24]:
The leader of the Convention suggests the circulation of the bill in the various colonies. If it is in circulation at all it ought to be circulated, not only with asterisks to show what clauses have not been considered, but with the actual suggestions of the various legislatures opposite each clause.

The Hon. E. BARTON:
That I shall certainly agree to!

The Hon. J.H. GORDON:
Then subject to that I shall support the hon. and learned member, because
we are now coming to matters which it will take hours to settle.

The CHAIRMAN:
I was going to suggest that if the leader of the Convention moves that I report that the Committee has agreed to certain clauses, and has not considered certain others, then the bill can be printed with the clauses which we have agreed to as amended, and the other clauses can be printed as they originally stood.

The Hon. E. BARTON (New South Wales)[4.25]:
Then there would be no opportunity for the Drafting Committee to do what the Convention wants them to do.

The CHAIRMAN:
I feel I am under a statutory obligation to put all the amendments suggested; by the various parliaments, and if I put the clauses I shall put the amendments.

The Hon. E. BARTON:
Can it be managed in this way: Take the course you, sir, have suggested. With regard to the work of the Drafting Committee I will move on Friday that we reconsider certain clauses. Then we can report progress and ask leave to sit again on the 20th January.

The CHAIRMAN:
Yes

The Hon. E. BARTON:
Then we will take that course. The question remains with hon. members, seeing that we cannot finish the bill whether it would not be wise, under the circumstances, to adjourn now.

The Hon. H. DOBSON:
Cannot we deal with the judiciary clauses?

The Hon. E. BARTON:
I think there is only one which will cause any trouble.

The Hon. I.A. ISAACS:
Might I suggest that we should not stop in the middle of a clause. I think it would be as well to finish clause 52!

The Hon. E. BARTON:
The debate on the rivers question will occupy six or eight hours.

The Right Hon. G.H. REID:
And we shall have to fight it over again in Melbourne.
The Hon. I.A. ISAACS (Victoria)[4.27]:

Of course we have to bow to the pressure of circumstances. May I say one word to my hon. friends on the Drafting Committee in relation to clause 52? In the United States Constitution power is given to the commonwealth to legislate in very wide terms. The question will be constantly arising whether the commonwealth parliament has power to legislate on any particular matter. There is no doubt whatever that they are to be restricted by the powers expressed or implied in the constitution bill. We have not got exactly any precedent quite analogous. We have gone very near to the United States Constitution, but I should like to point out how the same words used in a different relation may lead to very different results. In our bill, clause 52 provides that the parliament may 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. It then winds up with the sub-clause:

Any matters necessary for, or incidental to, the carrying, into execution of the foregoing powers-

They are specifically mentioned:

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.

It seems to me that if you want to legislate in regard to the judiciary, you might be met with some difficulty. There is a power given, but it is very limited; it is to do specific things. My hon. and learned friend may be able to find that power.

The Hon. E. BARTON:

Look at clauses 76, 77, and 78!

The Hon. I.A. ISAACS:

I am not sure they go far enough. I would also point out that in section 8, subsection 18, of the first article of the American Constitution, the Congress has power
to make all laws which shall be necessary and proper for carrying into execution the foregoing powers and all other powers vested by this constitution in the Government of the United States, or in any department or officer thereof.

Now, the word "government" there has a very large signification. It means the whole of the legislative, judicial, and executive departments of the government, and any officer and any department thereof. A departmental officer in the United States means an officer of the whole government, which is a much wider signification than the other. A question has arisen in my mind in two or three places throughout this bill whether
the parliament has power to make laws in certain cases—not in two or three cases, but in very numerous cases;

and a question may arrive as to whether the last sub-clause of clause 52 in wide enough in that respect. There are many provisions in relation to the parliament which do not consist of power is vested in the parliament.

The Hon. E. BARTON:
All these in clause 52 are in the parliament!

The Hon. I.A. ISAACS:
But there are many provisions of the bill in relation to the parliament which are not powers vested in the parliament.

The Hon. E. BARTON:
Does the hon. member mean to say that they are mere permissions?

The Hon. I.A. ISAACS:
Permissions given, and also provisions made in respect of the parliament, or one single house of the parliament. I think it would be well if the wording were made so as to prevent any question from arising in the future as to the power of the commonwealth parliament to legislate in respect of every one of the subjects which are confided to the commonwealth as a whole.

Motion (by Hon. E. BARTON) agreed to:
That the Chairman do leave the chair, and report that the Committee have considered all the clauses up to and inclusive of clause 70, except subsection 25 to 37 of clause 52, and clause 53 and clause 69; and that they have not considered the remaining clauses, the schedule, the preamble, and the title of the bill, and that the Committee have leave to sit again on Friday.

Resolution reported; leave granted.

The Hon. E. BARTON:
I think I shall be in order in moving that the bill, as recast by the Drafting Committee, be printed.

The Hon. Sir R.C. BAKER:
Perhaps it will be better to have the bill printed with the present amendments!

Motion (the Hon. E. BARTON) agreed to:
That the bill be printed with the present amendments.

DARLING AND MURRAY RIVERS.

The Hon. E. BARTON:
I wish to lay on the table a plan which has been handed to me by the hon. and learned member, Mr. Glynn, of the Darling and Murray rivers, showing the flood and low water levels, and the effect on trade of the rise
and fall of the rivers. I move:
    That the document be printed.
    Question resolved in the affirmative.

ADJOURNMENT.

The Hon. E. BARTON (New South Wales)[4.37]:
    Before I move the adjournment of the Convention I would like to
ascertain the wish of hon. members. It will be recollected that, at Adelaide
when the committees were sitting, the Convention met each day pro forma,
so that it might be able to consider any matter of particular importance
which might crop up. Perhaps hon. members may desire that the
Convention should meet pro forma to-morrow at half-past 10 o'clock, and
adjourn till Friday.

Hon. MEMBERS:
    Hear, hear!

The Hon. E. BARTON:
    As hon. members concur, I would ask them to make a quorum for that
purpose at 10.30 tomorrow. I move:
    That the Convention do now adjourn.

Dr. QUICK:
    I wish to draw the hon. member's attention to the fact that no definite
answer has yet been sent to Queensland in response to the letter and
telegram from the Chief Secretary, Sir Horace Tozer.

The Hon. E. BARTON:
    I sent first a telegram to say that the telegram had been received by the
members of the Convention with great gratification, and that we all hope to
be able to shake hands with ten representatives of Queensland when the
Convention meets again. I sent a further telegram to inform Sir Horace
Tozer, immediately it was done, that the Convention had decided to
adjourn on Friday next to the 20th January at Parliament House,
Melbourne. Perhaps that will be considered an intimation to Sir Horace
Tozer, because a formal intimation had already

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been made by the President of the practical intention of the Convention,
which has since been carried out.

The Hon. F.W. HOLDER (South Australia)[4.40]:
    I quite agree with the hon. and learned member, Dr. Quick, that we ought
to send a reply from the Convention. Of course, the weight that would
attach to the reply of the leader of the Convention would be undoubted; but
I think that a letter or a telegram addressed to this Convention demands
some reply by, resolution adopted by the Convention. I hope that even now
the hon. and learned member, Mr. Barton, will see his way clear to submit a resolution which will be a formal reply to the telegram and letter received.

The Hon. E. BARTON:
I will take that into consideration, and possibly, move a resolution on Friday.

The PRESIDENT:
I need hardly say that the telegram and letter addressed to the President have, in accordance with the wish of the Convention, been duly acknowledged. With regard to the resolution now suggested, it will be competent to give notice to-morrow of a resolution for Friday.

Question resolved in the affirmative.
Convention adjourned at 4.41 p.m.
Thursday 23 September, 1897

Papers-Notices of Motion-Plan-Special Adjournment

The PRESIDENT took the chair at 10.30 a.m.

PAPERS.

The Hon. J.N. BRUNKER laid upon the table a return showing the estimated cost of properties proposed to be transferred to the federal government.

The Hon. J.N. BRUNKER also laid upon the table a report from Mr. C. Oliver, Railway Commissioner of New South Wales.

Ordered: That the documents be printed.

NOTICES OF MOTION.

Dr. QUICK gave notice that tomorrow he would move:

That there be laid upon the table a copy of the report of the late conference of colonial premiers with the Right Hon. the Secretary of State for the Colonies.

The Hon. E. BARTON gave notice that to-morrow he would move the following motions:-

That it be an instruction to the Committee of the Whole on the Commonwealth Bill that they have power to reconsider all clauses already considered before considering the clauses not yet considered; and that the standing orders be suspended to enable the Committee so to do.

That this Convention desires to express its gratification at the announcement contained in the Hon. Sir Horace Tozer's communication, and its fervent hope that representatives of the people of Queensland will take part in its adjourned deliberations.

PLAN.

Motion (Hon. E. BARTON) agreed to:

That the Clerk be authorised to return to Mr. Glynn the plan laid upon the table yesterday so soon as it has been lithographed and copies thereof circulated.

SPECIAL ADJOURNMENT.

The Hon. E. BARTON (New South Wales)[10.33]:

I desire to move without notice a purely formal motion relating to the business of the Convention, namely:-

That this Convention at its rising to-day do adjourn until to-morrow afternoon at half-past 2 o'clock.

I think that that will be a convenient time at which to meet. I do not think that there will be more than an hour's work for hon. members to do.
Question resolved in the affirmative.
Convention adjourned at 10.34 a.m.
PETITIONS.

The Hon. J.H. CARRUTHERS presented a petition from the Grand Lodge of New South Wales of the Independent Order of Good Templars praying that provision may be made in the federal constitution to preserve to each state the right to prevent the importation of intoxicating liquors and opium.

The petition was received.

ACKNOWLEDGMENT OF HOSPITALITY.

OFFICERS OF CONVENTION.

The Hon. Sir R.C. BAKER (South Australia)[2.31]:

Before the business of the day is called on, I should like, Mr. President, on behalf of the visitors to this colony, to thank the Government and the people of New South Wales for the gracious manner in which they have received us, and for the splendid hospitality with which they have entertained us. We have had two great difficulties to contend with while we have been here. The one was to know which of the numerous invitations which have been showered upon us we should accept, and the other to reconcile with the performance of our duties the attendance at a great many of the entertainments which we have been able to accept. I feel sure that there is no member of the Convention who will not leave the colony deeply impressed with the manner in which we have been received and treated. I may, perhaps, add a word or two in reference to the officials of the Convention, who by their aid and assistance have lightened our duties so far as they possibly could; and it would not be proper for me to sit down without giving my meed of thanks and acknowledgment to the Hansard Staff for the splendid manner in which they have performed their duties. It has been perfectly marvellous that, after a long debate extending in some cases nearly up to midnight, we should have received before we met again next morning splendid reports of the speeches which had been made-
reports which, in most cases, required no alterations at all, and which in many cases were, perhaps, improvements upon the speeches which had been made. I do not think it necessary to say more than to again voice the opinions of every member of the Convention in acknowledging our thanks to the Government and people of New South Wales.

**The Hon. Sir P.O. FYSH (Tasmania)**[2.34]:

Lest there should be any lack of response from the other colonies to the very fitting observations which the hon. and learned member, Sir Richard Baker, has offered upon behalf of the visiting representatives, I rise, in the absence of the Right Hon. Sir Edward Braddon, to offer my cordial concurrence in everything which the hon. and learned member has said, and, on behalf of Tasmania, to emphasise, if possible, his remarks. I know of no colony in the group which is so desirous of extending a hospitable welcome to the friends who visit it from time to time than is New South Wales-unless it be Tasmania. I am exceedingly sorry that I am not likely to see our friends in Tasmania at the coming session of the Convention; but we shall look forward with the greatest desire for an opportunity to occur at some time or other when I trust that the great pleasures which we have enjoyed under the capital climatic influences of this season of the year in New South Wales may be repeated wherever we go, and particularly in the island to which I belong. I cordially indorse what has been said by the hon. and learned member, Sir Richard Baker, and would like, if it were possible, to add thereto.

*The Hon. A. DEAKIN (Victoria)**[2.35]:

In the absence of the Premier of Victoria, I have pleasure in heartily indorsing the opinions which the more distant colonies have already expressed. We who are next-door neighbours of this magnificent colony are naturally most familiar with the unstinted hospitality which is at all times extended to visitors to New South Wales; but in this case, familiarity, instead of producing its customary and proverbial results, only increases our desire to enjoy it still more frequently.

**The Right Hon. Sir JOHN FORREST (Western Australia)**[2.36]:

I am very glad indeed, on behalf of Western Australia, to accord our best thanks to the Government and people of New South Wales for the very generous hospitality which they have extended to us. We had an opportunity before this, in 1891, of knowing the hospitality that New South Wales extends to the representatives of other colonies on occasions of this kind. My only regret is that we who come from the far off colony of Western Australia have so many opportunities of partaking of the
hospitality of New South Wales, and other colonies, and but very little
opportunity indeed of returning that hospitality. I only hope that the time is
not far off when we in Western Australia may have an opportunity of
showing to the representatives of these eastern colonies that we reciprocate
in every way their kindness, and we hope to be able to show them, as far as
our opportunities and means go, that we shall be very pleased to do all we
can to make their visit to our colony enjoyable. I do not say these words as
meaning only an occasion of this kind; but if any of the delegates who are
here come to that far-off colony which I represent, and let me know that
they are coming, I shall be glad to show them any attention that I possibly
can. I have very much pleasure in giving my accord and that of my
colleagues to the very kind and suitable expressions used by the hon.
member, Sir Richard Baker.

The Hon. J.N. BRUNKER (New South Wales)[2.38]:

In the absence of the Premier, I accept with gratitude the kind
expressions of opinion by the representatives of the various colonies to the
Government and people of New South Wales. I can assure you, sir, that it
has been a source of great pleasure and satisfaction not only to contribute
as largely as possible to the comfort and happiness of our visitors, but also,
if possible, with a view to reciprocating the kind treatment which the
representatives of New South Wales received at the hands of the South
Australian Government. It has not only been a source, of pleasure to us to
receive our friends with the utmost cordiality, but that feeling is partaken
of by the great majority of the people of New South Wales, who, I am sure,
have received an important lesson from the educational tendency of the
debates and the eloquent speeches to which we have listened from the
representatives ' of the other colonies during the time we have been
engaged in considering the important subject which we have been
discussing within the last two or three weeks. I thank the hon. member, Sir
Richard Baker, for the kind terms in which he expressed himself; and also
the representatives of the other colonies, and I can only assure hon.
members that, if it is our pleasure to meet them here again, they will be
welcomed with as much hospitality as it has afforded us great pleasure to
be able to extend to them on this occasion.

The Hon. Sir JOSEPH ABBOTT (New South Wales)[2.39]:

As the head of the Hansard Staff, I return, on their behalf, my sincere
thanks for the kind manner in which Sir Richard Baker spoke of that body.
The Hansard Staff of the Parliament of New South Wales is one of which
every member of that body is proud, and there is no person in this
community more proud of that Hansard Staff and of the officers of the
Legislative Assembly than I am. On behalf of the Hansard
Staff, I may say that from the chief downwards every man is actuated by a desire to do his best to carry out the duties of his office.

INSTRUCTION TO COMMITTEE.

The Hon. E. BARTON (New South Wales)[2.41] rose to move:

That it be an instruction to the Committee of the Whole on the Commonwealth Bill that they have power to reconsider all clauses already considered before considering the clauses not yet considered, and that the standing orders be suspended to enable the Committee so to do.

He said: I will ask leave presently to amend the motion in one particular. Hon. members will recollect that it was for the purpose of carrying out their desires with reference to drafting amendments necessary in the bill that the Convention allowed the Drafting Committee the whole of yesterday and part of to-day, in order to bring the bill into the form in which, as far as we could judge, the Convention desired it to be. I will ask leave to amend the motion by inserting after the words "clauses not yet considered" the words "and to accept the suggested amendments of the Drafting Committee by one resolution." I do not propose to make that course an instruction to the Committee in the sense that they are to do it, but simply to enable the Committee to facilitate their own business in such a way as they may please. Hon. members will find from the print of these amendments, which will be here in a minute or two, that they are confined to dealing with the amendments which the Committee themselves have made, except in the few points of drafting, but that in addition to matters covered by that expression, there is one matter and one only in which, though the Convention has not made a distinct amendment, an amendment has been made by the Drafting Committee, and it is in the clauses dealing with disqualification for electing or sitting of members. Hon. members will find that by clauses 45 and 46 persons attainted of treason or convicted of felony or other infamous crime are excluded from election and from sitting. In that respect the Drafting Committee had to gather the intention of the Convention. There was a general view expressed that the words "felony or other infamous crime" were too indefinite to remain in the bill, and, therefore, the Drafting Committee had to gather the sense of the debate, which was that these matters should be regulated by some term of punishment applicable to the offence, and all that they, have done in that respect, had been to leave out the words "felony or of any infamous crime" and to insert the following words:

Any offence punishable under the law of the commonwealth or of a state, by imprisonment for three years or longer.

That is the only substantial amendment which the Convention will find
has been implanted in the amendments by the Drafting Committee, and that was done in accordance with what they conceived to be the general sense of the Convention during the debate, and according to a suggestion made by my hon. and learned friend, Mr. Isaacs, which seemed to me to meet with great acceptance, so that I think it will be considered that, they have not taken a liberty there in any sense. This provision, if accepted, will remain in the bill simply to be dealt with at our meeting in Melbourne. With reference to the clauses about deadlocks, all that there has been any opportunity of doing has been to shorten them as much as possible consistent with fully expressing the meaning of the amendments carried. I think hon. members will find, after this Convention, that these provisions will need some amendment to bring them more into consistency with each other. It was not the work of the Drafting Committee to bring them into consistency with each other; but simply to express the intentions of the Convention, and that they have faithfully adhered to. I will ask leave to amend the motion in this way, in order that if the Committee so choose they may, after the statement I have made, accept the amendments in globo, knowing, of course, that they will be all open to be dealt with when we meet in Melbourne. I ask leave to amend the motion by inserting after the words "clauses not yet considered" the words "and to accept the suggested amendments of the Drafting Committee by one resolution."

Some hon. members may wonder why the preamble, and other parts of the bill which excited discussion, have not been amended by the Drafting Committee. It was no part of their business to go beyond the point which the Committee itself had reached in the bill, so that hon. members will not find any amendment suggested in any clause beyond clause 7. The preamble being the last thing to be considered in the bill-until we came to the title-the Committee could not touch it; but recognising the strong feeling which exists amongst some members of the Convention that there should be some recognition of the power and wisdom of the Almighty, and invoking His assistance, there will be an amendment prepared which may be used in Melbourne, if necessary.

Amendment, by leave, amended.

The Right Hon. Sir JOHN FORREST (Western Australia)[2.48]:

There is nothing to show which clauses have been amended and which have not. The Hon. E. BARTON: Yes; that is shown!

The Right Hon. Sir JOHN FORREST:

I mean it is not shown in the bill itself; there are no asterisks or anything of that kind. I should be the last to raise any difficulty in the way of, or to show any want of appreciation, of the work of the Drafting Committee,
because I recognise most fully that our deepest thanks are due to these gentlemen for the great care and trouble, and the amount of study and time they have devoted to its very important work. I am sure that nothing but our best thanks are due to them. Nevertheless, I must say, in regard to the amendment in clause 45 just referred to by the leader of the Convention, that it seems to me that, seeing that we are to meet again, it would be just as well if we left the clause in the bill as framed in Adelaide. I do not exactly understand what the effect of the words will be. It seems to me that no one wants persons who are suffering a term of imprisonment eligible to be members of the commonwealth parliament. I take it that the person who has received a sentence of two years for some infamous offence is still eligible, without having purged the whole of his offence by serving the whole of his time, to be a member of the parliament.

The Hon. E. Barton:
In a case of that kind he is punishable by the term of three years, or perhaps longer, by the law of all the colonies. The matter is not regulated by the amount of punishment awarded but by the amount to which he was liable.

The Right Hon. Sir John Forrest:
I have no hesitation in expressing the opinion that if he has received a sentence of two years imprisonment he is as bad, or almost as bad, as the man who has received a sentence of three years' imprisonment. I think we ought to guard our parliament against gentlemen of that character, and it appears to be clear now that a man sentenced to three years' imprisonment may serve any time less than three years-

The Hon. E. Barton:
Oh no! Perhaps the right hon. gentleman will allow me to explain. The liability to punishment regulates matters. A man might commit an offence for which he was liable to three years' imprisonment or more. The court might treat him with leniency, and he might be sentenced to less than three years' imprisonment. But, nevertheless, he would by the operation of this clause,

be excluded from being eligible or from sitting, inasmuch as the offence itself entailed a liability to punishment to that extent; so that, even if he had served less than the three years mentioned in the bill, he would still be excluded so long as his offence was in such a category that he could be punished to that extent.

The Right Hon. Sir John Forrest:
I take it that when a prisoner is released, the disability is removed, and be would be eligible.
The Hon. E. BARTON:
Yes, that is right!

The Right Hon. Sir JOHN FORREST:
I cannot see any force in that—that if a man receives a sentence of three years' imprisonment, and serves two years, be is still eligible.

The Hon. E. BARTON:
The law supposes that he would have atoned for his offence when he had served two years!

The Right Hon. Sir JOHN FORREST:
I should not like to see gentlemen of that character sitting in Parliament.

The PRESIDENT:
It would probably be more convenient to discuss this matter in Committee. The question now is, that when the Committee have the amendments before them, they shall have power to dispose of them all by one motion, if it is deemed fit to do so.

Mr. LYNE (New South Wales)[2.52]:
I have not had time to look through these amendments, and I think it would be useless to attempt to analyse them at the present time. We have the assurance of the leader of the Convention, on behalf of the Drafting Committee, that there is nothing new excepting what the hon. and learned gentleman referred to; but what I rose particularly for was to ask the leader of the Convention whether any report has been received from the Finance Committee, and whether any suggestions have been made with reference to the financial proposals, and, if not, whether the financial question simply rests where it was before, the bill being the same as when it, left the hands of the Convention at Adelaide, and the whole matter is to be considered when the Convention meets in Melbourne?

The Hon. E. BARTON (New South Wales)[2.53]:
The position is this: The Committee have not gone beyond clause 70. The finance clauses proper are from 90 to 93, and therefore the Committee have of course not touched them, nor, consequently, could the Drafting Committee in any way touch them, and the whole of the financial provisions remain to be considered in Melbourne. All the Drafting Committee have been able to do has been to circulate some clauses, carrying out what they gathered to be the wish of a considerable number of hon. members during the debate. But it is a mere matter of drafting, and does not bind hon. members down to anything. Those clauses are mere suggestions, and in the meantime the clauses agreed to at Adelaide remain in the bill, subject to being dealt with at Melbourne. In reply to the question asked by the hon. member as to the meeting of the Finance Committee, I may state that the Finance Committee did meet, and they
resolved that for the present the proper course was that the two representatives of each colony on that committee should communicate with each other, and prepare memoranda which should be exchanged before the meeting of the Convention in Melbourne, and that, if possible, the Finance Committee should meet before the Convention meets in Melbourne and deliberate on the suggestions that they may make to the Convention.

Question resolved in the affirmative. COMMUNICATION FROM QUEENSLAND.

The Hon. E. BARTON (New South Wales)[2.55] rose to move:

That this Convention desires to express its gratification at the announcement contained in

the Hon. Sir Horace Tozer's communication, and its fervent hope that representatives of the people of Queensland will take part in its adjourned deliberations.

He said: This is a motion that requires very little speech to commend it. Everyone knows the ardent desire which the representatives of all the colonies now engaged in this work have that Queensland should take part in our deliberations, and the feeling we all entertain that while we may make an effective and powerful federation without Queensland, there can be none that is complete without her. Our opinion on this matter has been often enough expressed in debate. Those debates have reached our friends in Queensland, and I think they are well assured not only of the feeling of the members of the Convention, but of the public feeling throughout the colonies. I have not only an ardent hope but a profound conviction that that cordial feeling which the other colonies entertain for the colony of Queensland, and the prospect of the benefits which will arise to that colony from joining in the federation—which without the slightest doubt I believe will before long be accomplished—will induce Queensland to take part in our deliberations at Melbourne.

The Hon. Sir JOSEPH ABBOTT (New South Wales)[2.58]:

I am one of those who believe that, sooner or later, Queensland will be one of the largest of the Australian states, and I am one who will rejoice immensely if the Queensland legislature can see its way to send representatives to this Convention. But I am not one of those who have the slightest sympathy with the Queensland Government in the manner in which they have dealt with this question. We were told in Adelaide that if, by any means, there was a possibility of postponing the ultimate determination of the Convention, we should have Queensland with us. The Government of Queensland have, on two occasions, made very vague attempts to be represented in this Convention, attempts by which they
failed to give the people of Queensland an opportunity of sending representatives to the Convention. I hope-speaking as a representative of New South Wales that we shall have, at our next meeting, representatives from Queensland, chosen by the people of Queensland. I hope that the opportunity, which has never yet been given to the people of Queensland as a people, to send representatives to the Convention will be afforded them. The Government took such methods as made it quite clear from the beginning that there could be no representation of that colony. As I said before, we were told in Adelaide that if by any possibility there could be an adjourned meeting of the Convention we should have Queensland represented at that adjourned meeting. We all know too well, and we all, I am sure, regret deeply, as federationists, the manner in which the Government have proposed to deal with this question in Queensland; and I am only speaking now in the hope that some warning may go to the Queensland Government to prevent them from attempting again what they have already twice attempted, and twice failed in doing, that is, to send representatives to this Convention not chosen by the people of Queensland.

The Hon. J.H. GORDON:

There are representatives here who were not chosen by the people!

The Hon. Sir JOSEPH ABBOTT:

The people of Queensland have never had an opportunity of sending representatives to the Convention.

The Hon. J.H. GORDON:

Neither have those of Western Australia. That is not our business!

The Hon. Sir JOSEPH ABBOTT:

It is our business. I object to these laudatory congratulations which we ourselves must feel are insincere. I do not think the Queensland Government are to he thanked at all for their proposal to send representatives to the adjourned meeting of the Convention. But if they can learn a lesson from the past then it will be a very good thing that the adjournment of the Convention to Melbourne has been agreed to, and that, we shall have a third opportunity of considering the question. I am speaking now only with the earnest hope that a great colony like Queensland will be represented in the Convention, and I join with my hon. and learned friend, Mr. Barton, in saying that there can be no Australian federation with Queensland standing out. At the same time I am not going to praise the Queensland Government for a telegram announcing that they are going to come to the next meeting of the Convention.

Mr. GLYNN:

It does not praise them it expresses our gratification!
The Hon. Sir JOSEPH ABBOTT:

It says that the Convention "desires to express its gratification." What does that mean? There is no gratification to me. There can be no gratification when we know what has been done in the past. Let the Queensland Government do what the governments of the other colonies have done, and I have no doubt there will be representation at our next meeting. I have no desire to do anything which will prevent the representation of Queensland at the next meeting of the Convention.

The Right Hon. Sir JOHN FORREST:

The hon. member now is doing his best to prevent it!

The Hon. Sir JOSEPH ABBOTT:

No. I am doing my best to bring them here by a note of warning to the Queensland Government that there is no use in further trifling with the question. They have twice sent messages to the Convention.

Mr. MCMILLAN:

The motion before the Convention only expresses gratification at the announcement contained in the letter of Sir Horace Tozer!

The Hon. Sir JOSEPH ABBOTT:

Well, I feel no gratification about it, because I doubt its sincerity. We were told the same thing in Adelaide. The telegram, which was sent from Queensland then was received by the members of the Convention with cheers. I at the time expressed the opinion that Queensland would not be represented at this session, and I express the opinion now that if the matter rests with the Government of Queensland, that colony will not be represented at the next adjournment of the Convention.

Mr. MCMILLAN:

We are not asked to express our gratification at the action of the Queensland Government, but with the announcement contained in the letter.

The Hon. Sir JOSEPH ABBOTT:

Well, I am not gratified with the announcement.

Dr. QUICK:

The hon. member is singular!

I may be singular, but I am truthful and sincere.

The Hon. Sir J.W. DOWNER:

We are sincere, whether the Queensland Government are so or not!

The Hon. Sir JOSEPH ABBOTT:

I want to see Queensland represented, and no one will rejoice more than I shall if Queensland is represented here. I look upon Queensland as the colony possessing the greatest resources in Australia, and sooner or later it must be a powerful component of federated Australia. I earnestly hope that
Queensland will be with us at our next meeting; but, at the same time, I must express my doubts as to the sincerity of the Government of that colony.

The Right Hon. Sir E. BRADDON (Tasmania)[3.2]:

I do not think that hon. members of the Convention can entertain any doubt as to the advisability of expressing our deep gratification at the hope now presented to us that Queensland will be represented at the next meeting of the Convention. I do not think that any uncertainty or hesitancy upon the part of the Queensland Government—if there has been such uncertainty or hesitancy—should influence us at this moment. We are dealing now, not so much with the Government as with the people of Queensland, from whom, or from whose representatives, as I understand it, this new movement in regard to the representation of the colony here has arisen. For my own part, whatever may be my opinion as to the past action of the Queensland Government, I shall cordially join in the course which is now proposed to us.

Dr. QUICK (Victoria)[3.3]:

I have great pleasure in supporting the motion, and in joining in the sentiment of gratification at the announcement contained in the communication of Sir Horace Tozer, which is expressed in the motion before us. I should be very sorry indeed to utter a single jarring note upon the present occasion, and I am quite sure that the hon. member, Sir Joseph Abbott, had no intention whatever to do so in the statement which he has just made. People at a distance can hardly form a correct or an adequate idea of the local difficulties with which the Government of Queensland may have had to contend in dealing with this question. When I visited Brisbane less than a couple of years ago, I waited on the Right Hon. Sir Hugh Nelson in connection with this movement, and from the statement he made to me then I was led to believe that he was thoroughly sound upon the federal question, and desired to do all he possibly could to forward it. There may be, and there have been, local difficulties in the way of the Government, both from their own supporters as well as from the Opposition, which have led to delay in the representation of Queensland at the Convention; but I think that, notwithstanding this delay, we ought to hold out the hand of welcome without stint and without qualification. I think that we are all delighted to find that by a resolution of her Legislative Assembly, Queensland has determined to be represented, not by a nominated delegation, not by a delegation chosen by the legislature of Queensland; but by representatives elected by the whole people. I feel
confident that in the representatives elected by the people of Queensland at large we shall have a strong representation, which will be able to place before this Convention at its adjourned meeting at Melbourne views and considerations which will be of great weight, and which will be of great assistance in helping this Convention to place the finishing touches upon this federal constitution. We have every reason to be pleased. I concur in the view so often expressed by the Right Hon. Sir John Forrest, that no federation will be perfect unless the whole of Australia is represented in the federation, and unless the whole of Australia is able to confirm the constitution. If the whole of Australia is represented at this final sitting, we shall have all the stronger hope of arriving at an ultimate decision, which we will be able to recommend to our respective colonies.

The Hon. Sir J.W. DOWNER (South Australia)[3.6]:

The importance of Queensland to the federation could not be painted in stronger terms than those used by the Hon. Sir Joseph Abbott. Therefore, we cannot do less than express our gratification that the colony which is great, and which in the opinion of the Hon. Sir Joseph Abbott will be the greatest, has through its people's house pledged its national faith to be represented at the adjourned meeting of the Convention. It is from that point of view, recognising at once the importance of the subject, that I readily support this motion.

Mr. WALKER (New South Wales)[3.7]:

As an old Queenslander, it affords me the greatest pleasure to hear that we may expect Queensland to be with us at the adjourned meeting. Only this morn-
allowed to say that the Government of Queensland have had very good reasons, which are not known to hon. gentlemen, for the apparent delay which has occurred since the meeting that we held in Adelaide. The understanding then was, on behalf of Sir Hugh Nelson and Sir Horace Tozer, that the Parliament would be content to have representatives chosen as follows by itself: Namely, two from the Upper House, three from the Opposition, and five from the Ministerial side of the Lower House. Ministers had every reason to suppose that that proposition would be accepted by the Assembly, and they therefore did not call Parliament together so early as they otherwise would have done. When the Assembly met it turned out that there was a coalition against the proposal to send representatives elected by Parliament, and then Sir Horace Tozer regretted that the Government had not called Parliament together earlier. It was impossible at that late period in the session to appeal to the people in time to be with us. I am quite sure that Sir Horace Tozer and others would have been quite satisfied to do that if they had not, as they thought, the assurance of Parliament in the previous session that it would elect representatives. I am sure there is no desire, and never has been, on the part of the Government of Queensland to treat us otherwise than courteously. I am glad to see the growing spirit of brotherhood among all the colonies on this question of federation, and I shall be both pained and surprised if Queensland is not represented by ten as able men as a delegation as we have had the pleasure of meeting here.

The Hon. J.N. BRUNKER (New South Wales)[3.10]:

Without entering into any details, I, as an Australian, am exceedingly gratified to assent to the proposition which has been submitted by our worthy leader. I hail it as, another link in that connection which I am sure we all so much desire, that is, that Queensland shall be associated with us in any constitution which is framed for the federation of these great colonies. Queensland has been for so long associated with New South Wales that we all recognise her greatness, and her magnificent resources, and wish her every prosperity. I also concur with the opinion which has been expressed, that without Queensland this federation would be incomplete. I therefore hope that at our next meeting she maybe fully represented. I am sure that we shall all extend the hand of welcome to her representatives who come to take part in the formation of that great federation which we hope to see established in Australasia.

The Right Hon. Sir JOHN FORREST (Western Australia)[3.11]:

I simply rise to express my entire concurrence with the proposal made by my hon. and learned friend, Mr. Barton. I am sure that it will be a great gain to all of us to have Queensland represented in this Convention, and
every one, I think, will allow that a federation which excludes Queensland from it will not be the federation that we are all looking forward to. We have had opportunities to judge of the public men of Queensland here in 1891 and on other occasions, and, speaking for myself, I never had an opportunity to work with men who took a greater interest in all that appertains to the welfare of the Australian continent, and I shall be very, glad indeed if, in the concluding sitting of the Convention, we shall have the privilege of being associated with the public men of Queensland. I cordially concur with this motion, which, I think, is very opportune, and altogether desirable. I regretted, however, to hear the speech of the hon. member, Sir Joseph Abbott:

The Hon. Sir JOSEPH ABBOTT:

The hon. member should rejoice!

The Right Hon. Sir JOHN FORREST:

I really think the hon. member could not have thought of what he was saying when he made those observations, when he took upon himself to warn the people of Queensland. I have no doubt that the people of Queensland are quite capable of looking after their own business without any warning from the hon. gentleman or from any one else. To apply the expression "warning" to a great country is, I think, altogether improper. I am sure that my hon. friend will not like the expressions he used in regard to that colony when he sees them in print.

The Hon. Sir JOSEPH ABBOTT:

Yes, he will!

The Right Hon. Sir JOHN FORREST:

If the hon. member does approve of the words he used, all that I can say is that I think he stands alone in this Convention. I do not think that this is the time for us to warn one another or to threaten. This is a time when we should show good feeling and mutual respect in every way. We do not know, not being in Queensland, the difficulties which the Government have had to encounter there. It is all very well for hon. members who are now safe in their seats in this Convention to make little of the difficulties which have surrounded the Queensland Government in dealing with this question. I have no doubt that they have had great difficulties to contend with.

The Hon. Sir JOSEPH ABBOTT:

They had no greater difficulties than other governments!

The Right Hon. Sir JOHN FORREST:

Perhaps if the course had to be followed in some of these colonies at the present time, the difficulties would not be so small as they were when we
dealt with them. At any rate, I am not one who will make any observations which will in any way reflect on the Government of Queensland, because I think it is a matter which is entirely within their own jurisdiction, and I feel quite certain that all they have done they can fully justify. I have very much pleasure in according my support to the motion.

The Hon. H. DOBSON (Tasmania)[3.14]:

I think we shall all be very glad to learn whether our hon. leader has any intimation from Queensland as to whether the dates which have been fixed will suit the Queensland delegates? We have already had two sittings of this Convention, and on each occasion I regret to say we fixed a date which did not allow us time to finish our very important work, and as we have left, most unwise I think, a very great deal of work to be settled in Melbourne, it is most important that we should fix a date which is equally convenient to everybody, particularly to our Queensland friends, whom we all wish to welcome at the next sitting of the Convention.

The Hon. E. BARTON (New South Wales)[3.15], in reply:

I should like to remind my hon. friend, Sir Joseph Abbott, that the resolution passed by the Legislative Assembly of Queensland was:

That in the opinion of this House the Acting Chief Secretary should request the Australasian Federal Convention now sitting in Sydney not to conclude its work until Queensland has an opportunity of being represented at that Convention by representatives directly appointed by the electors of the colony.

The Hon. Sir JOSEPH ABBOTT:

That may postpone action indefinitely!

The Hon. E. BARTON:

Queensland may postpone action indefinitely; but I take it that the Convention will regard this resolution as the strongest bona fide expression of intention on the part of the representative House in Brisbane to be represented at the adjourned sittings of the Convention. I take it that that body would not have requested the Convention not to adjourn its work—that is to say, not to conclude its work—until they had an opportunity of being represented, unless there had been a direct intention on their part to be represented, as they have put it, by representatives directly appointed by the electors of the colony.

The Hon. A. DEAKIN:

Hear, hear; that is the point!

The Hon. E. BARTON:

That is to say, appointed in the same way as representatives of four of the
colonies have been appointed, and as no doubt, had circumstances been different the representatives of the fifth of the colonies would have been appointed. There is the strength, as it appears to me, of this intimation: first, that the request would not be made unless the intention to be represented was strong and, next, that that intention is fully explained in the concluding words of the motion referring to representations by direct appointment by the electors of the colony. That direct appointment by the electors of the colony is the method which has not had its part in either of the bills hitherto introduced by the Government of Queensland. It is a new departure on their part and one which brings them into line with the remainder of the colonies, and one which, I believe, we will find has given their representatives when they elect them, the greatest force possible in deliberations of this kind. Therefore, I think that we ought to be gratified at such an announcement, both as an expression of the intention and as an expression as to the way in which that intention is to be carried out. I think there is, on all these points, a distinct departure from anything hitherto done by Queensland, and that is the real reason for our gratification.

The Hon. J.N. BRUNKER:
That resolution was affirmed by a large vote of the Assembly!

The Hon. E. BARTON:
As the hon. member reminds me, the resolution was affirmed by, I think a vote of 38 to 12.

The Hon. A. DEAKIN:
Counting the pairs?

The Hon. E. BARTON:
Yes, I suppose, counting the pairs. I have been asked a question by the hon. member, Mr. Dobson, as to whether any communication has been received by Queensland approving of the date fixed for the Adjourned meeting of the Convention, or suggesting that the date should be altered. As soon as the resolution—or at least within an hour or two, afterwards—was arrived at to the effect that the adjourned sittings should begin in Melbourne on the 20th January, I telegraphed the fact to Sir Horace Tozer, and as I have had no reply from him expressing any dissatisfaction, nor as I understand has any one else, I take it that Queensland is not dissatisfied with the fixing of that date. I hope that the resolution will be carried unanimously.

Question resolved in the affirmative.

The PRESIDENT:
I desire to lay on the table the reply which has been sent to Queensland pursuant to the direction of the Convention.

Motion (the Hon. E. BARTON) agreed to:
RETURN OF PLAN.

Resolved (on motion Hon. E. BARTON):
That the Clerk of the Convention be authorised to return to Mr. Glynn the original plan, laid on the table on Wednesday, September 22nd, showing the levels of the Murray and Darling Rivers, &c.

CONFERENCE OF COLONIAL PREMIERS.
Dr. QUICK (Victoria)[3.19] rose to move:
That there laid before this Convention a copy of the report of the late conference of Colonial Premiers with the right hon. the Secretary of State for the Colonies.

He said: This report contains very valuable expressions of opinion by the right hon. the Secretary of State, and they will probably be of great interest and use at the adjourned sitting of the Convention.

Question resolved in the affirmative.

COMMONWEALTH OF AUSTRALIA BILL.
In Committee (consideration resumed from 22nd September, vide page 1091):
Motion (Hon. E. BARTON) agreed to:
That the consideration of the remainder of clause 52 be further postponed.

The Hon. E. BARTON (New South Wales)[3.21]:
The Committee have power to reconsider all clauses already considered before considering the clauses not yet considered; but I propose to take a course which may perhaps satisfy hon. members at this stage. I think that I shall have the sense of the Committee with me in moving:
That the Committee do now agree to the suggested amendments of the Drafting Committee.

The Right Hon. C.C. KINGSTON (South Australia)[3.22]:
I wish to call the attention of the Drafting Committee to one matter which has struck me. I notice that an expression which was used in the clause relating to deadlocks has been altered in one particular which may or may not be of importance. It is as regards the first part of the provision.

An Hon. MEMBER:
What is the number of the amendment?

The Right Hon. C.C. KINGSTON:
Amendment 32, page 5. The form in which it was passed, I think on the motion of the hon. and learned member, Mr. Symon, provided that if the
senate should fail to pass a proposed law, and if the governor-general should dissolve the house of representatives, and if within six months after the dissolution, the house of representatives, by a certain majority, should pass that law again, then certain consequences should ensue. The hon. and learned member, Mr. Symon, expressly struck out the words in the amendment, as originally proposed, "on that account," referring to the dissolution, and there was nothing which necessarily connected the dissolution with the original trouble. All that was provided, so I took it, was that after the trouble there should be a dissolution which would enable the sense of the country to be taken.

The Hon. A. DEAKIN:
That is so in the bill now!

The Right Hon. C.C. KINGSTON:
There is one word there which was not in the amendment originally carried by us.

The Hon. E. BARTON:
"Thereupon"!

The Right Hon. C.C. KINGSTON:
Yes; if the governor-general should "thereupon" dissolve the house—that is, on the dispute. Certainly it was not so expressed in the amendment as originally carried.

The Hon. A. DEAKIN:
That is not in the bill!

The Right Hon. C.C. KINGSTON:
It is not in the bill.

The Hon. A. DEAKIN:
That is the recommendation of the Drafting Committee, I understand!

The Hon. E. BARTON:
Our interpretation of the meaning of the Convention!

The Right Hon. C.C. KINGSTON:
In the bill as reported on September 22nd, as amended in Committee, the word "thereupon" does not occur. I am not expressing my opinion finally on the matter.

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The Right Hon. Sir JOHN FORREST:
It's all right!

The Right Hon. C.C. KINGSTON:
I do not always see eye to eye in these matters with the right hon. member, Sir John Forrest, and something which would recommend itself to him might not recommend itself to me. I simply call the attention of the
Drafting Committee to the word "thereupon," and I suggest that it to some extent might be construed, or it might be argued that it should be construed, to restore the clause to the shape in which it was originally proposed with the words "on that account" in it, and which was not acceptable to the House. I commend the matter to the further consideration of the Drafting Committee, and at the right time, which I do not consider to be the present, I shall have a further opportunity of referring to it.

Dr. QUICK (Victoria) [3.26]:

I notice that in amendment 5, Chapter 1, clause 13, in the clause as printed, the Drafting Committee suggest the following words for adoption:-

After the senate first meets and after each first meeting of the senate following a dissolution thereof the senate shall by lot divide the senators chosen for each state as soon as may be into two classes as nearly equal in number as practicable.

The dissolution of what was originally a continuous body necessitates provision for what is to take place after the dissolution. I was somewhat interested to learn the view the Drafting Committee would take as to the redistribution of seats, or the redistribution of terms. It struck me that the best way to redistribute the terms upon re-election would not be by lot, as upon the first election to the federal parliament, but that the new senators should be divided into two classes, according to their position on the poll.

The Hon. E. BARTON:

That would be a matter for the Convention, and one with which the Drafting Committee could not deal!

Dr. QUICK:

On the amendment being made providing for a dissolution of the senate, there was a hiatus in the bill, and the Drafting Committee has suggested that provision should be made in the direction of choice by lot, to determine the order of subsequent retirement of senators.

The Hon. E. BARTON:

Those words remain in the clause all the time!

Dr. QUICK:

Those words have reference to the first determination by lot; but the amendment made by the Convention made no provision-

The Hon. E. BARTON:

It was for a continuous dealing with the matter!

Dr. QUICK:

I would suggest that the Drafting Committee should take this into consideration—whether upon a dissolution of the senate in the case of a deadlock, instead of the seats being distributed by lot—that is, by chance or by accident—the principle should be adopted of redistributing the seats, or
the term of the seats, according to the position in which the returned senators stand upon the poll. In that case the senators who had gained apparently the highest esteem of the electors would have the longest term of office, and that would be an advantage to which they would be reasonably entitled, rather than that it should be left to a matter of chance or lot.

The Hon. R.E. O'CONNOR:
That principle should apply equally to the first election!

The Hon. E. BARTON (New South Wales)[3.28]:

This was a matter with which the Drafting Committee could not deal. We found that the principle of the division of the senate into classes was determination by lot. We had to leave that in the bill as it stood, because it was not for us to make any substantial amendment. Therefore, we retain the principle, merely providing for the case of a dissolution of the senate. It will be for the Convention, if they agree with my hon. and learned friend, to amend this provision in Mel-

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bourne. As my hon. and learned friend, Mr. O'Connor, has pointed out, if the division is to be according to the position on the polls after a dissolution, then the two classes should be so divided in the first instance also. It was a more important question than the Drafting Committee could decide, and one for the Convention alone, whether that alteration should be made. As to the suggestion thrown out by the right hon. member, Mr. Kingston, the use of the word "thereupon" arises from this consideration: In the amendment as originally framed in the Convention the words, as he correctly says "on that account" occurred. These words were struck out, The Drafting Committee presumed that they we

The Hon. A. DEAKIN (Victoria)[3.31]:

The word "thereupon" meets with the objection that it is capable of more than one interpretation. If in Melbourne we come to decide, as the hon. and learned member, Mr. Barton, has suggested, that this dissolution should follow within a reasonable time we had better may so, or clearly express whatever else we mean. The word "thereupon" creates ambiguity and we had better avoid it. With regard to the question of choosing the senators by lot, the hon. and learned member, Mr. O'Connor, is aware that I entertained a strong opinion in Adelaide against the adoption of any such method, unless no equally good means could be devised. I have always thought that one of the means which might be chosen is to fix the terms of members in the order in which they are placed at the poll. That, however, is a, matter which will be properly open to discussion when we meet again.

The Right Hon. C.C. KINGSTON (South Australia)[3.32]:
The explanation given by the hon. and learned member, Mr. Barton, rather confirms me in the objection which I take to the use of this expression. I should like to remind hon. members that when the amendment was recommended to our notice it was said to be based upon the provision made by South Australia, and it was made to more closely resemble it by striking out the words "on that account." The South Australian provision was that if there were a dispute between the two houses, and after a general election had taken place, that dispute was repeated in the next parliament, certain consequences should ensure. The words used in South Australia are "after a general election." Here a different expression is being used. We speak of "a dissolution," and that word is being emphasised by the use of the word "thereupon," which the more I think of it, the more I feel disposed to consider a grave mistake. It altogether alters the position, which should be that if the house of assembly, having submitted to a general election-I do not care whether it is after a dissolution, or after the expiry of parliament by effluxion of time-comes back and renews a dispute with the senate, the power of sending the senate to its constituents to ascertain whether the newly elected house of assembly faithfully represents the popular view, shall be exercisable. I think it is a pity that we should have departed from the South Australian provision. It would have been better to speak of "general elections"; but those words were not used in the amendment which was moved. I trust that when we finally deal with this clause we shall more closely approach the provision in South Australia, and shall omit the word "thereupon," which appears to authorise an interpretation with which some may sympathise, but to which I strongly object.

Question resolved in the affirmative.

Motion (by Hon. E. BARTON) proposed:
That the Chairman do now leave the chair, report progress, and ask leave to sit again on the 20th January.

Dr. QUICK:

The Hon. E. BARTON:
As soon as the President takes the chair, I shall move that the bill be printed, embodying the amendments up to date. It will be in the hands of the Government Printer tonight, and hon. members will receive copies of it as quickly as they can be distributed.

The Right Hon. Sir JOHN FORREST:
Will a note be placed against the clauses which have yet to be considered?
The Hon. E. BARTON:
I will make a note that the amendments so far made in the bill are only up
to clause 70, or that Clauses 71 to 121 have not yet been considered.

The Right Hon. Sir JOHN FORREST:
An asterisk might be placed against those clauses!

The Hon. E. BARTON:
So long as we know that we start from clause 70 we do not want an
asterisk.

The Hon. A. DEAKIN (Victoria)[3.35]:
If I may offer a suggestion, it would be that in addition to distributing
these copies of the bill in a few days, the leader of the Convention might
have another copy prepared which would show the amendments made at
this sitting of the Convention in different type-erased type for portions
struck out and larger type for words inserted. It would be an immense
convenience.

The Hon. E. BARTON:
The bill as it is will be distributed as quickly as possible. I will take steps
to have the other portions gone through, which will meet the Right Hon.
Sir John Forrest's suggestion, and a second distribution of the bill printed in
the same way as the Parliamentary Drafts. man in Victoria arranged it.

The Hon. A. DEAKIN:
Exactly, and in that bill the wish of the Right Hon. Sir John Forrest could
be met by placing an asterisk against the clauses, or by adopting some
other method, to show which clauses have been considered here and which
have not.

The Hon. E. BARTON:
There will be a note to explain what has been done; it is a mere matter of
detail!

Question resolved in the affirmative.
Progress reported and leave obtained to sit again on the 20th January
next.

ADJOURNMENT.

PRESIDENT-CHAIRMAN OF COMMITTEES-LEADER OF
CONVENTION-CLERK.

The Hon. E. BARTON (New South Wales)[3.38"] rose to move:
That this Convention do now adjourn.

He said: I should like to express my acknowledgments, in the first place,
generally, for the courtesy and forbearance with which hon. members have
treated me

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throughout the deliberations of this Convention. Of course, while on the
one hand, every one will acknowledge it is no easy task to keep every thing going with the accuracy and order that is necessary for properly piloting a bill of this kind; on the other hand, it must be obvious to us all and especially to me, that anything in the way of impatience on one side or the other is apt to throw things very much out of their proper gear. For my part, I can say that the patience and kindliness with which every suggestion I have made for the conduct of business has been received by hon. members has deeply impressed me, and that I owe them my warmest gratitude for their kind cooperation, exhibited in such an extremely courteous and generous manner. I have nothing more than that to say, except that I trust the same feeling of approximation which has characterised this session of the Convention, and the marked growth in federal feeling since our deliberations in Adelaide, will continue and expand during our deliberations in Melbourne. If it does so, and so long as we adhere—as I am sure we shall—to that which we consider just to the several colonies entering into this union, as long as we adhere to that principle, then the more the feeling I allude to grows, the more certain will the conviction be, not only amongst ourselves, but out of doors, that in this present movement the federal principle will find its consummation in a great statute which will bind the colonies together for ever.

The Hon. A. DEAKIN (Victoria)[3.40]:

I have one sentence to say, and that is on behalf, I am sure, of the whole of the Convention. If its leader has reason to speak in the generous terms which he has employed of the courtesy and consideration which have been shown to him, we certainly cannot have surpassed, if we have equalled, the courtesy and consideration which he has shown to us.

The Right Hon. Sir JOHN FORREST (Western Australia)[3.41]:

The sentiments expressed by the hon. and learned member, Mr. Deakin, were those which I myself had intended to express. We owe a great deal more to our hon. and learned friend, Mr. Barton, than he has been so good as to say he owes to us. I feel under a deep debt of obligation to him for the way in which he has thrown himself into, this matter. When we recollect the hard work he has performed, and the many questions which he has always so courteously answered, I am sure that we must all feel that in him we have had a guide, philosopher, and friend, and one who has taken a a great deal of trouble to keep us all well posted on this matter. I am sure we will all separate feeling that we are better friends, if that be possible, than we were when we commenced our labours. I regret that we have to meet again, because it will be an inconvenience to many of us. At the same time, it will be a great pleasure to us all, I am sure, to meet again and continue the work we have been engaged on now for so long. We will reassemble,
perhaps, with a greater determination than ever to try to meet one another's views as far as possible, and to keep our eyes upon the main object we have in view. I feel sure that when we do meet the timidity of these colonies having the larger populations in regard to the smaller ones will have somewhat disappeared. They will have no fear, I am sure, as they to some extent had during this session, that the smaller colonies will, even if they had the power, any inclination to do them any, injury.

The Hon. A. DEAKIN:
We fear most while the hon. member is here!

The Right Hon. Sir JOHN FORREST:
I am sure that the smaller colonies having a smaller population will approach the subject with as generous a feeling as it is. possible for us to do. What we will try,

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to do is to have confidence in the constitution which we are framing. For my own part, and I have often expressed the same sentiments in Committee, I have no fear myself that the larger populations will ever do an injustice to the smaller, or that the smaller, even if they had the power, will ever desire to do any injustice to the larger. One hope I think I may express—it is a general observation not applicable to any particular colony—and it is that this matter of federation will be kept away as far as possible from party politics In the smaller colonies as well as the larger ones. If the leaders of parties in the various colonies strive to make this a party measure, and to take advantage of any of its provisions for party purposes, a very great deal of difficulty and danger will occur. I would again express my thanks to our friend, Mr. Barton, and also to the Drafting Committee, to whom we are under a deep obligation. I would also like to express to you, sir, and to the Chairman of Committees, our thanks for the manner in which you each performed your arduous duties. In regard to our friend, Sir Richard Baker, I could not help thinking to myself many times during this session it was a fortunate thing for me that I had not gained such a reputation for knowledge of parliamentary procedure as to place me in the Chairmanship of Committees, because it seemed to me that his labours were almost continuous and very difficult. Both you, sir, and the Chairman of Committees may be assured that while you have our greatest respect you also have our sincere thanks.

The Hon. J.N. BRUNKER (New South Wales)[3.45]:
I would like to add another word of praise. I am sure that the tact, energy, and ability displayed by our worthy leader in dealing with one of the most delicate matters with which he could possibly have to deal—the framing of a constitution—are worthy of our highest commendation. When we remember
that, this is simply a work of patriotism, I feel sure that the labour which has been involved is not only appreciated by the members of the Convention but by the people of Australasia.

The Right Hon. Sir E. BRADDON (Tasmania)[3.46]:

I indorse most cordially, and to the fullest extent, all that, has fallen from previous speakers by way of thanks to the leader of the Convention, to his colleagues on the Drafting Committee, to the President, and to the Chairman of Committees. But for the fact—that we still look forward, and with great hope and pleasure, to having you, Mr. President, with us still further, enjoying the value of, your services, and for the final time I hope, I would say more than I am

The Hon. Sir R.C. BAKER (South Australia)[3.47]:

I am exceedingly obliged to the Right Hon. Sir John Forrest for the kindly remarks he has made concerning myself, and I can assure the members of the Convention that any assistance I may have given in the carrying out of this great work has been given most cordially. The labours of the Chairman of the Committee are sometimes tiresome, but on this occasion they have been greatly lightened by the courtesy of the members towards the Chair, by the manner in which they always fell in with any suggestions made for the orderly carrying out of business; and more especially is that so in reference to the leader of the Convention. I am perfectly certain it would have been impossible for us to have found any one who could have carried out those great and onerous duties in a more capable manner than has been done by our leader. That is the opinion, I am sure, not only of this

Convention, but of the people of this great Australian continent. I hope that when we meet again we may finally consummate this work, that the constitution which will be, adopted will be a constitution founded on justice and equity; that it will be one which will be acceptable to the people of all the colonies; and that it will crown the edifice which we have been so laboriously constructing during the last six or seven years.

The Hon. E. BARTON (New South Wales)[3.49]:

I should be very ungrateful if I did not say one word of thanks to hon. members for the praise which they have heaped upon me, and which I fear I so little deserve. It is a labour of love to me to do anything in my power to help forward the consummation of the union of Australia. I do not know what my temperament may be in other respects, but I think I always find that the harder the work is, in connection with this subject, at any rate, the more ready am I to undertake it. There is a stimulus in a movement of this kind which is mostly absent from other public movements. It is not because
it is surrounded by mere questions of sentiment—although sentiment is one of the most powerful agents in all politics—but because the realisation of the material benefits which may and will be derived from it by every colony concerned, presses so upon the mind that he would be indolent and dull-witted indeed who could not, in the realisation of all the greatness of those returns for any labour that he may undertake, find a satisfaction in his work which no other work could give him. Being in a position which, I suppose, has given me exceptional opportunities of observation, I join very heartily in the praise that has been bestowed upon my hon. and learned friend, Sir Richard Baker, for his great tact, great promptitude, and great discrimination as Chairman of Committees. As an old Speaker, I can say that I do not think that I have ever seen a more thoroughly quick-witted, and a more thoroughly skilful and considerate Chairman. Let me add that, although the time has not yet come for votes of thanks, we must all express our sense of the valuable and learned services which, for the second time, have been rendered by one of the most able authorities on parliamentary law and practice in the colonies—I mean the Clerk of the Convention.

The PRESIDENT:

Before putting the resolution, I should like to say that I indorse most heartily every word of congratulation that has been uttered in regard to those who occupy positions on the floor of the House, and that we have every reason, indeed, to be proud of the courtesy and capacity—the magnificent capacity—with which our leader has, during this session and the last, conducted the great work of Australian federation towards what I believe will shortly be the goal of its accomplishment. My position officially on this occasion has been little other than an honorable sinecure; but I should like to say that I yield to none in my admiration of the untiring zeal and magnificent ability with which our Chairman of Committees has performed the arduous duties attaching to his position.

Question resolved in the affirmative.

The PRESIDENT:

This Convention stands adjourned until Thursday, the 20th day of January next, at 12 o'clock, noon, when it will meet at Parliament Houses, in Melbourne.

Convention adjourned at 3.54 p.m.