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1901-07-18

Senate.

The President took the chair at 2.30 p.m., and read prayers.

#### QUESTIONS

##### EASTERN EXTENSION TELEGRAPH COMPANY

Senator MCGREGOR

- I wish to ask the Postmaster-General what is the duration of the agreement entered into- between Western Australia, South Australia, Victoria, Queensland, and ultimately Tasmania, with the Eastern Extension Telegraph Company?

Postmaster-General

Senator DRAKE

- I am not prepared to give all the information which is desired; but I can inform the honorable senator that, so far as New South Wales is concerned, the agreement continues until it is terminated by mutual consent. With regard to the other States, I shall endeavour to get the information by to-morrow morning.

#### OLD-AGE PENSIONS

Senator BARRETT

asked the Vice President of the Executive Council, upon notice -

Will he endeavour to procure for the use of the members of the Senate copies of the Official Report on Old-age Pensions, State Insurance, and Charitable Relief, prepared by Senator Lt. - Col. Neild, Honorary Commissioner of New South Wales?

Vice-President of the Executive Council

Senator O'CONNOR

- Inquiry will be made with a view to a number of copies being placed in the Library for the use of honorable senators.

#### TRANSCONTINENTAL RAILWAY

Senator PEARCE

asked the Vice-President of the Executive Council, upon notice -

If he will cause to be laid upon the table of the Senate the report of Mr. C. Y. O'Connor, Engineer-in-Chief of the Western Australian Railways, on the transcontinental railway, as furnished to the Minister of Defence and laid upon the table of the House of Representatives.

Senator O'CONNOR

- Honorable senators will be supplied with copies of the report.

#### FEMALE TELEPHONE OPERATORS

Ordered

(on motion by

Senator Barrett)

-

That there be laid upon the table of the Senate all papers in connexion with the circular recently issued in the Postal department (telephone branch) to nine female telephone operators on probation, with a view of ascertaining the reasons for the issue of such circulars.

Paper laid upon the table by Senator Drake, and ordered to be printed.

#### SERVICE AND EXECUTION OF PROCESS BILL

Report adopted.

#### PROPERTY FOR PUBLIC PURPOSES ACQUISITION BILL

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In Committee

(consideration resumed from 17th July,

vide

page 2631) :

Clause 18 -

In all cases where compensation is awarded, or costs are adjudged to be paid by the Commonwealth, the amount thereof shall be paid to the party entitled thereto, or to his agent duly authorized in that behalf,

within one month after such amount has been determined.

Provided that the party claiming payment shall first be bound to make out, to the satisfaction of the Attorney-General, a title to the land, or interest in land, in respect of which he claims.

Such compensation shall bear interest at the rate of 3 per cent. per annum, from the date of the acquisition of the land until payment of the same is made by the Commonwealth to the claimant or until the same is deposited in the Treasury as hereinafter mentioned.

Upon which Senator Millen had moved, by way of amendment -

That the word "three," inline 12, be omitted with a view to insert in lieu thereof the word "four."

President of the Executive Council

Senator O'CONNOR

. - The amendment may involve a very large sum to the Commonwealth, although it may not involve very much to the individuals whose properties are concerned. I would draw the attention of honorable senators to what the provision really means, and in what way this interest becomes payable when the land is secured under clause 6. It becomes at once the property of the Commonwealth, and within 120 days of that time a claim must be made by the person claiming, and after a certain period therefrom the matter, if there is a dispute about it, goes into court and the compensation is settled. Clause 18 provides that where compensation is awarded the amount shall be paid to the party entitled thereto or to his agent duly authorized in that behalf, provided that the person must satisfy the Attorney-General that he has a title before receiving payment. The net result of the procedure is that when a man's land is taken he is entitled to make his claim as soon as possible. The sooner he makes his claim the sooner the processes are set in motion which result in the matter being brought before the court, and within a month after the question of compensation has been determined by the court the Government are bound to pay. As there may be some delay in paying, subclause (2) of this clause provides -

Such compensation shall bear interest at the rate of 3 per cent, per annum from the date of the acquisition of the land until the payment of the same is made by the Commonwealth to the claimant or until the same is deposited in the Treasury as hereinafter mentioned.

So that the period covered during which compensation carries 3 per cent, is from the date of the acquisition of the land - that is, from the date of notification in the Gazette until payment. In reality I suppose in most cases the maximum limit of 120 days and 60 days after that will not be run ; in the majority of cases the settlement will take place before then, but even at the utmost the delay is only one month after the amount has been determined.

Senator Millen

- It may take 12 months to determine it, though.

Senator O'CONNOR

- There are cases in which that may happen.

Senator Major Gould

- But even 4 per cent, would not induce people to hang the thing up.

Senator O'CONNOR

- I was just coming to that point. In similar enactments in some of the States a much larger amount of interest than the current rate is provided for\*. For instance, under the New South Wales Act 6 per cent, interest runs during the whole of this time. Of course considering the ordinary price of money no man could have a better investment than 6 per cent, interest until the compensation money was paid over, and therefore there was always an inducement to keep the thing hanging over to make delays in regard to the preparation of evidence of title and in other ways. What we want to avoid is the holding out of an inducement to any delays of that kind. On the other hand, we must look at the matter from the point of view of the claimant. We may take it that he has sold his property to a person who can give him the best of all security - a gilt edged security. The rate of interest varies according to the value of the security. With a poor security one requires a larger interest; with a better security one can take a smaller interest. The best security one can possibly have is the security of the Government, and the only question is whether under all the circumstances it is not a fair thing to have the rate of interest placed at 3 per cent, during the time which will elapse from the taking of the land until the compensation is settled. That rate has been fixed because it is about what the Government debentures will bring net.

Senator Playford

- 3& per cent.

Senator O'CONNOR

- I think ordinary State debentures nowadays will not bring much more than 3 per cent. net.

Senator Walker

- Consols carry that at present price. One can buy them to-day to give 3 per cent.

Senator Major Gould

- Treasury bills are being issued at 4 per cent, by the State Governments.

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Senator O'CONNOR

- With the price above par that does not give very much beyond 3 per cent. That is a fair test of what we ought to give, and I do not think we ought to give any more. . We ought to give as much as we give to the public creditor on bonds whatever it may amount to. AVe fixed the rate at 3 per cent., because we think that is a very fair allowance. Besides that, we must remember that we are fixing this rate for a very long period. In the other States, when the rate of 6 per cent, was fixed, no doubt that was a fair market interest to allow at that time.

Senator Walker

- It is going up in Victoria to-day.

Senator O'CONNOR

- It goes up and it goes down, but the general level of interest is dropping very much of late years, and as we are framing a statute which is to endure and to apply to all cases in years to come, unless there is an amendment of the law, we must take care that we do not fix the rate of interest too high. For these reasons, especially considering that the difference between 3 per cent, and 4 per cent. may be a very serious matter indeed to the Commonwealth, when we take the aggregate of the payments of compensation and the amount of interest which will be involved, it does not amount to very much in each particular case ; but at the same time I quite admit that that would be no reason for fixing an unjust amount. We have to fix a rate which is fair, and the fair principle, it seems to me, is that as the man is selling to the Government, they ought to pay him the same rate of interest as they pay on a debenture.

Senator Dobson

- Does the honorable and learned senator think it is quite fair to offer them less than the lowest current mortgage rate ?

Senator O'CONNOR

- The current mortgage rate changes from time to time. If the honorable and learned senator will look back for a number of years he will find that it was very much higher some years ago than it is now. We have no safety unless we stand to what the fair interest is on Government bonds. I think on that principle we ought to settle the rate. The interest which is charged on mortgages depends on a great many circumstances, as, for instance, the land of security, the kind of property, and the credit of the man himself.

Senator Dobson

- I am naming the lowest rate of all - 4 per cent.'

Senator O'CONNOR

- I do not know that it is, because when a man is dealing with a large amount he may get the money at less than that rate. The only standard we can fix is the rate on Government bonds. For these reasons I ask the committee to leave the clause as it is.

Senator CLEMONS

(Tasmania).^ My first impression when I read the clause was not the sort of impression which

Senator Millen

has, but an impression that the Commonwealth was going to be unnecessarily lenient. The Minister has pointed out that the acquisition of the land by the Commonwealth from a private individual dates from the notification in the

Gazette.

In the case of an ordinary contract for sale - and this notification in the

Gazette

may be put on exactly the same footing as the signing of an agreement for sale - no interest would be

allowed immediately upon the signing of the agreement. In all ordinary practice at least one month would be allowed in which to complete the title and to tender the conveyance signed. The Commonwealth will offer the rate of 3 per cent, from the date of the notification in the Gazette,

and it seems to me that in every case, practically, interest would be paid by the Commonwealth, although in any ordinary case of private contract no interest would be paid for at least a month after the signing of the agreement for sale.

Senator Millen

- That is a voluntary sale.

Senator CLEMONS

- I draw no distinction with regard to the rate of interest or the date from which it should begin between a sale under the\* Bill and an ordinary contract sale between two persons. Seeing that interest is bound to be paid to every person whose land is acquired for a certain time, I think the clause is very lenient in that it does not state that 3 per cent, would be paid at the expiration of one month after the acquisition of the land. The time probably will be short during which interest will have to be paid. If any person wants to obtain interest on money for a short period of three months he will find it extremely difficult in the Commonwealth to get 3 per cent, anywhere. Of course he will not get 3 per cent, from any banks, where I believe the current rate is 3 per cent, for twelve months. It is not 3 per cent, for three months or six months. In comparison with the rate of interest offered by any of our institutions, 3 per cent, for a short period by the Commonwealth is very generous. For these reasons I think the provision is very generous to the public.

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Senator Major GOULD

- I cannot say that I agree with the remarks of the last speaker. I can realize fully the position which is taken up by the Minister in his advocacy of 3 per cent. But, taking the very reasons which he gave, I think we would be justified in increasing the rate to 4 per cent. It is perfectly true that we ought not to fix a rate which would induce a man to delay receiving his money, to throw obstacles in the way before a settlement. I admit if it was a large percentage it would have that inducement, but is it probable that any man would care to have his money tied up for an unduly long time because of the difference between 4 per cent. and 3 per cent.? It may be true, as Senator Clemons says, that a man could not get a better rate of interest under ordinary circumstances for an investment for three months, assuming the security to be equal to the security in this case. But we must bear in mind that this is not a case where a man voluntarily has his money tied up, but where a man has his property taken from him, and is entitled to the value of it, and is compelled to wait until certain processes have been gone through before he receives his money. His land has gone, his rents have gone ; the land is held by the State, which is entitled to receive the rents from it. The rents would be, in the case of an improved property, worth more than 3 per cent., and it is unreasonable to say that the owner shall only receive 3 per cent. when Government securities stand at a higher rate in the market to-day.

Senator Keating

- Does not the 10 per cent. which is added for compulsory resumption compensate the owner?

Senator Major GOULD

- We are assuming that the owner is entitled to some rate of interest above the 10 per cent. added for compensation, and I hold that 4 per cent. would be a reasonable rate.

Senator Keating

- The owner could not get 4 per cent. by buying Government debentures.

Senator Major GOULD

- I have here the Sydney Morning Herald, for Wednesday, July 17th, which gives the prices of New South Wales Government stock. I have not the figures as to Victorian stock. I find that funded stock of 1892, issued at 4 per cent., and 1873 stock issued at 4 per cent., are realizing to the investor 3½ per cent. at present prices.

Senator Clemons

- The investor in that case has to pay a commission on buying and selling. .

Senator Major GOULD

- I am sure that he does not pay commission on both transactions.

Senator Clemons

- If he pays commission in one way he would not get  $3\frac{1}{2}$  per cent.

Senator Major GOULD

- The 3 per cent. stock issued by New South Wales returns  $3\frac{1}{4}$  per cent. to the investor.

Senator McGregor

- If the honorable senator goes further back he will find that the rates were still higher.

Senator Major GOULD

- I am quoting the current prices for Government stock.

Senator O'Connor

- I think the honorable senator will find that no more 4 per cent. stock will be issued.

Senator Major GOULD

- Treasury Bills return  $35/8$  to the investor. There is another instance on this list where the percentage to the investor is less than  $3\frac{1}{4}$  per cent., and in one case, where the loan is only for a short-dated period, the yield is 4 per cent. If honorable senators take the trouble to go through the quotations issued from time to time during the last two or three years, they will find that the percentage returned to the investor has been higher than 3 per cent., which is the rate given by the Government under this Bill. Let us look ahead.

What are the probabilities ? Is there not a great probability that money will yield a higher rate, so far as Government debentures are concerned, than it does at the present time ? At any rate, it is not likely to fall below what it is at the present time. Why, then, should we seek to say to the man whose land we take from him voluntarily or involuntarily, that he shall receive less than he would get if he had invested in Government debentures ?

Senator O'Connor

- Will the honorable and learned senator say what the investor would get out of a  $3\frac{1}{2}$  per cent. loan?

Figures have been given for a 4 per cent. loan, which is very unusual nowadays, and probably will not happen again.

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Senator Major GOULD

- I am taking the yield to the investor. For instance, there are two cases of 4 per cent. loans that have been issued by New South Wales. The prices at which they are sold to-day will realize  $3\frac{1}{2}$  per cent. to the investor on the amount given. There is one 4 per cent. stock selling at 106 buyer, latest sales at  $106\frac{1}{2}$ .

On the debenture stock the yield to the investor is  $3\frac{1}{2}$  per cent. Taking the Sydney quotations, it will be found that in no case do the Government debentures return less than  $3\frac{1}{2}$  per cent. on the amount paid by the buyer on his investment. I am sure these figures must convince honorable senators that we are making the interest rather too low, unless we can show that there will probably be a very great fall in the price of money in the future. If we take the trouble to consider the condition of affairs at the present time, and look to future probabilities, I think we shall find that it is likely that the interest on money, so far from falling below what it is now, will actually become higher. When we consider the engagements Great Britain has entered into - and Great Britain, after all, regulates the price of our money - the loans she will have to raise, and is raising, we may rest assured that, instead of interest becoming lower, it will probably become higher. I am only speaking of Government stock, which is the very best security you can get. If honorable senators consider the question of loaning money on mortgage, they will find that no man will lend a comparatively small sum at a less rate than 3 per cent. Small loans will realise 5, 5-J-, and 6 per cent., even on good suburban security around our cities.

Senator O'Connor

- For a definite period.

Senator Major GOULD

- Of course. If it is for a long period, you can get interest at a lower rate than if you take the money for a short period ; in this particular case the interest is only to be paid for a short period. I say that you should take that into consideration in fixing the amount of interest to be paid.

Senator Clemons

- Would any one go to the expense of a mortgage deed for three months 1 '

Senator Major GOULD

- Why should a man be compelled to lend to the Government for three months? If I could find an investment where I could lend my money for three years, I should take it, but if not I should prefer to put it into Government stock ; and if I put it into the lowest priced Government stock on the market I could get 3 J per cent, at the present time. I think the Government might concede this small sum to the public. It would be a very reasonable concession, and it would not be difficult for the Government to find the additional amount of money required.

Senator O'Connor

- It would be a large sum in the total.

Senator Major GOULD

- It might be; but are we going to pass a Bill under which large areas of land will be resumed after five or six years have gone by ? The large resumptions will be in the early days of the Commonwealth, at a time when money is likely to be higher than it is now, and not a long way in the future, when, by some possibility, money may become cheaper in the market than it is to-day.. It has been said that if this becomes an important matter, Parliament can- alter the Act ; but my opinion is that unless we are asking for more than what is reasonable in the interests of the public and the Commonwealth, the Government may justly give way, to the extent of paying such a rate of interest as would be received by a man from investments in Government stock. It is only in the interests of fair play between the parties that I support the amendment. . I think if the honorable and learned senator in charge of the Bill had large sums to put out on mortgage, and found that he could only get 3 per cent., he would not loan his money in that way, but would secure investments that would give him up to 5 per cent., and that would be as safe as Government stock itself is. I therefore hope that the Vice-President of the Executive Council will see his way to increase the amount of interest, for, after all, we are only desirous of doing what is a fair thing between parties and the Common wealth.

Senator WALKER

- It must be within the knowledge of the committee that at the present time large resumptions of. land are taking place in Sydney. The Government, for the purposes of harbor improvements, have resumed that portion of the city known as the Rocks, the rate of interest they are paying being 4 per cent. There is a great deal to be said in favour of making the rate of interest 4 per cent. It must be remembered that many persons whose land will be resumed will be mortgagors. Speaking as one who, in his official capacity, knows something about the position of mortgagors, I venture to ask : Who ever heard of a mortgagee accepting payment of money without notice or without a penalty 1

Senator Dobson

- That is all provided for by a later clause:

Senator O'Connor

- There are special clauses dealing with mortgagees.

Senator WALKER

- At all events, 'it seems to me that 4 per cent, is not unreasonable. Money goes up and down, and the probability is, as Senator Gould has remarked, that for some time to come money will not be cheaper than it is now. British Consols can be purchased to-day to return a yield of more than 3 per cent, per annum.

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Senator Major Gould

- And they are the best security in the world.

Senator WALKER

- The Government should not treat its citizens with a high hand. As one of those citizens, I rather protest against this treatment, and hope that the honorable and learned senator in charge of the Bill will accept 4 per cent.

Senator DOBSON

- I have been lending money at various rates of interest for 30 years - in fact, that is the greater part of my business ; and I am satisfied that 3 per cent, is too low a rate to fix here. It is not an amount which the Government should force a man to take. I would undertake to lend money in Tasmania for 4 per cent, for any man who would give me notice. The Government will be able to give six months' notice from the date when the amount of compensation is awarded. In Tasmania, two-thirds of the properties the Government resume will be under mortgage, and in every case the mortgagor will be paying 4, 4-1, 5, and 6 per cent.

Under these circumstances, it is manifestly unfair for the Government to pay only 3 per cent., because there will be an absolute loss to the man whose land is resumed. As I have pointed out to Senator Walker, there are clauses in the Bill providing that the Commonwealth can redeem mortgages by giving six months' notice. Now, I want to know why that provision with regard to six months' notice was put into the Bill, whilst at the same time the Government will pay to the mortgagor only a lower rate of interest than he is paying on his mortgage? I support the proposal to pay 4 per cent, interest, because it is the lowest current rate. I quite agree with Senator Clemons with regard to making the interest date from the notification in the Gazette. The Government are dealing most liberally with the public in that respect - indeed, too liberally. I do not think there is any reason why the Government should, in this Bill, depart from the ordinary course pursued between vendors and purchasers. I should like to see the Government give the vendor 4 per cent, interest, and have the interest calculated from the date of acquisition - that is to say, from the time the property comes into the possession of the Commonwealth. That is what it ought to be. Why should we depart from the ordinary course that governs transactions between vendors and purchasers throughout the civilized world? Why should there be a liberal provision such as that the date from which interest is payable shall be calculated from the date of notification, which is altogether too liberal, whilst the Government are very much too illiberal in respect to the rate of interest they pay

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Senator Clemons

- I think 3 per cent, is an excellent rate of interest for short loans.

Senator DOBSON

- It is a question of what these men are paying on their mortgages. A man might be paying 4, 5, or 6 per cent, on his mortgage, but the Government will pay him only 3 per cent.

Senator O'Connor

- We cannot compensate the owner in that way. He may be paying 10 per cent on his mortgage.

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Senator DOBSON

- I am only using this argument to show how very little the proposed rate is. How does the honorable and learned senator answer the figures which have been quoted by Senator Gould, showing that New South Wales debentures purchased in the open market are yielding 3<sup>1</sup>/<sub>2</sub> per cent., which is 1 per cent, more than this Bill says the Commonwealth Government will pay? I do not think the Government have a right to compel a man to sell his land, and then only pay him 3 per cent, interest, when he may be paying more than 4 per cent, to a mortgagee, but I think the Bill should be altered so as to provide that the rate of interest shall date from the acquisition, and not from the notification. In the case of strips of land which the Government takes for railways and roads, that would not matter at all; but some day the Government will be acquiring land for public offices and recreation grounds, and in that case an alteration such as I propose would save the Government several thousands of pounds. From the very date the notification appears in the Government Gazette, the Government will have to pay interest upon the property acquired. Why should they do so? Weeks and months will go by, during which the man will still be in possession of his land, securing the rents and the profits from the beneficial occupation of it, and interest will be paid for three, four, or six months before the date when the Government obtains possession. Why should this Bill contradict the very principles on which we carry on our ordinary business?

Senator MILLEN

(New South Wales). I do not apologize for taking up a few more minutes on this question, because this is a matter which will affect the State that I represent more than any other State. The acquisition of property under this Bill will be more extensive in New South Wales than in any other State, because of land having to be acquired there for the purposes of the capital.

Senator O'Connor

- It is almost certain that resumptions for the capital will be differently dealt with in a special Act.

Senator MILLEN

- That does not affect the point of my argument. I take it that whatever rate of interest is agreed to now will be the rate fixed in the Bill to which the honorable and learned senator refers. I can hardly think that there will be one rate of interest for one State and another rate for other States. The arguments of the Vice President of the Executive Council is that because it might cause the federal authorities a great deal of trouble if we were to increase the percentage, we should not alter the Bill, although it might be fair to do

so. If it would cost a large amount to the Federal Government, it must cost an equally large amount to the people who are deprived of the extra interest. The Commonwealth Government will be much better able to pay the 1 per cent. additional interest that I ask for than many of those whose land is resumed will be able to afford to lose it. The honorable and learned senator has spoken of the rate of interest on securities, overlooking the fact that if an investor holds securities he can dispose of them, freeing his money for other investments. If I have a liquid asset I can turn it into money at five minutes' notice, if I see any other investment opening out before me. But, with the money affected by this Bill, the owner can do nothing. Senator Clemons has spoken of 3 per cent. being a fair rate of interest for short loans. It might be a fair rate of interest if the lender only wanted to lend his money for a short time ; but in this particular case the circumstances are the other way about. In all other cases you have to pay a higher rate for short loans, but in this particular case, where the State takes over a man's land, there is a compulsory loan.

Senator Clemons

- The individual is not the borrower in this case ; it is the other way round.

Senator MILLEN

- I quite understand that, but I say that the rate of interest on a short loan is higher than that for a long one. If my honorable friend, Senator Clemons, attempts to borrow money he will soon find that if he wishes to raise a loan on any property for a short period, he will have to pay more for it than if he were prepared to take the loan for a fixed and a long time.

Senator Clemons

- The private individual! is the lender in this case.

Senator MILLEN

- Senator Gould has. pointed out that the return upon Government bonds in New South Wales is equivalent to 3½ per cent. to the holder. That, so far as I know, may be termed the very best gilt-edged security in Australia. It has this additional advantage, that a man holding a bond of that kind can in half-an hour's time convert it into money if a better investment opens out for him. But in this particular case the proceedings in the law courts may be delayed, and a man maybe twelve months without knowing what he is entitled to, or when he is going to get it. He is in a very different position from that of a man having liquid assets which he can turn into any other investment. My honorable friend, Senator Walker, has referred to the fact that 4 percent, is being paid on resumptions in New South Wales. In dozens of cases that is being; done. Where the State has stepped in and has resumed property, and is collecting rent from it, it is paying only 4 per cent., though the people who possessed it may have been receiving 6 and 7 per cent. from it. They are not able to get their money to use it for other purposes, and they are at the same time limited to a much lower rate of interest than they were getting when the Government resumed their property. I do not wish by any means to have an unduly high rate of interest fixed, as that would be unfair to the Commonwealth, and as Senator O'Connor pointed out, it would have a tendency possibly to prolong operations. But, seeing that the State from which I come is very largely interested in this matter, I ask the Vice-President of the Executive Council even now to agree to the amendment, or failing that, probably he may agree to some compromise between the two figures which have been mentioned.

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Senator MCGREGOR

- I do not think it is altogether fair for an honorable senator to say that the State he belongs to is likely to be particularly interested, when it is only a few individuals in the State who will be particularly interested, as against the people of the whole Commonwealth.

Senator Millen

- I am here to represent the State.

Senator MCGREGOR

- It appears from the lines of operation on which the honorable senator is now going that he wishes to represent a few individuals, because land is not to be resumed from every landholder in the States of New South Wales, Victoria, or any other State. There is another point of view which has suggested itself from the remarks by several senators, and I think it puts the position of the Government more fairly than it has been put yet. Senator Dobson has said he can get 4 per cent, for any one who has money to invest, but he would want a couple of months' notice. Honorable senators have asked why we should keep these people waiting so long a time at 3 per cent., but if the money was paid down to the individual on the very



day the resumption was notified, according to Senator Dobson he would have to wait a couple of months before he could get any return.

Senator Millen

- He could get 3£ per cent, in half-an-hour by buying bonds.

Senator MCGREGOR

- I am not going to argue whether he could get per cent, by buying bonds. I am not very certain that he could. When we consider the time it would take to complete the negotiations, and the commission he would have to pay somebody else, by the time the three months were up in which under this Bill the negotiations for the purchase of resumed land should be completed, the party who got the bonds might have nothing at all in the way of interest. Here the Government, for public purposes, is going to resume land, and they are going to be more liberal than anybody I have come across yet, because they are going to pay interest from the time they give notice of resumption up to the time the pay arrangement is completed and the money put down. I think it will be found in the great majority of bargains that are made between buyers and sellers of land, or any other property, that no seller is treated more liberally than the Government is going to treat these few individuals. I point out to Senator Major Gould, who is trying to represent New South Wales, that they are going under this Bill to be given 3 per cent, straight away, and the security is better than any other in Australia. I do not think they are entitled to any interest at all for the 90 days. In 90 days after the notification all the arrangements ought to be completed if no dispute arises, and I do not think they should get any interest. The Government is liberal enough in proposing to allow them this interest, and as to the interests of the few land-holders who may be affected I think every honorable senator here ought to be satisfied.

Senator CLEMONS

(Tasmania). - I should like briefly to reply to the arguments used by Senators Dobson and Millen. They both have drawn attention to the fact that sales under this Act are compulsory sales, and, therefore, some additional compensation ought to be given to the persons whose land is resumed. I wish to say that that sort of solace for wounded feelings is already provided for by the addition of the 10 per cent, margin.

Senator Millen

- That is not stating the argument fairly.

Senator CLEMONS

- I think it is stating it very fairly. That 10 per cent, should fully compensate for wounded feelings.

Senator McGregor

- And they get 3 per cent, on the 10 per cent.

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Senator CLEMONS

- In my opinion we ought to regard this compulsory acquisition of land in the same way as we would regard voluntary transactions on either side, seeing that the 10 per cent, clears off all the injury due to wounded feelings. Another argument used by Senator Dobson is that the Commonwealth in paying interest should take into consideration the fact that the land to be resumed may be under mortgage. The Commonwealth would be landed in hopeless difficulties if we were to consider that. If the Government are to consider that one man has mortgaged his land, and is paying 4 per cent., and he should therefore get 4 per cent., they would, in equity, be bound to consider the case of another man whose land was mortgaged at 5 per cent., and give him 5 per cent. This is one of those cases in which it is perfectly obvious that, in considering particular instances, we cannot do general justice. That being so, and it being impossible for the Commonwealth to adequately compensate, by the rate of interest, any one whose land happens to be mortgaged, the best thing to do is to consider the land as subject to no mortgage at all. That being so, I urge again that 3 per cent, is an extremely fair rate. In spite of the arguments and statistics given to us by Senator Gould, I maintain that 3 per cent, is as much as any man can obtain for a short-dated loan. I interjected, and I repeat again, that a man would find it very difficult to buy Government debentures, and get a return of 3 per cent, on them, if he held them only for three months and then got his money back ; and he would then be in the same position as a man whose land was acquired by the Commonwealth under this Bill. I do not believe it is possible for any one to get more than 3 per cent, on a loan for three months. I point out that if the Government complete the transaction in a short time, by the payment of the money, the question of interest becomes immaterial. The question of percentage only

becomes material if the time is extended by delay, and there is always the additional amount, to which I have referred, which will cover any hardship which may arise from the rate of interest being small. There is also this advantage to be considered : that the interest is to be paid from the date of notification of the acquisition of the land. , , , , , .

Senator Major GOULD

(New South Wales). - Some question has been raised with regard to the date from which this, payment should take place, and the effect of it. The clause provides that a man is entitled to interest from the date of the acquisition of the land until the payment. Honorable senators will find that the date of the acquisition of the land is the time the notification appears in the Government Gazette.

The notification appears in the

Government Gazette:

to-day, for instance, and it has the effect of vesting the whole property in the Government of the Commonwealth at once. The property may be one which has been improved. There may be tenants upon it, and a rental may be received in respect of it, possibly to the extent of 5, 6, 8, or 10 per cent, on the amount that is to be paid for it. The Government will be the persons entitled to receive those rents, and from the date of acquisition they will receive them. At a very moderate computation these rentals may be put down at 6 per cent., so that the Government will be getting 6 per cent, upon money for which they are only paying 3 per cent, to the person who is legally entitled to it. The case of the Rocks resumption, alluded to by

Senator Walker,

is a case in point. There lands were resumed more than eighteen months ago, and the Crown to-day is receiving, and has been receiving from the start, the whole of the rents, and has not attempted to pay interest or any remuneration to any individual concerned, unless he is prepared to go cap in hand and say that he is a beggar or a pauper, and cannot live without his rents or interest. Such a case may happen in connexion with these resumptions. There may be difficulties and technicalities in the way of an immediate settlement, brought about by no fault of the owner of the land, but through, perhaps, some fault in the nature of his title, which the Government will desire to have investigated and cleared up to ascertain who really is entitled to the money. The owner may be in this position. His land is resumed, the rents from it are being received by the Government, and he is told that at some future date he will receive 3 per cent., or about half, possibly, what the Government will have been receiving by way of rents from his property. A case like that would be a manifest hardship. It appears to me that the Government are not doing anything so wonderfully generous because the very moment the notice appears in the

Gazette

the property is vested in the Government, and the owner is a trespasser if he goes on to it. Surely it is fair that he should be considered under circumstances like that. Now as to the debentures. If I ask a broker to buy debentures for me he will take them out of the Treasury, and I do not pay him a commission, because the Crown pays him. That, at any rate, is the practice in New South Wales. He gets £ per cent., I believe, from the Crown while the stock goes into the hands of the purchaser at the price paid by him.

Senator O'Connor

- The honorable senator must know that they are very soon picked up. One can very seldom buy those things first hand. They are nearly always in the market.

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Senator Major GOULD

- I am pointing out that if I did buy them first-hand it would cost me nothing for commission, because the Crown pays the commission, and I would get a bigger return than I otherwise would. If a commission had to be paid in buying stock that might interfere with the rate of interest for one year ; .but if I am buying the stock for the purpose of an investment to be distributed over a number of years, the amount paid for commission would be infinitesimal. When we want to realize on stock we- have a marketable commodity as good as banknotes, because it will have its fixed price in the market, regulated by supply and demand, and that price can be got at any moment. The price may go down to a lower rate, and then one would lose, but on the other hand it might go up to a higher rate and then one would gain by it.

An Honorable Senator. - That is speculation.

Senator Major GOULD

- So far as the individual whose land is taken is concerned, he may not wish to speculate with his land, but he has to sell it whether he likes or not. We must remember that the owner of the land is the lender in this case. He cannot operate with the money he lends, and he must accept the rate of interest provided by the Bill. If an honorable senator goes to any one and says - "I want to borrow a certain sum. of money for three months as a matter of ordinary business," he will find that he will not get the amount at 3 per cent. He will have to pay much more than that for so short a period.

Senator Walker

- What would an overdraft at the bank cost him?

Senator Major GOULD

- As my honorable friend suggests, he may go to a bank to get an overdraft for three months, but he will find that the interest he will have to pay will be very much more than 3 or 4 per cent. I do not believe that under the most favourable circumstances any man could go to a bank and get an overdraft at less than 5 or 5½ per cent.

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Senator PLAYFORD

- There is no doubt that we all want to treat fairly these people from whom we compulsorily take their land, and I think we should not look upon the transaction in the light in which Senator Clemons has looked upon it. If a man has £400 or £500, and he wants to get interest upon it for three months, he will not get very much from a bank. The recognised bank rate is, I think, 1½ per cent. for such a term, and a higher percentage for six months or twelve months. But that is not the position of the man whose land has been taken. His position has been fairly put by Senator Gould. We take the man's land from him compulsorily, and he cannot help himself. He is bound hand and foot by our legislation, and we should certainly deal with him fairly and liberally. The rate fixed by the Government is 3 per cent., and they are certainly dealing liberally with the man by commencing to pay interest on the date the notification appears in the Government Gazette. That certainly should be taken into account. But when we come to the question as to whether 3 per cent. is a fair rate of interest to pay, taking the rate of interest at the present day, I think the Government have made a mistake. It would be a great deal better to say that the interest should be 3½ per cent., instead of fixing it as low as 3 per cent. The disadvantage of a fixed rate of interest for all time, or for the length of time this particular law is going to run, is evident. When Governments enter into arrangements with banks or financial institutions to finance them under certain circumstances they fix a standard which is a variable one. When the Government of Victoria require to enter into an arrangement with the Westminster Bank, which I believe they deal with, they say - " Under certain circumstances we may want to borrow so many hundreds of thousands of pounds from you, and we may have so many hundreds of thousands of pounds at our disposal which we could lend to you " ; and in such a case the standard of interest fixed is the bank rate of interest for the time being. The bank will lend the money at ½ or ¼ per. cent. above the Bank of England rate, and will borrow money from the State at so much less than the bank rate - the bank rate being a standard rate, though a fluctuating standard. It would be better if we had a standard of that sort here, because as time goes on the rate of interest may drop. If the rate of interest drops the Government will be the loser, but if, as time goes on, the rate of interest rises, the persons whose land is resumed will be the losers. This hard-and-fast rule of fixing a definite rate of interest is not a very scientific one. It would be a great deal better if we had some standard as they have in the London market. We have no standard unless we take the rate which the banks give for fixed deposits, and say that we shall give a little above that rate. I think the case may be met if the Government will agree to take the difference between 3 per cent. and 4 per cent. It would be a very fair rate to charge, because it must be borne in mind that the man gets his interest from the date of the Gazette notice. He gets considerable advantages in that direction, and if he loses half per cent. on the transaction according to the rate of interest which is now payable, he gains at all events where under ordinary circumstances he would not gain.

Senator PEARCE

- I trust that the Government will resist the blandishments of Senator Playford. We require to look into some of the analogies which have been submitted. I listened very attentively to various instances which were put forward, and it occurred to me that some honorable senators are not looking at the matter in the

fullest light. They are putting the case as if a person had 100 sovereigns and the Government took from him his money. Senator Major Gould says the Government must give him the current rate on the money. But that is not the position. The Government take his land which may represent 100 sovereigns, but there is something else to be taken into consideration - the ordinary value of the land, the interest of the owner in the land. The court has already taken that into consideration, and the sum -which it has awarded him contains the ordinary value of the land. That appeals to me as a reason why we should not give the current rate.

Senator Sir John Downer

- That is not correct ; they do not do that.

Senator PEARCE

- If the Government acquire a piece of land in Bourke-street, I take it that they will not give the owner merely "the unimproved value, but the value of his estate and interest in the land, and, among other things, the good-will of his business on the land.

Senator Sir John Downer

- No, they give him a little more because they cannot accurately state what they ought to give him.

Senator O'Connor

- If the man had a business on the land, the Government would have to give him the price of the good-will.

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Senator PEARCE

- .The Government have already paid him full value, and he has no right to claim interest on a sum, which it is alleged, they have taken from him. I do not see any need to pay any interest, except that the money might be kept in hand for an interminable period. The proposition that we are acquiring from a person, 100 sovereigns, and must pay him the current rate of interest, is not the correct one, because we have already taken into consideration that we are taking from\* him the earning power of the money, and compensated him for that. For that reason I trust the Government will not give way.

Senator MILLEN

(New South Wales). - There is a very simple answer to the argument of the last speaker. The interest is not at all in the nature of compensation for the land taken. No matter whether 1 or 10 or 20 per cent, is added to the price of that land, the money is given for the land. The Bill provides that the value of the land shall be that which it had on the preceding 1st January. That may be a certain figure arrived at by the court, with 10 per cent, added, or whatever the Judge may think fit to add. On the ' 2nd January, or a month after, the man should be in a position to walk away with his money. Seeing that we cannot give him the money within that time, the question is what rate shall we pay him for the use of it. The 10 per cent, has absolutely nothing to do with that question. The ordinary private vendor would be able to take his money and go into some other business. Take the' case of a small farmer with a farm which is possibly only worth £500, but which, by the aid of his labour, gives him an income of £150. What position are we placing that man in if we resume his land and keep him for twelve months without his money, and give him such a paltry interest as 3 per cent. ? He is not able to go into any business. If he had to float a loan on his prospect of his obtaining payment from the Government to buy another farm, he would certainly have to pay much more than 3 per cent. Until he can get his money he is under considerable difficulty, because he can do nothing. Although he is the possessor of the farm until he is paid by the Government, lie is completely placed in hobbles. He certainly could go into the labour market, but if he had disposed of his farm privately he could have bought another farm and gone to work. The question is, what interest shall we pay for the forcible . use of his money during the time it is' retained

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That is a matter entirely distinct from the question of what percentage, if any, is to be added to the value of the land.

Senator McGREGOR

(South Australia). - These cunning arguments almost go beyond me. But, even taking the case of this farmer, how would it be if a man who was making £150 out of a farm worth £500 -with the aid of his labour had been negotiating to sell that farm to

Senator Millen

? The negotiations might . go on for three months, and in anticipation of something happening he might do nothing. Even at the end of the period

Senator Millen

might draw back and not buy the farm, and the man would lose all that time. Suppose; on the other hand, that

Senator Millen

did complete the purchase of the farm and gave the money, it would be a considerable time before the farmer could put the £500 into anything where he could begin to exercise his labour with any chance of success. But in the case of the Government, as soon as ever the notification is gazetted, the sale is complete, because they take the land with all the improvements ; and the man knows that the only difficulty which stands in the way of a settlement is as to an agreement about the price. Then, with respect to the value, every consideration is given to the seller. An honorable senator has said that it is very unfair for the Government to agree to give a certain amount to a man for his land, and forcibly take it, and then only give him 3 per cent, interest on the amount.

Senator Pearce

put the thing very fairly in the case of sovereigns. But supposing it was a piece of improved land, and that the holder was getting 6 per cent, on the purchase money of that land. Does not every one know that whenever negotiations are entered into with respect to its value, the value of the improvements and everything else are taken into consideration ; and, instead of getting what he might have paid, say £500, he would very likely get £750 or £1,000 ; so that, instead of getting interest on £500 at 6 per cent., he would get 3 per cent, on £1,000. I contend that with all the provisions to compensate the individual for the loss of the land, his improvements, his goodwill, his sovereigns, and everything else, he is entitled to no interest at all. The only argument in favour of paying any interest is that it will make the Government hurry up, and come to a settlement as soon as possible. The Government are treating the individual very generously in giving 3 per cent, from the time of the notice.

Senator Lt Col CAMERON

- It appears to me that the matter of interest is one of degree. The Bill provides for the actual compulsory purchasing of . the land, and we ought to go on in a logical way and provide a fair interest. Those who will be chiefly concerned will be small capitalists. The big holder will not suffer. It is the small man I want to protect. We are putting him practically in a position of a forced sale against his will, and he has not had an opportunity to look round and invest his money in a concern in which he has been used to utilize his labour. We are turning him adrift for the time being, and we ought to -give him a fair and reasonable interest, and not treat him as if he had the money, and simply wanted to get something for it in the meantime. That is the crux of the question, and that is- the fairest way of looking at it. I hope that honorable senators will give that view of the case their fair consideration. The burden will be placed not on the big man, but on the small man.

Senator O'CONNOR

- I hope that we are putting every man, the big man as well as the little man, on exactly the same basis, and that we are quite willing to do justice, but a fair thing all round. The view which Senator Cameron has just put has really been answered by Senator Millen and several others. How often are we going to pay for this compulsory taking ? We have paid for it already, when we give him an ample allowance for the value of his land.

Senator Lt Col Cameron

- But he has not got it.

Senator O'CONNOR

- When we add 10 per cent, to that for forced sale, we give him in the capital we hand over an allowance for the compulsory process under which we take the land. Surely we are not going to pay more interest on that account as a compulsory taking. As we are giving him interest on that 10 per cent, we have added. We do not want to pay him over again in interest for the compulsory taking.

Senator Millen

- - Why pay him any interest, then?

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Senator O'CONNOR

- We are willing to pay him interest. There is plenty of discussion on what we are going to do, but if we follow the thing out logically that may be. That brings me really to the point I wish to submit. It is impossible to adjust these things to a nicety. When we take a man's land it may be that nothing can compensate him. But we have to do the best we can, in order to make what is commonly called a fair deal between him and the Government. Under ordinary circumstances, supposing this land were to be sold or acquired in a voluntary manner, the vendor has to make out his title, and until he does so he is not entitled to a farthing of purchase money, or anything for the time he has spent while he has been endeavouring to sell.

Senator Major Gould

- He gets the rents and profits.

Senator O'CONNOR

- Of course he does ; but that has nothing to do with what I am pointing out now. He has no right whatever to a farthing of money until he has satisfied the purchaser that he has a good title, and the conveyance is handed over. We put him in a different position here. Whatever his title may be, we say from the very date of notification, which we treat as a conveyance from the Government, " You shall have 3 per cent. interest, no matter how long it takes you to investigate the title" ; so that if that work takes eight, ten, or twelve months, instead of the owner being at that loss, the Government are at the loss.

Senator Major Gould

- They draw the rents and profits.

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Senator O'CONNOR

- Of course they do if there are any rents and profits, but in the great bulk of the cases there are no rents and profits. What rents and profits are there out of a corner of land we snip off for a public building somewhere ? What rents and profits are there in a variety of cases where we take a suburban allotment for a post-office? In the great bulk of cases there are no rents and profits, but where there are, of course the Government take them over. We are dealing with these cases generally. We have to make a law which applies to the generality of cases. We cannot deal with individual cases. We have to do the best we can in laying down a general principle which will apply most fairly to all cases. The way in which we can deal most fairly with all cases is this ; that although we give what may not under certain circumstances be a very high rate of interest, on the other hand we give a very great advantage in paying that interest while the owner is making out his title. If it takes him a long time to do it that is. his own fault, but he may make it out directly the compensation is ascertained. There is another view of it. The question of what is to be paid is not settled until after the agreement has been arrived at or the action has been tried, but we pay him interest dating back long before that has been ascertained.

We not only pay him interest from the time when the value has been ascertained, and we keep the money while he is getting his title ready and putting his title before us, but we go right back and pay him during the whole of that time, which may amount to 210 days, during which the matter has been brought to trial and been getting ready for decision. There is another advantage; that is to pay him interest before we have ascertained the purchase money. Take these two illustrations. We have already compensated him for the value of the land, for any loss he suffers by severance from other land, and for the loss of any business he was carrying on on the land, and in addition to that we pay him this interest, which under ordinary circumstances we would not be entitled to pay. If we give him all these advantages, doing the thing in a rough-and-ready way, he is not entitled to have his interest allowed on the same scale as if the whole thing was a voluntary transaction, and he was going into the open market to sell his property. The fair tiling is to balance the advantages and the disadvantages - what you give the man with what you take away. I. submit that you cannot transact this business with attention to every nicety of detail, but, looking at the matter fairly all round, between the Commonwealth and the person whose land is taken, it is fair to the Commonwealth to pay the individual interest at the rate of 3 per cent., but it would be unfair to the Commonwealth to do more.

Question - That the word proposed to be omitted stand part of the clause - put. The committee divided -

Ayes ... .. 16

Noes..... 7

Majority..... 9

Question so resolved in the affirmative.

Amendment negatived.

Amendment (by Senator Millen) proposed -

That after the word "three" the words "pounds ten shillings" be inserted.

Senator O'CONNOR

- I must oppose the amendment. We have thrashed the matter out on the amendment to substitute 3 per cent., and I hope that every honorable senator who voted against the last amendment will also oppose this.

Senator WALKER

- An honorable senator opposite spoke in favour of 3½ per cent. being the rate of interest. If we cannot get 4 per cent., there is no reason why we should not try to get 3½ per cent.

Question - That the words proposed to be inserted be so inserted - put. The committee divided -

Ayes ... .. 7

Noes ... .. 15

Majority ... .. 8

Question so resolved in the negative.

Amendment negatived.

Clause agreed to.

Clauses 19 to 25 agreed to.

Clause 26 -

All persons claiming any purchase money or compensation shall, at their own expense, when required, produce to the Attorney-General all deeds and documents relating to or evidencing their title to the land in respect of which such purchase money or compensation is payable, and particulars as to any damage claimed by them.

Senator DOBSON

- I think that this clause in reference to costs and expenses is a little different from what we have been accustomed to in ordinary Acts of the kind. It says that persons shall at their own expense when required - produce to the Attorney-General all deeds and documents relating to or evidencing their title to the land. I am perfectly certain that one-half of the owners whose land will be taken, will have their properties mortgaged. Why should they be compelled to pay the mortgagee's solicitors to produce the title deeds ?

Senator O'Connor

- If they were selling the land they would be obliged to do so.

Senator DOBSON

- Yes, but in this case they are selling compulsorily. I have noticed that in other Lands Acquisition Acts the purchasing authority has to bear this expense.

Senator O'Connor

- This clause is copied from the Victorian Act.

Senator DOBSON

- The Government pounce down upon the land-owner and compel him to sell his property, and then they make him pay a guinea to a solicitor for the production of the title deeds-. There is a great difference between a forced sale and a mutual agreement. In this case the cost should be paid by the Commonwealth.

Clause agreed to.

Clauses 27 to 42 agreed to.

Clause 43 (Compensation to State in respect of Crown land).

Senator CHARLESTON

- I observe that notice of an amendment has been given by Senator Harney.

Senator O'CONNOR

- Senator Harney

mentioned the point to me. It is a constitutional point. He told me, however, that he does not intend to press it.

Clause agreed to.

Clause 44 -

The compensation payable to a State in respect of any land acquired under this Act may, at the option of the Governor-General, be paid in any one or more of the following modes, that is to say : -  
by payment to the State of the amount of such compensation ; or  
by allotting to the State debentures or stock of the Commonwealth of the face value of the amount of such compensation, and bearing interest at 3 per cent. ;  
by relieving the State of its liability for principal and interest in respect of an equivalent amount of any public debts of the State which may have been taken over by the Commonwealth.

Senator MILLEN(New

South Wales).This clause provides that payment may be made in one of three different ways at the option of the Governor-General. I should like to suggest whether it would not be well to leave out the words"at the option of the Governor-General."

Senator O'Connor

- Who is to determine?

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Senator MILLEN

- Let it be a matter of mutual agreement between the two parties. As this is a case of forcible resumption, is it not a fair thing that the State authorities should have a voice in regard to the method of payment as well as the Government resuming ? This is not a matter in which any great difference is likely to occur, but it seems to be rather an arbitrary arrangement that the federal authorities carrying out the compulsory resumption should also be the sole arbitrators in regard to the method of payment.

Senator O'CONNOR

- The difficulty is that if we strike out the words to which Senator Millen objects, the State claiming compensation would be entitled to insist upon any one of these ways. It would be entitled, for instance, to insist on having allotted to it State debentures or stock of the Commonwealth of the face value of the amount of the compensation, or it might insist upon being relieved of its liability for principal and interest in respect of an equivalent amount of any of its public debts. It may not be a convenient financial operation for the Commonwealth to adopt either of those courses. It is very much better to leave it to the option of the Governor-General.

Senator Sir Frederick Sargood

- What is to be the currency of these debentures?

Senator O'CONNOR

- We should have to give the value equivalent to the compensation whatever it might be. First of all, the basis on which the payment for compensation was to be made to the State would have to be determined. Then the payments to the State would have to be ' to that . value, in accordance with the provisions of this clause. Surely it would be a good transaction for the State to receive Commonwealth stock at its face value, because I take it that the Commonwealth stock would always be higher in the market than its face value.

Senator Sir Frederick Sargood

- Suppose it was a loan of short currency ?

Senator O'CONNOR

- I do not think that would make a difference

Senator Sir Frederick Sargood

- Yes, it would. Suppose it was a loan for ten years ?

Senator O'CONNOR

- Of course, that might affect the face value ; but, after all, the clause gives the State the right to get the cash at the end of the period. The State does not lose the money. Suppose it is a short-dated stock, which gives an investment for ten years. At the end of that time the persons who have taken the debentures go to the Commonwealth Government and get cash for them. It is only a question of investment. The difficulty is to devise any machinery by which you can adequately provide for these matters, and I think that here, as in a good many other things, you must leave it to the sense of fairness of the Commonwealth Government.

Senator CLEMONS

- This is a matter that may to some extent affect the States, and, therefore, it should be debated in the



Senate. The clause gives the Commonwealth, at the option of the Governor-General, that is to say, not at the option of the States, the right to pay for these lands in cash or in Commonwealth debentures at their face value. I think I am right in saying that that means par value. It is conceivable, that the Commonwealth may issue debentures at a discount, that is to say, debentures to the amount of £100 may be issued at £96 or £98. This clause provides that the States in accepting payment shall accept those debentures as being of the value of £100.

Senator O'Connor

- That would be a distinctly dishonest transaction.

Senator CLEMONS

- I cannot see that it would be dishonest, because it is distinctly provided for in this clause. If it would be dishonest, I can only express my surprise that the Government are going to make it legal, since they distinctly provide that these debentures may be taken at their face value, which means par value.

Senator Dobson

- It is the face value of the amount of compensation.

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Senator CLEMONS

- Senator Dobson has suggested to me a new reading of the clause - that "face value" has no reference whatever to the debentures or stock. If that is so, my argument falls to the ground. But it seems to me impossible that the term should apply to the amount of compensation. The face value of a compensation fixed at £1,000 could only be £1,000. Senator Dobson's interjection disconcerted me for the moment, but when I look into the clause, I find it means just what I have said. That being so, it is possible that an injustice may be done by the Commonwealth to the States. Senators will agree with me that there may be some very serious crises here, in which these debentures may be depressed below the amount at which they were originally issued. I can conceive it as fairly possible that some day they may be issued at below par, and yet for the purpose of payments to the States they are to be estimated at the par value.

Senator Walker

- At the option of the Treasurer of the Commonwealth.

Senator CLEMONS

- The option is with the Commonwealth as against the States. I have not given the matter very much consideration, but I would ask the Vice-President if he will postpone the clause. I do not propose any amendment in it, and the postponement of the clause would give further time for consideration of the matter.

Senator O'CONNOR

- I do not deny the importance of this matter, but I have no doubt whatever that the clause carries out a very fair way of dealing between the Commonwealth and the States. I think the honorable and learned senator is mistaken as to the meaning of the clause. First of all, the compensation under paragraph (b) is to be given in lieu of the payment of the amount in money.

An Honorable Senator. - In lieu of -cash.

Senator O'CONNOR

- Yes. What is to be given in lieu of cash is the amount of compensation in debentures, the face value of the debentures being equal to the compensation. Supposing the amount of compensation was £500, we would have to give five debentures worth £100 each.

Senator Playford

- But the receiver might not be able to sell them in the market for more than £95.

Senator O'CONNOR

- I am going to point out that we have nothing to do with that. Instead of giving £500 cash, we give £500 in debentures. What does that mean? Apart from the question of the market price, it means that in five, ten, twenty, or thirty years, whatever the term may be, the person to whom the debenture is given is entitled to take it to the Commonwealth and get cash for it, and in the meantime he gets 3 per cent, interest. So that, apart altogether from the question of the market value of the stock, we simply defer the payment of the compensation until the due date of the debenture, and in the meantime give interest at the rate of 3 per cent.

An Honorable Senator. - The Commonwealth virtually give a promissory note.

Senator O'CONNOR

- Yes. Payable in so many years at 3 per cent. There is a new element introduced by Senator Playford that these bonds may be depreciated, and on going into the market we might not be able to get more than £95 for them. While we may put it in that way, I think it is extremely likely that these bonds will be at a premium, and always at a premium, and then if this transaction takes place the States will get the benefit of it.

Senator Sir Frederick Sargood

- Is it likely that the Commonwealth will pay otherwise than by cash if its debentures are at a premium ?

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Senator O'CONNOR

- I cannot tell. I ask honorable senators whether it is not right to give the Commonwealth the option of paying for this land which may be taken from the State, and which may amount to a very large sum, in debentures instead of in money? It is not like handing over stock to an individual to speculate with. We are dealing with States, and as long as a State holds the stock, it will get 3 per cent, interest on it, and at the end of the term it will get the full amount of the capital value. Why is that not a fair transaction? I could understand that if we were dealing with an individual it might be suggested that he should be entitled to cash, or to some liquid security, and that we must give him something which he could turn into money at once, but in this case we are dealing with a State for its crown land, and I see no reason in the world why, if it is convenient to the Commonwealth, the transaction should not be carried out in the way he has proposed, issuing debentures payable at a due date, and on which interest is paid in the meantime, I am quite willing to assume that there will be no benevolence on the part of the Commonwealth in the matter, and I agree with Senator Sir Frederick Sargood that if its debentures are at a premium the Commonwealth will rather pay by cash than in debentures. The question for us is whether we are going to give the Commonwealth the right, if it is convenient, to defer the payment of compensation until the due date of the debentures, paying interest at 3 per cent, in the meantime. I understand that Senator Clemons does not wish to postpone the consideration of the other matter referred to in the clause, that of relieving a State of liability. I think that it may be a very useful way to begin the taking over of State debts. I think honorable senators will see that as under the clause we will probably be dealing with very large amounts in transactions with the States, it may be very convenient both for the Commonwealth and the States that the payment should be allowed to be made as provided in this clause.

Senator MILLEN

(New South Wales). - For the very reason suggested by the Vice-President of the Executive Council in urging that the federal authorities should be left a large measure of liberty in this matter, - I suggest the elimination of the word "face." It may happen that at the time the federal authorities wish to pay compensation in bonds they may be issuing them at £95. As a matter of common honesty, I am sure they would refrain from attempting the payment of a State with depreciated currency, but if we eliminated this word "face," they could pay the compensation by giving a larger number of bonds than they would have to give if the bonds were issued at par.

Senator Drake

- But who would fix the value ?

Senator MILLEN

- The State itself fixes the value when it is floating a loan, by indicating the minimum at which it will dispose of its bonds.

Senator Drake

- That would not do.

Senator MILLEN

- But the States do that at present. Of course the value is the market value. Supposing the Commonwealth is issuing Treasury bills to-morrow at £95 for a £100 bond, it should be at liberty, I think, to pay a State from whom it has resumed land by giving a sufficient number of these depreciated bonds to make up the market value.

Senator Drake

- The market value varies from day to day.

Senator MILLEN

- Yes; but it would be the market value on the particular day on which the transaction is made. On the other hand, supposing the Commonwealth bonds are at a premium, the Commonwealth should be in a position to pay with the premium-quoted bond, but it could not be done under this Bill as it stands. The only way in which we could part with bonds under the second sub-clause would be when the bonds were actually at par.

Senator O'Connor

- The honorable senator's proposal would give the Commonwealth a freer hand.

Senator MILLEN

- Of course it would give the Commonwealth Government more power, and I am sure no federal authority would attempt to pay with depreciated paper. If the bonds were at a discount, the federal authority would not pay with them, and on the other hand, assuming that they were at a premium, they would not attempt to pay with them because they could sell them in the open market and pay cash to the State. I submit to the Vice-President that it would be better to leave out the word "face," and then the federal authorities could make their own arrangements with the States when compensation had to be paid.

Senator CLEMONS

(Tasmania).- The more I look at paragraphs

(a)

and

(b)

the more I am convinced of the grave possibility of the States being made to suffer. I think

Senator O'Connor

will agree with me that his argument, forcible as it was, amounts to "heads I win and tails you lose." I have not the slightest doubt that if the debentures of the Commonwealth are at a premium they will not be handed over to a State in compensation for land resumed.

Senator O'Connor

- Would the honorable and learned senator accept Senator Millen's suggestion to leave out the word "face"?

Senator CLEMONS

- I do not want to reject any fair offer, but I point out that even then it would be at the option of the Governor-General to say what the value was.

Senator O'Connor

- No, that would not be so. If he once exercised the option of paying in that way, the value would be ascertained in the ordinary manner, and would mean the market value.

Senator Walker

- The words used should be the "market value."

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Senator CLEMONS

- I point out to the Vice-President of the Executive Council that the real trouble in connexion with these two sub-clauses arises from the use of the words "at the option of the Governor-General." The option is not given to the State that is to receive the compensation, but to the Commonwealth that is to pay it. This is really the greatest difficulty of this clause, and I am not certain that if we left out the word "face" we would be acting in a fair way to the States. I cannot see why the option should be with the Governor-General of the Commonwealth and not with the States. The States would of course prefer to have cash in compensation, and I cannot see any reason why we should force upon them against their will any other mode of payment. I do not think that the option could be exercised by the States adversely to the Commonwealth if we altered the clause by giving the option to the State, and at the same time altered paragraph (a). I think the clause might be wisely postponed, and though if amended in the way the honorable senator has suggested, it would largely meet the difficulties I have urged, a better amendment would probably be made if there were a postponement of the clause for its further consideration.

Senator WALKER

- I think it would be better to insert the word "market" instead of the word "face." I think further that the

option should remain with the . Governor-General, and not with the States, for the reason that under paragraph (c) no State would object to hand over a portion of its debt, because that .would be an exchange of a less valuable for a more valuable asset. The amendment I have suggested would meet the whole difficulty, because the "market value" would be the value of the stock on the Stock Exchange.

Senator PLAYFORD

(South Australia). So far as paragraph

(b)

is concerned, I think it should not be agreed to, because I do not think we should compel the States to take the debentures of the Commonwealth. I can thoroughly understand that in many cases they would prefer the money to that. I have no doubt the State would prefer to have compensation paid under paragraph (c) -

By relieving the State of its liability for principal and interest in respect of an equivalent amount of any public debts of the State which have been taken over by the Commonwealth.

I see no objection to the Commonwealth having the right to say to the State, " We are not prepared to pay you in money, but we are willing to take a proportionate amount of your debt." But it is not right to give the Commonwealth power to say to a State - "We will compel you .to take our bonds." The State may not want them.

Senator Walker

- They can get the market value for them if they sell them.

Senator PLAYFORD

- They might ; but they would then become speculators, and the market value might go down. There would be a risk, and that proposal would give no advantage to the Commonwealth, because if the market value was high the Commonwealth could raise the money by floating the bonds itself. Directly we take out the words, " face value," which no doubt were put in for a purpose, we see that the Commonwealth will gain nothing by handing these bonds over to the States. A State could go into the market and sell them for the amount it had taken them as worth, and there would be no advantage to the Commonwealth. The Commonwealth might just as well float them itself in the open market, receive the money for them, and pay it over to the State. There might be great advantage to the Commonwealth under paragraph (b) if the words "face value" were allowed to remain in, especially if the bonds were below par.

Senator O'CONNOR

- For the purpose of getting on, I am quite willing to agree to the insertion of the words " market value," instead of the words "face value," if that will settle the whole thing. But I certainly shall not consent to that alteration if there are to be any further amendments proposed.

Senator MILLEN

(New South Wales). I had intended suggesting an amendment to sub-clause (o). It provides only that the Federal Government may make payment by relieving the State of its liability for principal and interest in respect to an equivalent amount of any public debt that is already taken over. But supposing that a resumption took place to-day, not having taken over any public debt, we could not pay in that way. The object of my amendment would be to enable the Government to operate by relieving the State of its liability in respect of any debt which we have taken over or may take over as a part of that operation. It is assumed in sub-clause (c) that we have taken over some part of the public debt.

Senator Drake

- Supposing that the State has not any of its stock to dispose of, how can we act ?

Senator MILLEN

- We are not bound to take it. It is at the option of the Governor-General, and if it is not there we cannot take it. Supposing that a resumption took place to-morrow, and that it was desired by the Commonwealth to make payment by taking over a portion of the public debt, there is no provision by which it could be done. Sub-clause (c) can only be brought into operation after a portion of the public debt has been taken over. I would suggest that we insert after the word " may " in the sub-clause the words " or may not previously."

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Senator O'Connor

- We do not want to say " may or may not." We want to put in no limitation. If we strike out " may have

been " it will read " taken over by th Commonwealth."

Senator MILLEN

- Would it not be sufficient to strike out all the words after the words "public debts of the State "?

Senator Clemons

- Let us say " which may have been or which hereafter may be 1 taken." I

Senator DOBSON

- Is it wise for the committee to shirk the important question raised by Senator Clemons. A State has a perfect right to watch with jealous eyes all we are doing, and it would be well to consider what a State Parliament would say' on this clause. Would it not say that, as we men of business all know, an option is an advantage? The State would naturally ask, why should the Federal Parliament by an A.ct give itself an option to its benefit and to our disadvantage? If the Commonwealth has an option and can exercise it in three different ways as it likes, it is an absolute advantage to it. I do not say that a constitutional question arises, but I would ask Senator O'Connor to look at section 85 of the Constitution Act-\*

The Commonwealth may acquire any property of the State pf tiny kind used, but. not exclusively used iii connexion with the department ; the value thereof, shall, if no agreement can be made, be ascertained in as nearly as may be the manner in which the value of land, or of an interest in land taken by the State for public purposes, is ascertained under the law of the State in force at the establishment of the Commonwealth.

Standing alone that certainly does not justify lis in taking an option as to the way in which we shall pay the value. But subsection (2) of that section says -

The Commonwealth shall compensate the State for the value of any property pam ug to the Commonwealth under this section ; or if no agreement can be made as to the mode of compensation it shall be determined under laws to be made by the Parliament.

We are now working under that subsection, but it only empowers the Commonwealth to make laws where no agreement can be come to. It may be said that before we exercise the o]:&gt;tion which the clause clearly gives, we shall try to come to an agreement with the State. If we do, knowing that we have an option behind us, we may not agree to anything which the State may propose if we want to get our own way. It is arguable whether, under section 85, we have the right of boldly giving ourselves the option of three different courses. Supposing that we have the right, what will the States Say if we legislate so as to give ourselves an undue advantage. It must be apparent to every honorable senator that the States want money. It is idle to talk about giving them debentures when their public debts amount to from £8,000,000 to £60,000,000 or £70,000,000, because they will have to " blue " them as the saving is - to take them to their banker and get rid of them, and they may have to pay a small commission for that purpose. It would be much more handy to pay them in cash. Therefore, I am inclined to think that we ought to reserve to ourselves the right to pay them in cash, or take over part of their debts. That, I think, would not be attended- by clanger. It would be an attractive way of paying them. I am inclined to think that sub-clause (Jj) ought to come out.

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Senator O'CONNOR

- This is a very important question, and 1 was just about to show the real substantial reason for this clause by a reference to section 85 of the Constitution, which Senator Dobson has cited. There is no doubt that very serious monetary obligations are imposed on the Commonwealth by virtue of that section. Clause 45 o'f this Bill provides -

Where any land of a State has, either before or after the commencement of this Act, become vested in the Commonwealth or been acquired by the Commonwealth under section 85 of the Constitution, such land shall for all purposes whatever be deemed to be vested in the Commonwealth in the same way and to the same extent as if it had been acquired under this Act, and the provisions of this Act, so far as they are applicable, and subject to the Constitution shall apply to such Land.

So that all property of a State in a transferred department which becomes vested in the Commonwealth under section 85 is subject to these provisions. There are two classes of compensation dealt with in the section. One class is where the transferred department has been using some land or building exclusively for the purpose of its work; that becomes absolutel y vested in the Commonwealth, and it pays compensation in accordance with laws made by the Commonwealth. The other is where the State has

been using some building for the purpose of a transferred service, not exclusively, but only partly. Under these circumstances the value of the interest of the State in the portion of the building which is taken over has to be ascertained, according to the laws of the State, and compensation paid. But in both cases the compensation, having been ascertained, must be paid to the State. When we reckon the value of the Post-office property, the forts, the Custom-house buildings, and all these transferred services it means that the Commonwealth so soon as the value has been ascertained will become liable to pay an immense sum at the very commencement of its career. It would be a very serious matter to put the Commonwealth in the position that each State might, if it thought fit, demand the cash value of the whole of its compensation.

Senator Playford

- That would be very wrong.

Senator O'CONNOR

- I am pointing out now why it is that the option should not be given to the State. We are dealing now with a matter which is of vital importance and concern to the finances of the Commonwealth in its early years. So long as we see that each State is fairly dealt with and fairly protected we must leave it to the Commonwealth to say in what way this payment shall be made. It may be convenient in some cases to pay cash ; but it may be impossible to pay cash except by going into the money markets of the world and perhaps raising money under disadvantageous circumstances. The Commonwealth ought not to be put in that position. It ought to be in a position to arrange the whole of its financial policy in the most reasonable and advantageous way it can: Probably one of the most important matters of financial concern during the very early period of its existence will be to find out what it owes the different States in regards to all these properties. It may then have to raise a loan for the purpose of meeting the expenditure, and to pay by debentures, or by cash, as may best suit the circumstances of the Commonwealth. Because, after all, although we have to see that each State is fairly dealt with, at the same time we must remember that the people of Australia have given us the power to make laws for bringing the Constitution into operation, and for arranging for the payment of this compensation. We are bound to make those laws, with due regard not only to what is fair to the States, but what is possible, reasonable, and prudent as to the business of the Commonwealth. We cannot do that unless we make the Commonwealth the master of the situation in regard to the method of payment. Take care that they must be fair; take care that they must give value for what they take ; but as to the method, leave an option to the Commonwealth as to how it is to be done.

Senator Sir FREDERICK SARGOOD

- At first sight there would appear to be a great deal of force in the arguments of Senators Clemons and Dobson - that by the Commonwealth taking this option, it might place some of the States in an awkward position. A State might be in want of cash, and might have land which otherwise it would sell for cash ; but under this provision the Commonwealth would be entitled to pay in debentures. It is true that the State might take these debentures into the market and sell at the market price, but there is this difficulty - that if a large number were thrown on the market suddenly, it would affect not only the value of those handed over to the State, but the value of those held by everyone else. It is just as well that we should try and think out what class of State assets are likely to be taken over. None of these are assets which the States could sell for cash, and therefore there is no harm on that score. The States certainly would not sell the post-offices, the public buildings, or the telegraphs. A State could not, therefore, be injured by having debentures handed to it in place of bricks and mortar.

Senator O'Connor

- Especially as they have been built probably with borrowed money.

Senator Sir FREDERICK SARGOOD

- In some cases they have.

Senator O'Connor

-In many cases.

Senator Sir FREDERICK SARGOOD

- Apart from that we might be damnifying a State, by compelling it to take debentures for a liquid asset. But these assets are not liquid assets - are not assets which the State would ever dream of selling. So far as the land for the capital is to be given free, it will not touch that.

Senator O'Connor

- I do not know ; so far as it is Crown land it is to be given.

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Senator Sir FREDERICK SARGOOD

- There would not be any very large transaction which would seriously affect the position of any State, and I quite agree with Senator O'Connor . that the option must necessarily remain with the Commonwealth. It appears to be a perfectly reasonable thing, and if the alteration from the face value to the market value, and the alteration suggested by Senator Millenin sub-clause (c) are made, it appears to me that we shall have carried through a very reasonable, equitable, and workable clause.

Senator CLEMONS

(Tasmania).- Every honorable senator will agree with me that it is just as undesirable, as it is impossible to resist the fair appeal made by

Senator O'Connor.

am prepared to accept in subclause (b) the alteration which he has offered - the substitution of the word " market " for the word " face." He asks us to recognise the position of the Commonwealth in this matter, and points out how desirable it is that it should be enabled by this Bill to pay the States by debentures and not by cash. We must consider how that will affect the States. The States have, in many cases, borrowed money at a higher rate than the Commonwealth certainly will pay. The option now being allowed will put some States in the position of having borrowed money, say at 4 per cent., and lending it by taking up debentures at 3½ or 3 per cent. Although I am willing to accept the amendment I wish to point out, in fairness to my side of the question, that under the clause the Commonwealth will be able to put more than one State in that curious financial position. It will leave them borrowers of money at 4 per cent. and lenders at 3½ or 3 per cent. I am sure the Minister will recognise that there is some sound reasoning in my plea. I put it to him that, acting on behalf of the Commonwealth, he can now with every graciousness consent to put in the words market value. I cannot see that acting on behalf of my own State or any other State I can urge anything further.

Senator O'CONNOR

- There would be very little difficulty in my assenting to that amendment, but the other amendment raises a very important question. It is a question connected with the financial business of the Commonwealth which I should not like to decide offhand. I therefore prefer to postpone the consideration of the clause until. I have had time to consult some of my colleagues with regard to the financial aspect of the operation of sub-clause (b). I do so without consenting to either of the amendments.

Clause postponed.

Clauses 45 to 49 agreed to.

Clause 50 -

In case any land purchased or taken under this Act is not required for the public purpose for which it was purchased or taken, the Commonwealth may sell, lease, or dispose of such land.

A receipt under the hand of the Attorney-General shall be a sufficient discharge to the purchaser or lessee of such land for the purchase money or rent in such receipt expressed to be received.

Any land sold, leased, or disposed of under this section may be conveyed or leased by conveyance or lease in the name of the Commonwealth, and executed by the Attorney-General.

Senator MILLEN

- In this clause it is proposed to give power to the Commonwealth to "sell, lease, or dispose of any land previously purchased, and which the Commonwealth does not desire . to retain. This opens up the whole question as to whether or not public lands, so far as the Commonwealth is concerned, shall be sold or leased. As the Vice-President of the Executive Council has pointed out that it is probable that there will be a special Act dealing with the lands within the federal territory, I think it is desirable to mention this matter with a view, if necessary, to amending the clause, or at any rate with a view to directing the attention of the committee to the fact that by this clause we are asked to approve of the principle of the sale of Commonwealth land. I am strongly in favour of the retention by the Commonwealth of land passing into its possession, . but I am not prepared to redraft the whole of clause 50 now.

Senator O'Connor

- This enables the Commonwealth either to "sell, lease, or dispose of " any land.

Senator MILLEN

- I do not want to enable the Commonwealth to sell.

Senator Sir Frederick Sargood

- It might be only a small piece of land of no value to the Commonwealth.

Senator MILLEN

- It might be a large piece. The safest way is to be absolutely sure, and tie the hands of the authorities so that they cannot sell a small piece of land ; then we shall know that they cannot sell a large piece. It is better to force them to retain a small piece of land which they do not want than to permit them to sell a large piece which the people may want. With a view of testing the question, I move -

That the word " sell," line 4. be omitted.

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Senator WALKER

- With Senator Millen I am very averse to the Commonwealth selling any land within the federal area. But other lands are in very different position. I would suggest that it is advisable to redraft the clause so as to make the power to sell applicable only to land outside the federal capital area. Common sense tells us that if the Government happen to have a few feet of land in some particular city, they should be able to sell it if it is of no use to them.

Senator Sir FREDERICK SARGOOD

- Probably it has not occurred to some honorable senators who are not in favour of the sale of Government lands, that there are a number of pieces of land belonging to the post-office which are utterly useless for post-office purposes, and which the department would be only too glad to get quit of. The department could not possibly lease them, and the only possibility is to sell them. The Education department in Victoria is in the same position. There are pieces of land which have been reserved for post-office purposes but which are not wanted. It is better to get rid of them. I am entirely in favour of the leasing system with regard to the lands of the federal capital, but we should not tie the hands of the Federal Government by compelling them to retain idle and vacant pieces of land. Surely they should have power to dispose of them.

Senator MCGREGOR

- If Senator Millen had not moved this amendment I should have done it myself, because I believe that any land that becomes the property of the Commonwealth should remain its property for all time. We know that there are a great many people, even senators, who have sympathy with certain proposals, but never do anything to give practical effect to their sympathy. We have had plenty of evidence of that already. I should like to ask Senator Sargood this question - if a private individual had a small piece of land in Melbourne or any other city within the Commonwealth, and could not sell it, could he not lease it? Is there not more land held in Melbourne on building leases than there is in any other way ?

Senator Sir FREDERICK SARGOOD

- No ; that is utterly wrong.

Senator MCGREGOR

- I believe there is a large portion of land held on building leases, although some of it may have passed to the original holder. However, there is no use arguing the question in that way. If there is a small piece of land in any town or township that can be leased either as a building site or for any other purpose, it should be leased in preference to being offered for sale. If an individual bought it he would want to make some use of it, and if it was worth buying, it would be worth leasing.

Senator Sir Frederick Sargood

- No.

Senator MCGREGOR

- I do not think there is any land that has no value for leasing purposes that would be of any value for sale. There may be a few feet of land adjacent to some person's property, and it might be of value to the individual to acquire that land. He might be prepared to buy it, and it might be of very little value to any one else ; but if so, it would be of just as much value to him to lease it, if he got it on fair terms, and he would probably get good terms from the Federal Government for the purpose of utilizing that land. In addition to that, the clause gives power to the Government to " otherwise dispose of" such land. The argument may be used that of course if the Government acquires land for the purpose of a post-office or



for any other purpose in any part of the Commonwealth, and finds it is not suitable, they would have to get another site, and would consequently like to sell the land first bought. Would not the words "and dispose of " such land give the Government an opportunity of exchanging it? Or if it were found to be beneficial to the community it might be given to a corporate body for public purposes. But to say that the Government is to acquire land for any purpose whatever and then afterwards have the power to sell it, after what has transpired in days gone by with respect to State operations in that line of business, is an idea that I must oppose.

Senator O'CONNOR

- I pointed out, in moving the second reading of this measure, that, in so far as the federal territory is concerned, it is the policy and intention of the Government to so regulate its operations that not an acre or yard of land will be disposed of by sale. In that respect we are in the position of commencing the operation, and can carry it out in our own way and under conditions we ourselves arrange, which would not entail any loss upon the Commonwealth.

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Senator Pearce

- If it is good for the Commonwealth in respect to the federal territory, why should it not be good elsewhere?

Senator O'CONNOR

- I will show the honorable senator why we are now dealing with a different state of things. We are dealing with an immense amount of land which we did not buy, but which we are forced to take over in connexion with the transferred services. In every one of the States we are bound to take over, and there is vested in us under the Constitution Act, the land upon which the business of the transferred services has been carried on. Does the honorable senator mean to say that for all time, no matter whether the land may become absolutely useless to the Commonwealth or not, the Government must go on holding more land than is necessary for its operations, simply because in the first days of its history it became possessed of the property ?

Senator McGregor

- The land will be of as much use to the Commonwealth as to any other landlord.

Senator O'CONNOR

- If, as a matter of ordinary business, it would be useless and wasteful for the Government to hold certain land, why should they hold it ? It would be quite a different thing if we were starting upon a career of acquiring only such lands as we thought were necessary for Commonwealth purposes. It might be a very sound policy when taking land for public purposes in that way to provide that it should not be disposed of except by leasing. But when we are dealing with land which has been handed over, and upon which the transferred services are carried on, why should we be bound to confine our operations to the particular land where they have been carried on, and why, when other land has been acquired in other places for carrying on the same services, should we still keep the useless land in our hands? It may be said that the Government can lease that land. We all know, however, that, except in certain localities, the leasing of certain portions of land is an illusory thing so far as values are concerned.

Senator Millen

- Are the building leases at Waverley illusory ?

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Senator O'CONNOR

- I am making an exception. In crowded localities, in a city, perhaps, there are certain building sites which may be leased under advantageous circumstances. There might also be some sites immediately in the vicinity of a city where the Government might do the same thing. But as a general rule, where you can dispose of one piece of land advantageously in that way, there are hundreds of cases where you cannot do so. I object to have the hands of the Commonwealth tied in regard to lands which we do not want. I hope that in the future we shall be able to effect many savings in the carrying on of the transferred services. Those savings may result from moving public offices of different kinds from one place to another. If that takes place, why should we be compelled to hold on to land for which we have no further use? The principle of the non-alienation of the public estate is an admirable one. It is a principle which ought to be and will be carried out in its entirety with regard to land which the Commonwealth purchases.

But it would be a mistake to carry it out in cases where, as under this Bill, we have an immense amount of property placed upon our hands, a great deal of which may become useless. It is not right in the early days of the Commonwealth to tie the hands of the Government by compelling it to hold on to that land under conditions which may probably involve in many cases a dead loss, instead of enabling the Government to carry on the business as an ordinary individual would, and when they have no further use for land to sell it and confine their operations to land which is necessary. Let me put one illustration, which, I think, will make the matter clear. Take the case of fortifications. There is a large area of land in all the States which is occupied for purposes of fortifications, and which has come over to the Commonwealth with the Defence departments of the States. These lands may not always be wanted. The needs of the Commonwealth with regard to fortifications may change. New guns and armaments, and fresh military inventions of other kinds, may compel the Government to leave the sites of the present fortifications and other places where similar operations are carried on. Why should we keep on our hands land which was useful enough at one time, but which is no longer necessary for the purpose for which it was acquired? Where this principle can be carried out with benefit to the Commonwealth, it will be carried out; that is, in connexion with the federal territory. But it would be riding the principle to death to attempt to carry it out by forcing us to keep land upon our hands which it may be in the best interests of the Commonwealth to get rid of, in order to enable us the better to carry on our business.

Senator DOBSON

- I think there is a tendency on the part of the Senate to ride some of our cherished principles to death. I was very much surprised to hear Senator Millen say that this clause opens up the whole question of leasing instead of selling lands. I hardly think it does. The Ministry are in favour of leasing instead of selling lands, in regard to the federal capital, and they have promised to apply that principle to land acquired for that purpose.

Senator Millen

- The present Government will not be in office always.

Senator O'Connor

- The honorable senator's Ministry would do the same thing, I am sure.

Senator DOBSON

- This is not the place for a scheme of the kind. We shall be doing an injustice if we carry the amendment until we have got the people of the Commonwealth used to the principle which the honorable senator advocates. If you start the principle in a hole-and-corner manner, you will destroy the usefulness of it. Let us wait until we get, - so to speak, the raw material to which it is worth while applying the principle. The Vice-President of the Executive Council has given an illustration in opposition to the proposal. Let me give another one. Suppose it were necessary to take a strip of land for the purpose of building a railway. We shall have in this country the battle of the gauges, and probably, in order to make a uniform gauge, there will be a slight deviation of some railway line. The consequence may be that Government may require to sell a small piece of surplus land, and to acquire another piece. Is it pretended that the strip of land which is no longer needed for a railway may not be sold? Then take the case of a road. The Government may buy a strip of land for making a road, and afterwards it may be possible to 'make a short cut. It may then be desirable to sell a small portion of the land of the original road, and some adjacent property owner may be willing to purchase it.

Senator Millen

- The Commonwealth Government does not make roads

Senator DOBSON

- They may have to do so in connexion with the building of the federal capital. Then take the case of an old Customs-house on a wharf which is not in a good situation, or the case of an old post-office in a township. The piece of land on which the old Customs-house or the old post-office stands may become useless in consequence of the erection of new buildings elsewhere. Probably some person would be willing to buy the whole place for the sake of the material on which it is built, and may find it profitable to erect a new building on the land. But if we are to hamper the purchaser by giving him only a 99 years' lease, he may not be disposed to take it. Where you can get a dozen purchasers you might not be able to get a single lessee. This amendment would compel the Commonwealth Government to hold land which it does not want, and which it would sooner turn into sovereigns and pay into the Treasury. I shall oppose

the amendment.

Senator STANIFORTH SMITH

- I am one of those who are of opinion that it is not in the public interest, either of the Commonwealth or the States, to alienate any public lands. We have been told by honorable senators that it is inadvisable to alienate any public land within the area secured for the federal capital.. If that is correct, surely we can logically apply the same rule to land owned by the Commonwealth throughout the States, It has been said that the Commonwealth will have certain strip's of land which will have no value whatever, but which it could sell at a high price. That is a contradiction in terms. What constitutes the value of- land is its reweuearni ng capacity.

Senator Sir Frederick Sargood

- Not always, It mav bean odd corner.

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Senator STANIFORTH SMITH

- It may be tin odd corner, but if it is useful to somebody, that is what constitutes its value. If the Government can sell that land for £1,000, the reason will be that the land is wanted for occupation, and has some revenue - earning capacity. Why cannot the Government be the landlord of that ground as well as any private individual? If a private individual buys land, and makes a profit out of it, why cannot the Government make a profit out of it? The Government should make a greater profit out of it, for the simple reason that the Government can borrow money for the purpose of securing the land at a lower rate than any private individual. An illustration lias been given, of land used for fortifications. It has been suggested that if the fortifications are removed the land is useless to the Commonwealth for Government purposes. It may be useless for the purposes of erecting public works or buildings, but I still maintain that the land is just as valuable to the Commonwealth as it can be to any private individual. If it is useful for anything, say for mining, the Commonwealth can extract the minerals from it or work it just as well as any private individual.

Senator Drake

- Do you think it a desirable thing that the Commonwealth Government should go into that sort of business?

Senator STANIFORTH SMITH

- I think it is a very great mistake that the States have alienated any land at all. They ought to be the ground landlords of the whole territory; but land has been alienated, and the Commonwealth should not continue the practice. I cannot understand honorable senators saying that it is absolutely advisable that not a single inch of the land acquired for the federal capital should be alienated, when they will not apply the same principle to land held by the Commonwealth throughout the States. It is quite wrong to say that there are certain properties that would be of no use to the Commonwealth, because they must be of the same value at least to the Commonwealth as they are to any private individual.

Senator DRAKE

- I cannot agree with the last speaker at all. He seems to think that it would be rather a good thing for the Commonwealth Government to acquire land in the different States for the purpose of leasing it out to people engaged in farming operations. I am sure that is a very mistaken idea.

Senator Staniforth Smith

- By way of explanation, I did not say at all that the Commonwealth should acquire land for the purpose of farming, as Senator Drake has accused me of saying. What I said was, that if the Commonwealth holds any land that is no longer required, it can lease it. It should not in future allow any of the public property of the Commonwealth to be alienated.

SenatorDRAKE. - It comes to very much the same thing. The honorable senator says that, supposing there is land now in possession of the Commonwealth which is not required, we should lease it, and play- the part of landlord in the States. That would be very undesirable. I think, on the contrary, that it is a very good principle that the Commonwealth should not acquire any more land in the States than we actually require ' to carry on our operations. That is the correct principle.' There is a very clear distinction between the ownership of land by the Commonwealth in the States, and the acquisition of land by the Commonwealth for the purposes chiefly of the federal capital, because, where the federal capital is there will be the Federal Government to administer it. All the land there will be the property of the Federal

Government, and will occupy the same position with regard to the Federal Government as unalienated land in the different States occupies with regard to the States' Governments. The Commonwealth Government should restrict itself in the States, simply to the occupation of the pieces of land actually required to carry on its operations. Look what an absurdity the honorable senator's suggestion would lead to. Fortifications have been mentioned. Supposing there is a piece of land on which a fort has been erected on the bank of a river, and it afterwards becomes necessary to shift the fort to the other side of the river, which may be a more commanding position, is the Commonwealth for all time to retain the ownership of that piece of land which it has ceased to want ? The same thing applies with regard to the post-office. Our post-office business is carried on in little bits of shops in the streets of some towns. We have, perhaps, a quarter of an acre of land with a shop on it, in which the business of the post-office is carried on. By-and-by it will become desirable to erect a larger post-office, and that will render the place at present occupied entirely unnecessary. Is the Commonwealth of Australia for all time to stick to that little bit of land no matter what it may be worth ?

Senator Staniforth Smith

- It is just as valuable to them as to any one else.

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Senator DRAKE

- Yes, but the honorable senator does not see my point. It is not the business of the Commonwealth to be dealing in land. The only justification for ' the Commonwealth owning land within a State at all is that it is necessary to carry on the work of the Commonwealth Government, and as soon as that necessity ceases to exist, the land should go back to the State or to individuals. If there is any question between individual ownership and State ownership, the difficulty can be got over by the State acquiring the land from the Commonwealth. This is not a question to my mind as between private and State ownership of land, but as to whether land in a State should be in the possession of the Commonwealth Government or not, and I say again that it is entirely undesirable that the Commonwealth should retain any more land in the State than is absolutely necessary to carry on the business of the Government.

Senator Sir JOHN DOWNER

- The Postmaster-General has expressed pretty nearly what I intended to say. We want to preserve the Constitution, and many of us want to preserve the rights of the States at the same time.' There are some, however, who would like to trespass upon them more or less, by seeking under the Constitution - which they think may give them the opportunity - to interfere; with rights which are purely local, and with which we, as a Commonwealth, were never intended to have anything to do. The Postmaster-General said truly, that it is Commonwealth territory in connexion with which it is at our absolute discretion to say whether we will indulge in the fads of some honorable senators by not selling land. That is a matter which may be discussed hereafter. I am not going to discuss it at the present moment, or to say whether I agree with it or not, though at present my inclination is not to agree with it. The Postmaster-General has no right to acquire any land from a State except that which is necessary for his business. If he asks more than is necessary - he is invading the rights of the States in taking it; but it is necessary in carrying on his business to take some land, and he must go no further than is required. If he finds he has taken land which is not necessary for his purpose, what is he to do with it? Is he to be the holder of a number of little bits of territory in the States, held under laws different to those of the States ? It might be land that could be sold when he took it, and why should he hold it on different terms? This is quite apart from the question as to whether it would be more beneficial to sell or lease. I leave out of consideration absolutely the pounds, shillings, and pence question as to what he is going to earn in the management of the thing.

Are we, who assert the

Commonwealth rights and the State rights equally with the Commonwealth rights, to introduce by a side-wind this most debatable principle, a principle which is dissented from, I think, by every sensible man in the community? It has proved absolutely impracticable wherever it has been tried, and must always end in disaster. If a people have agreed to adopt it, let it land them in disaster. It is their affair, but are we by a side-wind to try and bring pressure upon the States whose rights we profess to respect, and who returned us to maintain their rights, to adopt any special fads which honorable senators may suggest, and which can have very little result and do very little good to the Commonwealth ? We have to acquire property for the federal capital, and we can deal with that because we will have control of that property.

But as the leader of the Senate said we have also property handed over to us "holus bolus," some of which we would like to get rid of. Are we at the initiation of the Commonwealth to lay down a general principle that all land acquired by the Crown shall continue to be so held in future, and that there shall be no alienation of Crown lands - because that is at the bottom of the honorable senator's suggestion? I do not complain of the honesty of intention of the honorable senator, but I say this is not the place to do what is proposed. The place to do it is in the State Parliament having control over the land.

Senator Staniforth Smith

- We are in favour of the principle, but the time is inopportune.

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Senator Sir JOHN DOWNER

- How can the honorable senator talk of the principle in respect of about a quarter of an acre of land here and there, or about a little Custom-house on the border? The matter is absolutely insignificant in detail, but it may be important in principle. We are the protectors of the States quite as much as of the Commonwealth, and we should not seek to bring pressure to bear on the States in the matter of legislation which is peculiarly within their jurisdiction. I will be no party to the Commonwealth being used for any such purpose. That is not what I came here for. I came for the purpose of protecting the Commonwealth to the bitter end, and for the purpose of protecting my State to precisely the same degree. I say that the only chance of order and good government throughout is by understanding the principles of the Constitution and insisting upon every right the Commonwealth has got, and not by making it a means of bringing pressure to bear on the States on account of our particular fads in respect of matters which are within their jurisdiction, and not subjects for us to decide at all. I entirely agree with the Government.

Senator CLEMONS

- I have been wondering during the course of the debate whether we are looking at this question from a sentimental or from a utilitarian point of view. I can scarcely believe that Senator McGregor, although a Scotchman, is looking at this matter from a purely sentimental point of view. I am inclined to think that he is looking at it, as I am, from a purely utilitarian point of view, and his intention in supporting this proposal is to secure to the Commonwealth all the benefits the Commonwealth itself will create in the value of land to be acquired. I can assure Senator McGregor that I entirely agree with him in that respect, but when we come to consider the compulsory acquisition by the Commonwealth of lands in the possession of a State, I do not think we can expect much enhancement of value on those lands from the operation of the Commonwealth. Any enhanced value that is going to be added to lands acquired under this Bill from a State by the Commonwealth will, I feel sure, be given to them by the State in which the land is situated. Senator McGregor, as a logical man, will agree with me that in this matter he is aiming at something which he cannot achieve. In the case of the land the Commonwealth is to acquire for the construction of the capital city, and for originating works and buildings of its own, there will be enhanced value created by the operations of the Commonwealth, but in this case we are proposing to take over buildings originated by the States, and we must look to the operations of the States for any added value. I am entirely with Senator McGregor in looking at this matter from a utilitarian point of view, and I deny to him any higher desire than I possess myself to secure to this Commonwealth the benefit of all the improvements we make on any land we acquire. But, while agreeing with the honorable senator in that way, I am not going deliberately to tie my hands and compel the Commonwealth, perhaps, to suffer a loss. I say distinctly that if we prevent the Commonwealth from selling any of the land acquired under this Bill, we shall be running a very great risk of compelling it to keep land at a distinct loss. In other words, we will prevent the Commonwealth from "cutting a loss," an operation which every business man knows is extremely desirable, and which he wishes always to be free to take advantage of. If we insist that the Commonwealth shall never sell any land acquired under this Bill, I can see great danger that it will hamper the Commonwealth in its desire to make improvements, for instance, in the way of alteration. A year hence the Commonwealth may buy some land, and five years later we may desire to get rid of that land in order to acquire other property for more extended or more beneficial purposes, and if we are denied the right of selling the land originally bought, we may be prevented from acquiring further land. I repeat that it is desirable to put the Commonwealth in a position to secure the greatest benefit for every one of us; and if we deny the right of selling land, we will undoubtedly so hamper the Commonwealth as

to prevent it from increasing the benefit to every one of us. I am sure that the question of sentiment about the desirability of being the owner of land does not affect Senator McGregor in this matter ; and I point out that the honorable senator will largely defeat his own object if he ties the Commonwealth down so closely that we can never sell any allotments acquired, whether they be worth £50 or £500.

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Senator DE LARGIE

- To listen to Senator Clemons one would think that the only way of disposing of land is to sell it, when, as a matter of fact, we know there is far more land leased than sold in the Commonwealth. I hope to see a great deal of the land that has been sold come back again to the original owners, and remain with them. Unless we carry out that principle I think we are going altogether in opposition to the verdict of the last federal election. If there was one popular cry throughout Western Australia - and I dare say in many of the other States - it was the nationalization of the federal capital. Notwithstanding the dictum of Senator Sir John Downer that this is a fad, I would direct his attention to the fact that a few obscure individuals are heartily in accord with the fad. I might refer to such illustrious writers as Henry George and John Stuart Mill - the master minds on the subject of political economy. There was no principle on which those men agreed more in their teachings than that ' of land nationalization. Surely, in the face of these facts, it is a misnomer to speak of land nationalization as a fad. It is one of the soundest principles which the Commonwealth Government can accept, and I hope they will take the result of the federal elections as their guide in the treatment of any land which they may acquire.

Senator BARRETT

- If land nationalizers are faddists, then I confess that I am a faddist, and am proud to advocate the principle, Senator Sir John Downer has tried to scare us by stating that we are interfering, practically, with State rights. Not only in this State, but in every other State, a very large number of the people are open advocates of the very principle which he professes to style a fad. As this clause deals with 'superfluous lands, I think we are quite within our rights in striving to have this amendment incorporated in the Bill. As I understand the clause, it simply means that there will be land acquired by the Commonwealth from time to time, which will not, perhaps, at that particular moment be required for federal purposes, and therefore, because we have acquired land in various parts, we are to sell it as soon as it comes into our possession, if it is not required. What are we doing in regard to our public lands? Here we are under this Bill acquiring land for which we are paying in a good many cases more than the ordinary value. We are paying a larger amount for it than we would do in ordinary circumstances, and then we are selling it. If the land in connexion with fortifications, or any other land which may be acquired by the Commonwealth is good, or if it can be put by a private owner to some beneficial purpose, surely it is good for the Commonwealth to hold that land, and to apply it to exactly the same purpose ? Supposing that in this very city, the Commonwealth may have land which at the present moment it does not require. It should still hold that land, and at the same time allow other persons to apply it to any purpose. Believing in the fad of land nationalization, I am prepared to vote for the amendment.

Senator Sir FREDERICK

SARGOOD (Victoria). - I also must plead guilty to being one of the faddists. For a great many years I have been in favour of perpetual leasing, and I have not yet seen any reason to -alter that opinion, but I do not think that question comes up to-night. Nor do I think, with all due deference, that one or two honorable senators can have had much experience in trying to get rid of small pieces of land! We have to deal with the question in a practical sense. Rightly or wrongly the Commonwealth - certainly in the Postal and Defence departments - has a considerable number of small pieces of land, some being not more than a quarter of an acre in extent. Fifteen years ago, when I was Minister for Defence, I tried to get rid of a number of pieces of land scattered all over the State, some reserved for drill rooms, some reserved for parade grounds, and so on. I tried to lease them, as I had not power to sell at the time, but I could not lease a single piece. The municipalities brought pressure to bear on the Government, and got the lands for nothing. That was the upshot in every case. Subsequently, when a Bill was being passed, a clause was inserted to enable the department, with the consent of the Governor in Council, to sell any small pieces not wanted. And I am glad to say that a good many of them were sold ; but they could not be leased. We have to deal with this question in a practical way. We cannot lease these pieces of land. If we carry this amendment it will simply compel the Government to retain for all time utterly useless pieces of

land.

Senator Staniforth Smith

- They are of no value if they are useless.

Senator Sir FREDERICK SARGOOD

- I do not think the honorable senator can have had any experience of these matters, otherwise he would not have made that interjection. There is many a small piece of land which a man will buy, but will not lease on any terms. It is of no use for us to go against practical experience. Unless honorable senators desire to compel the Government to keep these pieces of land scattered all over the place, we must meet the case by dealing with them in the only way in which they can be quitted, namely, by sale.

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Senator PEARCE

- I must also plead guilty to being a faddist, and I certainly object to the use of the term. I take it that a fad is an innovation on an established principle. The first principle which was established as regards land tenure was that of land nationalization. If Senator Sir John Downer poses to-day as the champion of the principle of freehold, it is he who is the faddist, because the principle of private property in land was an innovation on the first established principle of land nationalization. But whatever our opinions on that point may be, we must face the question as it has been faced by the last speaker. We must consider the practicability of the proposal. It seems to me that the question of whether we are able to lease the land determines the question of whether we can get anything which makes it worth our while to sell, and if we cannot get anything except a nominal sum, there is no harm done if we allow the land to remain as it is until it does become of value. What is the object of the Commonwealth in selling land? Not merely to get rid of the land, but to get a return. If the land is not of sufficient value to enable them to lease it, the amount which they would get from its sale is not worth consideration. Take the case of a country post-office. As a rule it is in the best position - in the centre of the town. Generally the land which would have to be disposed of by the Commonwealth, is in a good position.

Senator Sir Frederick Sargood

- Or was at one time.

Senator PEARCE

- Exactly. Therefore the land would have a value as leasehold land, and could be disposed of. It would only be in exceptional cases where we would not be able to lease. Take the case of a large area not suitable for building purposes, which has been reserved for the purpose of fortifications. If it is not close to a settled part and has no value as building land or farming land, if it cannot be leased for either purpose what will be its selling value? It will be practically nothing. Therefore, the Commonwealth would not benefit if it had power to sell that land; it would practically have to give it away. Really, if the land has not a leasing value, the only drawback is that it has to remain in the hands of the Government. There is another method of disposing of land, and that is the method of exchange. The land which has no leasing value may possibly be exchanged with a State Government for land which may be useful for Commonwealth services. The principle we aim at is that of retaining the land in the hands of the whole people, and an exchange to the State Government would accomplish that object as well as leasing to private persons. If the Government cannot see their way to accept the amendment, I think we ought to have a provision that in case of a sale it shall be sold to the State Government and not to a private individual.

Senator O'Connor

- That would put the Commonwealth in a nice position. There would be only one purchaser, who would give what he liked.

Senator PEARCE

- They have the alternative of retaining and leasing. I am a strong advocate of land nationalization, and here I see an opportunity where we can put that principle into force. I would ask Senator Sir John Downer if it is an innovation upon State rights to sell this land is it not equally an innovation to acquire such land from the State? If we have not the right to say that we shall retain this land on certain conditions - that we shall lease it or exchange it - then we have no right to hold the land at all. I fail to see where any question of State rights comes in. Surely, if we have power to acquire and hold land, we have the right to say on what terms it shall be done, and if it suits the purposes of the Commonwealth Government to lease land,

it is not an innovation on State rights.

Senator MILLEN

(New South Wales.) -

I must congratulate the Vice President of the Executive Council, on the philosophical calmness with which he submitted to the serious castigation by Senator Sir John Downer, because his remarks were an attack: on the principle of leasing which my amendment does not propose, but which the clause does.

Senator O'Connor

- He is going to vote for it as it is.

Senator MILLEN

- He is going to vote for the principle of leasing in the clause which he denounced.

Senator O'Connor

- The optional principle.

Senator MILLEN

- At the same time the principle is there, and he is going to vote for a clause the principle of which he has attacked.

Senator O'Connor. - That is all I care . about if he is going to vote for the clause.

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Senator MILLEN

- There are two courses . open to us. Either to pass the clause as it stands, placing the Government in a position to sell every piece of land which they acquire possession of whether it is or is not desirable to . sell it, or to say that they shall not sell any land. I am prepared to admit at once the inconvenience, probably the loss, which may arise in the circumstances referred to by Senator Sir Frederick Sargood. They are circumstances which I admit are of common knowledge. It seems extremely probable that the Commonwealth Government, like all Governments, may at some time or other acquire a portion of land which it would be inconvenient, perhaps impossible, to lease, but the question is whether in order to place them in a position to sell these inconveniently shaped or situated portions of land we shall also empower them to sell desirable pieces of land which we think ought to be retained. There does not appear to me to be any midway course between these two extremes - either to give them full power to sell everything or to withhold from them the power to sell anything. Admitting, as I do, the serious inconvenience and probable loss which may result from tying their hands by refusing to allow them to sell anything, I still think it is better for us to-day to lay down the principle that no land shall be sold rather than empower Ministers to sell all land. This great inconvenience which Senator Sir Frederick Sargood has pointed out could always be got over. When a deed of trust or a will provides that certain property shall be dealt with in a certain way, and a situation arises which renders it extremely inconvenient to carry out the deed or will, an appeal is made to Parliament for a special Act to get over the difficulty. It is far better for us to lay down the principle that the Government shall not be allowed to sell land, and then if circumstances of sufficient importance arise to warrant it, an appeal can be made to Parliament for a special Act to sell a particular piece or a number of odd pieces they desire to sell.

Senator Sir Frederick Sargood

- A quarter of an acre?

Senator MILLEN

- If it is such a small piece of land that it is not worth while to pass a Bill, there is no great harm in insisting that the Commonwealth shall retain it. For these reasons I not only intend to stand to my amendment, but ask honorable senators to vote with me.

Senator O'KEEFE

- I rose at the same time as Senator Millen did, but he has really expressed the ideas which I intended to utter. We are dealing with the principle of the alienation of land. It seems to me that all the territory which will be acquired by the Commonwealth for the federal capital, will be acquired to all intents and purposes under this Bill.

Senator Playford

- No, under a separate Bill.

Senator Millen

- It may be under this Bill.



Senator O'KEEFE

- At all events we are dealing with a Bill to provide for the acquisition of property for public purposes. It seems to me that there will be a danger in placing in the hands of not only the present Government, but all Governments, the power to alienate not only those pieces of land which we are told may not be of any value to the Commonwealth, but also certain portions of the federal territory. That is the position that I take up. Consequently I cannot believe that the leader of the Government in this Senate will do anything very much against the desire of the Government if he accepts the amendment. As Senator Millen has pointed out, it is surely a simple thing if at any time it is found that one or more pieces of land are useless to the Commonwealth, to pass a small Act of Parliament to enable the land to be sold.

Senator O'CONNOR

- I should like to answer some of the arguments which have been brought forward. It shows to what straits honorable senators are sometimes put in defending positions which may be untenable in fact, but may be tenable in theory, when it is admitted that the laws of the Commonwealth may be so defective that in regard to these small pieces of land, it may be necessary to pass a special Act to enable them to be sold.

Senator Millen

- I do not admit that; I sav the Government could do it.

Senator O'CONNOR

- I understood the honorable senator to say that there may be cases in which the circumstances referred to by Senator Sir Frederick Sargood may arise, and that in those cases Parliament could be asked to pass a special Act.

Senator Millen

- But I do not say Parliament would be asked.

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Senator O'CONNOR

- If the honorable senator's argument is of any value at all, I take it to mean that there would be that way Out of the practical difficulty. Senator O'Keefe has echoed the same argument. Is it not absurd that we should tie the hands of the Government in regard to the disposal of such land, and . make it necessary for them to ask Parliament to repeal the clauses under discussion so far as they apply to particular cases? I submit that that position has only to be stated to show the absurdity of it. Let me put another point. I have said all through that where the Government become the owners of land, this principle of non-alienation should be carried out ; and the Government, when they bring in a measure dealing with the federal territory, will carry it out. But in this clause we are merely dealing with land that is owned by the Government for special purposes. This land is acquired by the Government, not from the point of view of carrying on business as land-owners, but for a special purpose. When that purpose is at an end, and the land is no longer valuable for that purpose, what is to be done with it? It seems to me to be riding a theory to death to say that the Commonwealth shall, right through its career, accumulate in all the States these little bits of land originally acquired for public purposes, but no longer used for such purposes, and that they shall not sell them, and put the money into the Treasury. There may be hundreds of such pieces of land in every State. They may be let at a low rental, and the Government will have put upon them the business of being a landlord of property, not within their own territory, but scattered about all over Australia. It really means that the Government will have to undertake a very large business in respect of lands which were originally acquired not for the purpose of producing rent, but for carrying on some public work. I submit that that is a very strong reason why this principle in which I believe as regards the territory of the Commonwealth, or the property of the Commonwealth which is held for the purpose of dealing with that territory, should not be applied in regard to pieces of land acquired for particular purposes, many of which will not be acquired by the Commonwealth 'by any act of violation on its part, but will be forced upon it by the operation of section 85 of the Constitution. On these grounds I ask the committee to negative the amendment.

Question - That the word proposed to be omitted stand part of the clause - put. The committee divided -

Ayes ... .. 12

Noes ... .. 9

Majority ... .. 3

Question so resolved in. the affirmative.

Amendment negatived.

Clause agreed to.

Clauses 51 to 58 agreed to.

Clause 59 (Registration of notification).

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Senator DOBSON

- The Minister in charge of the Bill will see that this clause provides that a copy of the notification, as advertised in the Government Gazette has to be lodged with the Registrar General or the Registrar of Titles, in order, I presume, that the Registrar of Titles may indorse the transfer or conveyance on the title. The whole of the Land Transfer Act work is done by reference to plans ; and I think the Minister should, when we recommit the Bill, pay attention to a former clause, and also incorporate in this clause the provision that the notification shall include a description of the land taken from the survey, and that it shall have a plan attached to it. ' Then a copy of the notification will include a copy of the description and a copy of the plan. Unless the plan is there I will defy the Registrar of Titles to do his work and indorse on the title in his office the land which the Government have acquired. We lawyers find that when any land is subdivided the greatest trouble arises unless you keep the papers in order. The first thing you have to do is to put away the papers in their order, with a plan - attached to them. When you come to look at the matter again -twenty years after, you then know exactly what has been done. But unless you do that, endless trouble arises. I have often found that when papers have been put away by a bad deed clerk, hours have had to be spent in searching for information which should have been tied up with the parcel of papers. I am sure the honorable and learned senator will realize the trouble that will arise unless he provides that a plan is to be attached to the copy of the notification.

Senator O'CONNOR

- I quite see that it will be necessary to have a description of the land with the notification, and that must be given to make the notification legal under clause 6. But a plan is quite another matter. The honorable and learned senator will see that the plan is of no value unless there is a survey. That adds very much to the cost.

Senator Dobson

- The registrar cannot endorse anything unless it is done by a certified surveyor.

Senator O'CONNOR

- There is no difficulty with regard to the description, but there may be a difficulty in regard to the plan. I will look into the whole question. If this clause passes as it stands, an amendment may be made, if necessary, when some of the clauses of the Bill are recommitted.

Senator CLEMONS

- I am not going to argue the point, because I have great confidence in what Senator O'Connor has said, but I also have the greatest confidence in the position Senator Dobson has taken up. Where the Crown proposes to purchase some part of any man's land, and that land is divided under the ordinary Torrens Act, in force in all the States, there will be an absolute necessity for a plan.

Clause agreed to.

Clauses 60 and 61 agreed to.

Progress reported.

POST AND TELEGRAPH BILL

Resolved

(on motion by

Senator DRAKE

-

That the Bill be recommitted for the purpose of reconsidering clauses 2, 5, 15, 16, 19, 27, 36, 68, 77, 78, 91, 92, 95, 103, .124, and 142.

In Committee:

Clause 2 -

The State Acts specified in the first schedule to this Act are repealed to the extent in the said schedule indicated.

But the regulations fees rates and dues in force under any of the State Acts hereby repealed in any State

shall as regards that State continue in force as if made or fixed under this Act until revoked by the Governor-General in manner prescribed. »

Postmaster-General

Senator DRAKE

. - Since we last considered this clause I have, with the assistance of the parliamentary draftsman, recast the second paragraph in order to make the object aimed at absolutely clear. I do not think I need refer at any length to the subject matter because it has been fully discussed. The object is to leave the rates now in force untouched until they shall be altered by the Governor-General in Council in the manner prescribed in the Bill. I move -

That the second . paragraph be omitted with a view to insert in lieu thereof the following words: - "But the regulations in force in any State under any of the said State Acts shall as regards that State continue in force until revoked by the Governor-General and rates and charges in force in any State under any of the said State Acts shall until rates and charges fixed by the Governor-General under this Act come into operation continue in force as regards that State and be applied in the same manner as if the said State Acts were not affected by this Act."

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Senator Sir FREDERICK SARGOOD

- The amendment as a whole has my concurrence, but there are certain words introduced in it that I think should have been omitted, so that we might have dealt with the principle which they involve when we came to clause 19. I would suggest to the Minister whether it would not be better to take the discussion on clause 19 instead of at this stage. Under clause 19 the Governor in Council is empowered to make any variation he may think fit in regard to the rates of postage and the carriage of postal matter. I pointed out before, and I would again impress upon the committee the importance of this departure from what has been the practice in the majority of the States, namely, that when any alteration is required in regard to the rates of postage matter it shall be done by Act of Parliament, and not merely at the will of the Minister of the day. I say the Minister of the day because, although it is provided that the Governor-General in Council shall make these alterations, we who have been behind the scenes know perfectly well that in nine cases out of ten Orders in Council simply mean the decision of the Minister in charge of the department to which they relate. If this were a small matter I would readily agree that the power should be intrusted to the Governor-General in Council, but when we remember that it will involve millions of money and affect the whole of the States, I think it will be seen that the -very gravest consideration on the part of the Senate is required before we assent to leave such a power in the hands of any Ministry, let alone of any Minister. The general rule, so far as my experience goes, should be followed in this matter, and any change required in regard to postage rates and the carriage of postal matter should receive the most careful consideration of both Houses of Parliament. A proposed change of rates should be embodied in a Bill to go through the ordinary procedure of discussion in both Chambers before receiving the assent of the Legislature. The principle is really involved in a few innocent words in this amendment. It is provided that the - regulations in force in any State under any of the said State Acts shall, as regards the State, continue in force until revoked by the Governor-General -

That is perfectly right, but then the amendment goes on to provide - and rates and charges in force in any State under any of the said State Acts shall until rates and charges fixed -

In -what way? Not by Act of Parliament, but by the Governor-General.

Senator Drake

- This amendment was drafted after we had agreed to clause 19.

Senator Sir FREDERICK SARGOOD

- I think this is the time to take exception to such a proposal. I did not know until I saw the amendment that the Minister intended to- raise the question before we reached clause 19. I call attention to it now so that we may at once decide whether the Postmaster-General - or if he likes to put it, the Cabinet - shall have the -absolute power to decide what the postal rates shall be, and to commit the whole of the Commonwealth to those rates. It may be said that in clause 19 provision is made for the Order in Council to be laid before both Chambers, and that unless either House takes exception to it, it then becomes law. We know perfectly well what happens when Orders in Council and regulations are laid upon the table of a House. They are hardly ever seen, and it does appear to me to be most unwise to trust to some

honorable member of either House, having the good luck to come across these regulations, and then to move that the House do not agree with them. What happens in such a case ? The safeguards that necessarily follow the introduction of a Bill are absent. If any honorable senator, takes exception to a regulation, it simply means that each honorable senator can only speak once. I feel that I am justified in calling the very serious attention of the Senate to what, to me, is an innovation on what has been the established practice . in dealing with postal matters. Do not let us leave it in the hands of any Minister to pass regulations changing the whole of our postal arrangements, trusting to honorable senators dropping across those regulations when laid on the table of the Senate.

SenatorMcGregor. - We should want to deal with -them more quickly than we are dealing with the Postal Bill.

Sir FREDERICK SARGOOD

- I prefer to be sure than sorry. Quickness is not always safety. In order to test the matter, I move - That the amendment be amended by the omission of the words "the Governor-General under this Act," lines 13 and 14, with a view to insert in lieu thereof the words "Act of Parliament."

Senator DRAKE

- This matter was fully discussed at an earlier stage in the Bill. It was considered on the second reading, and it was also fully discussed on clause 19. That clause, as amended, seems to meet with the approbation of the Senate. I have had clause 2 re-drafted in the belief that the Senate is still of the same opinion as when we adopted clause 19. I am quite willing, however, to accept a discussion and to test the matter on this clause. The practice in regard to the fixing of rates has been different in the several States. It is quite true that in Victoria it is necessary to have an Act of Parliament to alter a postal rate. Hence the necessity . ' recently for the passing of an Act in Victoria reducing the postal rate from twopence to one penny. In New South Wales the rates can be altered by an Order in Council. In Queensland an Act of Parliament is required.

Senator Sir Frederick Sargood

- What is the practice in South Australia?

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Senator DRAKE

- I am not quite certain. It is not a matter of importance however. The subject did not gain any prominence until recently, when many of the States were considering whether they should not lower their postal rates in contemplation of the approaching federation. When I brought the Bill down it contained provisions that the rates for postage should be fixed by the Governor-General, and that they should be laid on the table of the House within fourteen days of the assembling of Parliament,

They were to become law on proclamation in the Gazette. A number of honorable senators expressed the opinion that it was not desirable that that power should be left to the Governor-General in Council, and that the rates should become law as. soon as notified in the Government Gazette. After the second reading I made a proposal that clause 19 should be altered, so as to provide that the regulations fixing rates should be laid on the tables of both Houses for fourteen days, and should not become law if either House expressed dissent from them. The clause as it stands now apparently gave complete satisfaction to the committee. It says -

The Governor-General may fix the rates of postage to be paid upon postal articles and the charges for the transmission and delivery of telegrams or other communications by telegraph.

A scale of such rates and charges and of alterations of the same shall be laid before both Houses of the Parliament within fourteen days after the making thereof if the Parliament be then sitting, or if not then within fourteen days after the next meeting of the Parliament, and if either of the said Houses does not, within fourteen da} 's after such schedules have been so laid before 'it, resolve that such rates and charges or any of them ought not to come into force, then such rates and charges shall, when published in the Gazelle, have the force of law.

I need not read the latter part of the clause, but that is the provision which apparently met with the full assent of the committee, and with such a provision there is not the slightest fear that Parliament will lose its control over the rates. This means making the thing thoroughly public, and I may say that from a departmental point of view it is likely to cause more inconvenience than the method proposed in the first place, for the simple reason that no alteration may be made in a rate, however trifling it may be, unless

Parliament is sitting. Though it may be considered desirable - when Parliament is not sitting - to make some alteration in the rates, we must wait until Parliament meets again before we can do so, and the alteration proposed must then be laid before both Houses for fourteen days, when they will each have an opportunity of disapproving of it, and if either House dissents from the rates proposed, they cannot become law. Under these circumstances Parliament has ample control over the subject. I want the committee distinctly to understand the special reasons there are why we should not follow the Victorian practice on this occasion, and fix the rates by schedule: I will not express a positive opinion on the matter myself, but the general opinion is that if we by law fix a rate, it must be a uniform rate for the whole of the Commonwealth. If we fix the rates by a schedule to this Bill, we must make those rates uniform, and that would mean that we must introduce penny postage in some States which at the present time are not prepared for it. We know very well that there are several States that are not in as flourishing a condition as we should desire them to be, and the Treasurers of those States are, I know, particularly anxious that nothing should be done to make their financial condition worse than it is at the present time. What I proposed to the committee - and I think the committee was entirely in accord with me on the point - was that, however desirable it might be to introduce penny postage, it was just as well that we should first know how we stand from a financial point of view, and that we should know what our revenue and expenditure is. Our revenue is not, I think, so enormous as Senator Sir Frederick Sargood indicated. It is, I think, about £2,250,000, but in consequence of the different methods of bookkeeping adopted in the different States, and the different methods of making payments, it is almost impossible to know with any degree of accuracy how we stand with regard to revenue and expenditure. I think, therefore, that it is very desirable that before we make a reduction of postal rates which would involve financial loss to the States of £300,000 perhaps, we should know exactly how we stand. I do not desire, therefore, that the alteration should be made at the present time, but I hope it will be made as soon as possible. It is not desirable that we should be tied up to our present scale of rates until we have an opportunity of putting a Bill through both Houses of Parliament. The proposal submitted at present gives every possible safeguard, because the rates proposed must be laid on the table, and if they are objected to by a majority in either House, they cannot be passed. We know, however, that there may be very considerable difficulty in getting a Bill through both Houses of Parliament, especially when there is any pressure of business. I trust that unless there is some very good reason for it, the committee will not depart from the decision that it has deliberately arrived at.

Senator WALKER

- It seems to me that the Postmaster-General's explanation is thoroughly satisfactory, and I intend to support him. With all due deference to Senator Sir Frederick Sargood, I think the fact that either House has the power to dissent from any rates proposed makes this a very much stronger measure than it would otherwise be. I am sure that if there are not enough members in one Chamber to look after the matter there will be in the other. We are told that in the multitude of counsellors there is wisdom:

Senator DOBSON

- I was in the chair when Senator Drake was dealing with this matter, and I can bear out what he said as to the assent of the committee to this proposal. As I had not an opportunity of speaking on the clause, I would like to ask the Postmaster-General a question. I understand the loss on the inland and Inter-State revenue through penny postage in the State of Tasmania would amount to upwards of £20,000 a year. I am quite aware that the loss would be reduced every year, and from what we have seen in Queensland, and I think in Canada, it is astonishing how soon the loss incurred in that way is made up. Still Tasmania, in view of the shortage of revenue she will have to suffer under federation, would not care to have cast upon her a loss of anything like £20,000, and I wish to ask the Postmaster-General whether he thinks it wise for the Governor-General in Council to take upon himself the responsibility, by regulation, of introducing a system of penny postage, which will inflict such a loss upon one State, instead of introducing a Bill for the purpose, when the representatives of Tasmania and other States could express their views as to whether or not the proposal was premature. It seems to me that is casting a great responsibility upon the Postmaster-General and his colleagues, and does not give the State most interested in the matter sufficient opportunity to discuss the proposal before it is carried out. I say so because when the regulation is laid upon the table, and the press has announced that penny postage will commence from a certain date, it is possible that honorable senators and members of the House of

Representatives will not care to go so far as to object to it, when if the matter had to be dealt with by a Bill they might suggest that it should be postponed to another session. I would ask the honorable senator if he is prepared to state the psychological moment at which we should commence the penny postage without consulting the members of the States, excepting in so far as they are represented in the Cabinet by Ministers 1

Senator DRAKE

- The representatives of the States will have the most ample opportunity for discussing the matter when the rates are laid on the table of each House. With regard to the psychological moment, in my opinion it is the moment when the States can conveniently bear the additional burden, and, I say, that the change should be made as soon as possible. Senator Dobson made a slight slip in his reference to Queensland, because we have not the penny postage' system in force there, and the burden involved upon Queensland in the alteration would be something more like £40,000 than £20,000. It is, however, quite correct that in every country where the postage has been reduced the deficit has been made up very quickly. In Great Britain, in Canada, and recently here in Victoria and New Zealand, the reduction of the postage was made in the face of a rising revenue. The principle that the postal management has always adopted is that where it is seen that the revenue is coming up possibly to overtake the expenditure then is the time - exactly in the same way as the Chancellor of the Exchequer uses his surplus to reduce a deficit - to reduce the rates of postage. That is the course that has always been followed, and with great success. At present we cannot be sure whether our postal revenue is overtaking the expenditure, but I hope that given twelve months - for experimenting, I was going to say - forgetting our bookkeeping into correct order, we shall know where we stand, and I hope then to be able to introduce penny postage throughout Australia.

Amendment of amendment negatived.

Amendment agreed to.

Clause, as amended, agreed to.

Clauses 5, 15, and 16, verbally amended and agreed to.

Clause 19-

The Governor-General may fix the rates of postage to be paid upon postal articles and the charges for the transmission and delivery of telegrams or other communications by telegraph.

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Senator Sir FREDERICK SARGOOD

- I wish to call attention to sub-clause (1). I am aware that the word " telegraph " covers telephone, but the word telegram is defined in clause 3. It occurred to me that the better plan would be to strike out the words " other communications by ' telegraph " and insert " for the construction and use of telephone lines and instruments," because that, as I understand, is really what is meant.

Senator Drake

- Why construction ?

Senator Playford

- This all deals with charges and not with construction.

Senator Sir FREDERICK SARGOOD

- It shows the difficulty of drafting an amendment in a hurried manner.

Senator DRAKE

- The expression "communications by telegraph" is to be found in many places in the Bill. It covers the use of the telephone, because, under clause 3, a telephone is a telegraph. A communication by telegraph covers something not being a message which has been sent.

Senator Sir FREDERICK

SARGOOD (Victoria). - It refers to the transmission and delivery of telegrams and other communications. The department can deliver a telegram, but it cannot deliver a message by a telephone.

Senator Drake

- We use the telephone and the telegraph in connexion with one another.

Senator Sir FREDERICK SARGOOD. -

If the Minister is satisfied, I shall not press the amendment.

Clause verbally amended and agreed to.

Clause 27 -

The proprietor, printer, or publisher of any newspaper shall . . . register it ...

Senator DRAKE

- I ask the committee to reconsider its decision, substituting the word " shall " for the word " may " in the first line. The clause now provides that the proprietor, printer, or publisher of any newspaper shall in such time and such form become registered. The reasons which were given for the change appeared to be good and sound, but when we consider that we have not power to insist on a newspaper being registered unless it wants to use the Post office, it will be seen that it is absolutely necessary to restore the word "may," otherwise we shall be exercising a right which we have no claim to do. I move -

That the word " shall," be omitted, with a view to insert in lieu thereof the word "may."

Amendment agreed to.

Clause, as amended, agreed to.

Clause 36 verbally amended and agreed to. Clause 68 -

The master of a vessel not carrying mails under a contract for the carriage thereof, and being about to depart from any port within the Commonwealth to any port or place beyond the Commonwealth, shall, before the clearance outwards of such vessel, give to the postmaster or officer in charge of the post-office at the port from which such vessel is about to depart not less than twelve hours' notice in writing of the intended time of departure of such vessel ; and every master of a vessel not carrying mails under a contract which is about to depart from a port within the Commonwealth to another port or place therein, shall, before the clearance of the vessel, give to the postmaster at the port from which the vessel is about to depart not less than six hours' notice in writing of her intended hour of departure. ....

Senator DRAKE

- I invite the committee to reconsider the reduction of the notice to be given by a ship before clearing from port. It was originally fixed at 24 hours, but it was altered to twelve hours. Twelve hours would be sufficient in a great many cases, but it would hardly be sufficient in the case of vessels clearing for foreign ports, and seeing that there is no special time mentioned for this notice to be given, it is clear that the provision could be complied with by the vessel giving a notice at 7 o'clock in the evening to go at 7 o'clock next morning. The notice might be running through the night, and it would be impossible for the postal authorities to arrange to put their mail bags on board. Under these circumstances I move - . .

That the word "twelve" be omitted, with a view to insert in lieu thereof the words " twentyfour."

Senator Walker

-Would not eighteen hours suffice?

Senator DRAKE

- It would be better than twelve hours. It has been 24 hours before, and I believe it has never given rise to any inconvenience to anybody.

Senator Stewart

- There is a provision lower down for a short notice of six hours.

Senator DRAKE

- I propose to alter the notice to be given to the postmaster that a vessel is about to depart from six hours to twelve hours.

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Senator WALKER

- May I ask whether it would affect vessels going from Melbourne to Sydney or Brisbane to Keppel Bay? Coasting steamers along the coast have not to give 24 hours' notice before they leave port.

Senator DRAKE

- It does not refer to coasting steamers. It refers to vessels going to any port or place beyond the Commonwealth.

Amendment agreed to.

Amendment (by Senator Drake) proposed -

That the word " six " be omitted with a view to insert in lieu thereof the word " twelve."

Senator MILLEN

- I understand that this provision deals with coasting vessels. Supposing that a coasting vessel were putting into port for provisions . and going on again, it would necessitate a detention of probably ten

hours, when a stay of a couple of hours would be sufficient, in order to comply with this rather drastic provision. I do not like the provision at all, but I would suggest to the Minister that if he desires to retain it he should leave the six hours' notice as it is, as being perhaps a fair compromise between the convenience of his department and the convenience of the ship-owner.

Senator DRAKE

- I ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Clause, as amended, agreed to.

Clause 77 -

The Postmaster-General shall have the exclusive privilege of erecting and maintaining telegraph lines and of transmitting any message or other communication by telegraph within the Commonwealth, and performing all the incidental services of receiving collecting or delivering such messages or communications except as provided by this Act or the regulations :

Provided also that nothing in this section shall be taken to prevent any person from erecting maintaining and using any telegraph line which is wholly within and upon land whereof he is the proprietor or occupier and solely for his own purposes if no part of such line is within 12 feet of any line of the Postmaster-General.

Amendment by (Senator Drake) agreed to-

That the words "any message," line 3, and " messages," line 7, be omitted, with a view to insert in lieu thereof the word " telegrams."

Senator DRAKE

- It was pointed out to me after the proviso was inserted that it might be inapplicable in the case of a telephone inside a building. It provides that no private wire may be carried within 12 feet of a Government wire. There is a very good reason for that provision, because by induction, it would be possible to read the messages going along the public wire. That refers wholly to telegraph lines erected in the open.

Senator Sir Frederick Sargood referred to the case of a private telephone in a man's house, where his instrument might be on the wall, and within a very few feet of the wire outside. I propose to ask the committee to make the proviso read in this form -

Provided also, that nothing in this section shall be taken to prevent any person from erecting, maintaining and using -

any telegraph line which is wholly within or upon land, whereof he is the proprietor or occupier, and solely for his own purposes, if no part of the said line is within 12 feet of any line of the Postmaster-General; and

any telegraph line which is wholly within a building, whereof he is the occupier or proprietor, and solely for his own purposes.

I think that will carry out the desire which was expressed.

Senator Sir FREDERICK SARGOOD

- This proviso at present reads : -

Provided also that nothing in this section shall be taken to prevent any person from erecting, maintaining, and using any telegraph line.

The words "or erecting" provide for something to be done, and it has been pointed out to me that it is necessary to protect telephone wires in existence. Therefore, I intend to move that the word "erecting" be struck out, with a view of inserting after the words " telegraph line " the following words - "heretofore erected by him, or from erecting or maintaining any telegraph line." The proviso will then read : -

Provided also that nothing in this section shall be taken to prevent any person from maintaining and using any telegraph line heretofore erected by him, or from erecting or maintaining any telegraph line which is wholly within and upon land, and so on. The amendment deals with lines in existence, and with the erection of lines in the future. First of all, I move -

That the word "erecting," line 10, be omitted.

Amendment agreed to.

Senator Sir FREDERICK SARGOOD

I move -

That after the words "telegraph line," line 11, the following words be inserted : - " heretofore erected by



him, or from erecting, maintaining, and using any telegraph line (a)."

Amendment agreed to.

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Senator DRAKE

- I now intend to move -

That after the words "Postmaster-General" the following words be inserted : - "(b) Any telephone line which is wholly within a building whereof he is the occupier or proprietor and solely for his own purposes."

Senator Sir FREDERICK SARGOOD

- I do not think that the amendment moved by the Postmaster-General - would be suitable. It will be noticed that the proviso says-

If no part of such line is within 12 feet of any line of the Postmaster-General.

We have to deal with three classes of lines. First, electric-lighting lines, which we know carry a heavy voltage - about 2,000 volts - and are dangerous, and should not come within the breadth of a street either of a telephone line or a telegraph line. Then we have to deal with telegraph and telephone lines, which, in the open air, where the wires are uncovered, should not "come within 12 feet of one another. But in buildings where the wires are all covered and thoroughly insulated from end to end, there is no reason why they should not even, touch and lie alongside one another without the slightest injury. Bearing in mind that the words telephone and telegraph are synonymous terms, I would point out that in almost every building in the city a telephone line comes in at the corner of the building, and then very often wires distribute the message all over the building. The message comes through from the telephone exchange, and a clerk hears what it is, and connects the two necessary lines. If the provision is to be left as it is, it will be absolutely necessary that these wires within a building should be at least 12 feet apart.

Senator Drake

- No ; we have got rid of that difficulty. This amendment is intended expressly to get over it. The honorable senator will find that it is all right.

Senator MILLEN

(New South Wales).As far as I make out, both

Senator Sir Frederick

Sargood and

Senator Drake

have the same object in view. I want to attain that object also, but I am not quite clear that the amendment submitted by the Postmaster-General will do so. It will do so, however, if before the second proviso, lettered

(b),

the word " or " be inserted. This would clearly indicate that under either set of conditions, the private owner would be able to carry on the operations of his private telephone.

Amendment (by Senator Drake) agreed to-

That after the words "Postmaster-General," the word " or " be inserted.

Senator Sir FREDERICK SARGOOD

- What does the 12 feet provision apply to ?

Senator Drake

- To lines in the open.

Senator Sir FREDERICK SARGOOD

- I do not think it says so. However, the better course will be to leave it as it is, and the clause be recommitted if we find it necessary.

Amendment (by Senator Drake) agreed to-

That after the word "or" the following words be inserted: - " (b) which is used for telephonic communication and is wholly within a building whereof he is the occupier or proprietor and solely for his own purposes."

Clause, as amended, agreed to.

Clause 78 -

Provided that where a private line has been or shall be constructed by a person who is the owner of the land upon both sides of a road, railway, tramway, public reserve, Crown lands, or creek, then such person

shall have the right on payment of the prescribed fee of continuing or carrying such private line across any such road, railway, tramway, public reserve, Crown lands, or creek at a height of at least . 18 feet from the surface of such road, railway, tramway, public reserve, Crown lands, or creek, or otherwise as approved by the Postmaster-General.

Senator DRAKE

- -This

was the provision which caused a great deal of trouble to the committee. It was asked with a great deal of force what right the Postmaster-General had to give a licence to any private person to cross a road by a wire. It is perfectly clear to me that the department has a right to run a wire along a street, and if we can do that we interfere with private persons. I therefore think it would be better to omit the proviso and insert a new one ; so that instead of saying that we confer a right upon any person to cross a road, we say that nothing in this Act shall prevent them. I move -

That the proviso be omitted with a view to insert in lieu thereof the following words : - "Provided that where a private line has been constructed before or after the commencement of this Act by a person who is the owner of the land upon both sides of a road, railway, tramway, public reserve, Crown lands, or creek, then nothing in this Act shall be deemed to prevent such person on payment of the prescribed fee from continuing or carrying such private line across any such road, railway, tramway, public reserve, Crown lands, or creek at a height of at least 18 feet from the surface of such road, railway, tramway, public reserve, Crown lands, or creek, or otherwise as approved by the Postmaster-General."

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Senator PEARCE

- I should like to ask the Postmaster-General whether this confers a right on the owner of a line on both sides of a road to carry it across that road at a height of 18 feet, or whether he must first obtain the approval of the Postmaster-General. It might happen that the Postmaster-General would prefer the line to go underground.

Senator DRAKE

- I do not think it gives any right. We simply waive our right to prevent a person from doing it. I think that in these circumstances a private person would incur the whole responsibility himself.

Senator Sir Frederick Sargood

- Even though the department accepts the fee.

Senator DRAKE

- Yes ; we simply receive the fee for waiving the right which we think we have to prevent such a person from carrying his line across the road. If we had one of our own lines running along the roadway we could certainly interfere and regulate the manner in which a privately owned wire should be carried across ours. All that we say in this case is that we believe - if we like to exercise our powers -that we could interfere and prevent a man from running his line across a road, but that we will not do so. We receive a small fee for waiving that right.

Senator Millen

- I hope it will be a small fee. I know that in New South Wales it is pretty high.

Senator Drake

- I think it is something like £1. That is not very high.

Senator PLAYFORD

- This provision will not give the owner of a private line the right to take it across a road without first obtaining the authority of those having the control of the road.

Senator Drake

- He would have to get their permission.

Senator PLAYFORD

- Yes. In our State he would have to get the authority of the district council, and, where there was no district council, he would have to go to the State Government. That must be distinctly understood. The Postmaster-General would have a perfect right to prevent the owner of such a line from carrying it across a road, or even from erecting a telegraph line, except on his own property, under our own special law, which gives the monopoly to the postal department. We cannot give a right to a private individual to carry a line across a road, although we can take the right ourselves. Private individuals who are going to

construct these telegraph lines must therefore remember that there are other authorities whose consent they must obtain, before they exercise the privilege given them under this clause.

Amendment agreed to.

Clause, as amended, agreed to.

Clause 91-

The Governor-General may make regulations for the following purposes or any of them : -

Prescribing the fees, rates, and dues to be received for -

any conversation on any telegraph line on any telephone exchange or private telephone line ;

For the purpose of providing for the payment of a rate of wages and fair working conditions in all contracts under this Act, such rates of wages and conditions to be those recognised in the locality in which the work is carried out.

Such regulations shall when published in the Gazette have the force of law.

The production of the Gazette containing a regulation shall be sufficient evidence of the due making of the regulation and that it is still in force :

All such regulations and alterations thereof shall be laid before both Houses of Parliament within fourteen days after the making thereof if the Parliament be then sitting or if not within fourteen days after the next meeting of the Parliament.

Senator Sir FREDERICK SARGOOD

- I move -

That the words "or private telephone line," in sub-clause (2) of paragraph (n), be omitted.

The question involved is,, what the term " private telephone " means. If it means a line from the exchange to a private building, then the provision is quite right ; but if it means a private telephone inside a building, then these words should be struck out.

Senator DRAKE

- We do not intend that the provisions shall apply to a private telephone inside a building. That is not contemplated. .

Senator Sir Frederick Sargood

- I understood it was, and that is why I gave notice of this amendment.

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Senator DRAKE

- I may explain that there are a number of private telephones erected by the department for, and paid for by, private individuals. We make arrangements with the owners of these lines to allow other people to use them on payment of a certain fee, part of which goes to the owners and the remainder to the department. It is to these lines that the provision in the Bill refers.

Senator Sir FREDERICK SARGOOD

- - In view of that statement I beg leave to withdraw my amendment.

Amendment, by. leave, withdrawn.

Senator PEARCE

- I should like to obtain the opinion of the committee on the question of whether we should not have some alteration in the method of adopting these regulations. In order to test the opinion of the committee, I propose to move- -

That the words "Such regulations shall when published in the Gazette have the force of law," lines 17 and .18, be omitted.

My object is to provide that all the regulations set out in the clause shall be laid on the table of both Houses before having the force of law. I propose to move for the re-insertion of the words at the end of the clause.

Senator Drake

- We could not do that.

Senator PEARCE

- If it is important that Parliament should have the power of revision as to rates of postage, then surely it is important that we should have the right to deal with regulations for the purpose of providing for the payment of a rate of wages, and fair working conditions in contracts for the carriage of mails.

Senator Drake

- There is nothing in that, It is a very small matter.

Senator PEARCE

- I think it is very necessary that the Senate should have the power of determining whether such regulations carry out the wishes of Parliament. What injury can be done to the department by requiring that such regulations shall be laid on the table of the Senate in the same way as those relating to the rates of postage?

Senator MILLEN

- Before the honorable senator moves his amendment, there is another matter to which I should like to refer. I am not at all satisfied with the statement made by the Postmaster-General as to the meaning of the second sub-clause in paragraph («). Power is given to the Governor-General to make regulations, prescribing the fees, rates, and dues to be received for any conversation on any telephone line, or in any telephone exchange, or any private telephone line. The word "any " practically means all. It may be the intention of the Postal authorities to limit this provision to lines, such as those mentioned by the Postmaster-General ; but with considerable knowledge of the extent to which regulations are worked in my own State, I should fear to see the sub-clause passed in that form. If the Postmaster-General only desires to have the power to charge in the cases he has referred to, I would suggest to him that he should make that intention a little clearer, otherwise ' some one may discover in the sub-clause a justification for attempting to make charges in regard to other lines.

Senator DRAKE

- I would point out to Senator Pearce that this clause relates to matters that are dealt with by regulation now; they are matters connected with the continual everyday working of the Post office. We carefully overhauled the clause and took out such important matters as the fixing of rates, considering that regulations in regard to them should lie on the table for fourteen days before becoming law. Now the honorable senator proposes to put all the regulations upon the same footing. I think the Senate will see the great inconvenience that would result from the adoption of such a course. We should not be able to make the slightest alteration in respect of any of these matters while Parliament was out of session. We should be unable to do anything until Parliament met.

Senator Millen

- But the regulations simply have to be laid on the table after Parliament meets.

Senator DRAKE

- That is how the matter stands now. Senator Pearce, however, is proposing that these regulations shall not become law until they have laid on the table for fourteen days. That would be quite unworkable. In regard to the rates of wages and provision for fair working conditions in mail contracts, the honorable senator need feel no alarm, because the regulations relating to that matter must compare word for word with what is stated in the Bill itself. The only effect of making the alteration which he suggests would be to prevent us from putting the regulations into operation until Parliament met. No doubt we shall be able to prepare them before the present session closes, 'but if we were not able to do so we should have to wait until next session.

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Senator CHARLESTON

- I think our object has been to separate matters of policy, such as the fixing of rates for the carriage of newspapers and so forth, from purely administrative matters. In my opinion we can afford to leave the clause as it is, seeing that we have provided that regulations relating to questions of policy must be laid on the table of the Senate. I think we should leave all purely administrative matters to the Postmaster-General, who is the responsible Minister.

Senator Pearce

- In view of the Minister's statement I do not wish to press my proposal.

Amendment, by leave, withdrawn.

Clause agreed to.

Clause 92-

The Postmaster-General shall have power to inflict fines upon officers employed, in the department for any neglect of duty or irregularity in the conduct of the business of the department in accordance with regulations and- scale of fines approved by the Governor-General.

Senator Sir FREDERICK SARGOOD

- When the Bill was under discussion before, I pointed out that under this clause power was taken . by the Postmaster-General to inflict fines for neglect of duty or irregularity in the conduct of business. I pointed out also that the Public Service Bill was then before another place, and that in that Bill full power was taken to deal with all the officers of the public service. All the officers of the post-office are officers of the public service, and in , the Public Service Bill any breach of discipline is to be dealt with by the commissioner. I therefore felt that it was not necessary for the Postmaster-General under this clause to take to himself the power to inflict punishment, because it would be overriding the Public Service Bill, and practically providing two sets of punishments for the same class of officers. Since then we have had- the Public Service Bill brought up to the Senate, and under clause 46 of that Bill, there is full provision made for fines to be imposed, not by the political head of the department, but by the permanent head of the department, as has been the case, I believe, in many of the States. In other clauses there is provision made that where an officer is guilty of any wilful disobedience or disregard of lawful orders, negligence and carelessness, and so on, the permanent head of the department may reprimand him or suspend him for a time ; and it is, moreover, at his discretion to inflict a fine not exceeding £5, though, as at first introduced in another place, the Bill permitted a fine of £10. The Public Service Bill, as we now have it, places it within the power of the permanent head of the department to maintain the discipline of the department where necessary by the infliction of a fine up to £5 for various offences, and if anything more serious occurs it is reported to the Minister, who may authorize the matter to be sent on for consideration by the Public Service Commissioner. There are full provisions made for carrying out the powers given in the Public Service Bill. It seems to me undesirable, having this Bill before us, which will no doubt become law, that we should at the same time introduce into this Post and Telegraph Bill a special clause dealing specially with the officers of one department. Even if we pass this clause and the Public Service Bill is passed subsequently to it, I venture to say that the Public Service Bill will prevail. The last Act passed will certainly prevail. It therefore appears ' to me that the proper course for the Senate to take is to strike out clause 92 altogether, and leave the officers of the Post-office department to be dealt with under the Public Service Bill.

Senator DRAKE

- It is rather an awkward matter to be discussing the Public Service Bill when it is not before us, and I am not quite sure that I am in order in doing so, but- if I follow the example of Senator Sir Frederick Sargood I cannot go very far wrong. In the first place I do not know whether we are justified in striking the clause out of this Bill in anticipation of the passing of . a Bill we have not yet discussed. Before we can decide whether we should do what is proposed, I think we should have the other Bill before us, and be able to discuss its clauses. Strange to say the clauses in the two Bills do not conflict at all. This clause gives the Postmaster-General power to inflict certain fines in accordance with regulations fixed by the Governor-General in Council. The" Public Service Bill has very elaborate provisions providing for the punishment of officers of departments, and putting this power of punishment by fining in the hands of the chief departmental officer and not of the Minister.

Senator Millen

- A man could be fined twice.

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Senator DRAKE

- Surely we can discuss this matter from the point of view which is the preferable course to adopt. I do not like fining myself, and I do not like to see the power of fining used in a reckless manner. Though I do not wish to prejudice the members of the Senate against any of the provisions of the Public Service Bill it is worthy of consideration whether the power of fining should rest with the Minister or with the Deputy Postmaster-General in each of the States. From one point of view, I think it is desirable that the power should rest with the Postmaster-General, because we should then get something like uniformity ; whereas, if we put the fining into the hands of the Deputy Postmasters-General, the way in which it will be exercised will depend to a very great extent upon the view which a particular man takes. One man may be inclined to be very severe, and another to be very lenient.

Senator Sir Frederick Sargood

- But if the offence is committed in Western Australia, and the Postmaster-General is -here in Victoria,

look at the difficulty then.

Senator DRAKE

- The provision of the Public Service Bill gives the power of fining to the Deputy Postmasters-General. In the Victorian Postal Act previous to federation there was, I think, the peculiar anomaly that the Postmaster-General could not inflict a fine, but he could remit one. The power, I think, is at present in Victoria in the hands of the Deputy Postmaster-General, and the Minister can remit a fine as soon as the deputy inflicts it. Under the Public Service Bill the Postmaster-General, the Ministerial head of the department, is out of it altogether, and has no power either to fine or to remit a fine. It is generally admitted that there must be some means of punishing men for small offences without going to the extreme length of dismissing or reducing them, and if there is to be such a power it is for the committee to decide whether it shall rest with the Ministerial head or with the permanent head of the department.

Senator Playford

- We would have to exclude the Post-office department from the operation of the other Bill.

Senator DRAKE

- We have not to deal with the other Bill yet. And the question is whether this clause giving the Postmaster-General power to fine should be struck out. I do not desire to express any very strong opinion about it myself, but the Senate should consider carefully before they strike out the clause, whether it is better that this power of fining up to £5 should rest with the Deputy Postmaster-General or the Postmaster-General.

Senator CHARLESTON

(South Australia). It would be better to leave to the Deputy Postmaster-General power to inflict a fine up to £5. If it is necessary that something more than that should be done - that an officer should be dismissed or should be prosecuted, the power should be vested in the Postmaster-General. This clause does not provide for anything of that sort, but says that the Postmaster-General shall have power to fine. I think the Postmaster-General must see that in his own interests it would be better to leave that power with the Deputy Postmasters-General, who will be conversant in the various States with the irregularity or breach of discipline calling for a fine.

Senator MILLEN

- In practice it will ultimately be found that it will be the Deputy Postmasters General who will levy the fine. Take, for instance, the case of some small offence committed in Western Australia, how is the Postmaster-General, located in Melbourne, to determine the fine in such a case? It would be done nominally by him under this clause, but to all intents and purposes it would practically be done by the Deputy Postmaster-General in Western Australia. On that ground I see no objection to leaving the clause, as the practice will be in uniformity with the provision in the Public Service Bill.

Senator PLAYFORD

- We cannot shut our eyes to the fact that in another place they have passed a Bill dealing with the whole of the Commonwealth public service. The question for us to consider is whether we are going to take the Post-office and put it on one side, and deal with it separately by this Bill. I say that would be a stupid and foolish thing to do. But when we get this other measure before us, if we wish to alter any of its provisions in the direction indicated by the Postmaster-General, we can do so. We should not send this clause up to another place as it is, for fear it may be overlooked and become law, and we would have the possibility of the servants of the Post-office being fined under two sets of laws. I think the proper course to adopt is to strike out this clause.

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Senator HARNEY

- I am in favour of this clause. I consider that such a matter as the infliction of fines should always emanate from the source of power. If we allowed Deputy Postmasters-General to inflict fines we would encourage unofficial appeals to the Postmaster-General. Whereas if we allow the Postmaster-General to be responsible for fines, what will happen will be that the permanent head, the Deputy Postmaster-General in each State, will really 'inflict the fines, but they will be fiatd by the Postmaster-General before they become operative. I am told that this is open to the objection that the Public Service Bill enables the permanent heads to inflict fines, and that that would collide with this provision ; but the Public Service Bill has not become law, and so far as I am concerned I shall certainly

oppose anything which will permit persons who are not responsible for the working of the whole department from giving anything in the nature of a judicial decision that will penalize any officer. Let it be done de facto by the permanent head, but de jure by the real head of the department.

Senator BARRETT

- I think the suggestion of Senator Sir Frederick Sargood is the best -one to adopt, and when the Public Service Bill comes on, we can then deal with offences of this kind. I object to the Deputy Postmaster-General having the power to fine any man in the - post office unless there is a right of appeal. I have seen some very peculiar cases settled by the Deputy Postmaster-General.

Senator Sir Frederick Sargood

- Every man will have the right of appeal under the Public Service Bill.

Clause negatived.

Clause 95 (Unlawful possession of mills for making postage stamps or postal note paper).

Senator Sir FREDERICK

S ARGOOD. This clause has been recommitted in consequence of my having called attention to the fact that there is no provision made for an appeal. It creates a number of crimes and misdemeanours, and, apparently, there is no provision for an appeal. The Minister promised to consider the point and say whether it was necessary to insert a special appeal clause. I am one of those who think that no man should be tried and sentenced without some right of appeal.

Probably the Minister will be able to explain whether it is needed or whether it will be covered in some other way.

Senator DRAKE

- I have taken advice in this matter, and I am informed that it will be necessary to pass legislation to constitute a court, and that at the same time provision will be made for an appeal.

Senator Sir Frederick Sargood

- When ?

Senator DRAKE

- It will be done in one of the judiciary Bills shortly.

Clause agreed to.

Clause 103-

Any postmaster or other officer or servant employed in the department, or any master of a vessel, or other person employed or authorized by or under any postmaster to receive, sort, carry, or deliver any mail or any postal article sent by post or otherwise, who shall offend against or wilfully neglect or omit to comply with any of the regulations to be made as in this Act mentioned, or with any of the provisions of this Act (for breach or neglect of which no other punishment is hereby provided) shall be liable to a penalty not exceeding £25.

Senator Sir FREDERICK SARGOOD

- This clause involves practically the same matter as we dealt with just now - - the penalties on officers of the department. My idea is that the penalty should apply to all those who are not officers of the department. I move -

That after the word "other," line . 1, the words "person not being an " be inserted.

It will take from the operation of the clause all officers of the department, who will be dealt with under the Public Service Bill.

Senator DRAKE

- These are rather serious offences, - for which a penalty up to £25 is provided. It might be considered advisable, perhaps, to discuss them and the Public Service Bill together, but I cannot see that there is anything in that Bill which is inconsistent with this clause.

Senator Sir Frederick Sargood

- The . Minister can dismiss under that Bill.

Senator DRAKE

- The Minister can dismiss under the Public Service Bill, but these are special offences connected with the department, and this provision is taken from the Act of New South Wales.

Senator Millen

- The Postal Act was in existence long before the Public Service Act was passed.

Senator Clemons

- The marginal note shows that the Postal Act was passed in New South Wales in 1867.

Amendment agreed to.

Senator Sir FREDERICK

SARGOOD (Victoria). - I move -

That the words "or servant," line 1, be omitted.

Senator DRAKE

- What is the object?

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Senator Sir FREDERICK SARGOOD

- The words are not wanted. " Servant " is almost synonymous with "officer," and a servant of the department will come under the Public Service Act.

Senator Drake

- Why not exclude both officers and servants if there is any distinction between the two?

Senator Sir FREDERICK SARGOOD

- That is exactly what I am doing.

Senator Drake

- I do not see why we should not leave in the words " or servant."

Senator Sir FREDERICK SARGOOD

- There is no distinction drawn in the Public Service Bill.

Amendment agreed to.

Clause, as amended, agreed to.

Clause 124 -

Any person who, without the authority of the Postmaster-General (the proof of which authority shall be on the person charged) sets up, maintains, or uses in or on any Crown lands, or in or on any public road, street, or highway, any telegraph line, or wilfully uses any telegraph line set up before or after the commencement of this Act, and neglects to comply with any notice from the Postmaster-General, or a deputy Postmaster-General to pay such charges (if any) in respect of the line as may from time to time be fixed by the Governor-General, shall be liable to a penalty not exceeding £5 for every day during which any such line is or continues to be so set up, maintained, or used contrary to the provisions of this Act. The Postmaster-General may authorize any person to take absolute possession of, cut down, or destroy the whole or any part of any such line.

Senator MILLEN

(New South Wales). This clause proceeds to take away a right which is given by a previous clause to owners of private wires. Clause 77 gives the right, without any authority, to a man to use telegraph lines. If it gives him an authority what is clause 124 wanted for? It is either intended to allow the owner of an existing line to continue to use it or the possessor of certain property to erect a line within that property and use it without any application to the Minister or it is not.

Senator STANFORTH SMITH

- Say "except as provided in section 77."

Senator MILLEN

- I propose that -

After the words "Postmaster-General," line 2, the words " except as provided in section 77 " be inserted.

Senator HARNEY

- I think the amendment is entirely unnecessary. Clause 77 says that the Postmaster-General shall have the exclusive privilege of erecting and maintaining telegraph lines and transmitting messages, provided that nothing therein shall be taken to prevent persons from erecting and using any telegraph line of a private character.

Senator Sir Frederick Sargood

- No, he cannot authorize under clause 77.

Senator Millen

- Under the clause a man has a right without any authority from the Postmaster-General.

Senator HARNEY



-- It reads-

Nothing in this section shall be taken to prevent any person from erecting, maintaining, and using any telegraph lines which is wholly within and upon lands whereof he is the proprietor or occupier, and solely for his own purpose if no part of such line is within 12 feet of any line of the Postmaster-General.

Senator Playford

- He wants no authority for that.

Senator HARNEY

- Clause 77 does not apply to the proviso at all, and clause 124 refers to persons who offend against what it is stated that persons shall not do under clause 77. It is not stated that they shall not maintain and use telegraph lines for private purposes. It is stated that they shall not use them for purposes other than the proviso sets forth, and clause 124 says that persons who do things which they are not authorized to do, shall be punished. I think it is quite unnecessary to have any amendment. Clause 124 begins with the words - "Any person who without the authority of the Postmaster-General sets up or maintains," that is, any person who is unauthorized, and the Postmaster-General can authorize under clause 77.

Senator O'Connor

- With the authority of the Minister is quite enough, and the authority is given in the clause.

Senator MILLEN

(New South Wales).The authority in clause 77 is given by the Bill. It may be held that it is necessary to make application to the Minister, in spite of the authority given in clause 77, otherwise he would offend against clause . 124, because he would not be in possession of the authority which clause 77 says is necessary. It has to be noticed that clause 124 calls on persons to pay such charges as the -Minister may levy. Clauses 77 and 77a clearly exempt a person from any liability of that kind

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Senator DRAKE

- This clause does not refer at all to cases where a line can be put up by a private person in his own house, but it refers to the erection of a line on any Crown lands, or in, or on, any public roads, street, or highway - we dealt with that in the amendment which was accepted this afternoon - on payment of the prescribed fee. Surely that is the authority ?

Senator Sir FREDERICK SARGOOD

- That, involves the question of clause 77a, which experts have pointed out to me practically states that no one may put up a telegraph line, unless authorized by the Postmaster-General. That overrides even the right we have attempted to give to private parties. The experts say that any one in the trade will have to go to the Minister before he . can put up a single yard of telephone or telegraph line.

Senator Drake

- Not at all, because either on his own land or his own building, he can do that without authority.

Senator Sir FREDERICK SARGOOD

- It does not say so.

Senator O'Connor

- Look at clause 77«.

Senator Sir FREDERICK SARGOOD

- It says -

The Postmaster-General may, on such conditions as he deems fit, authorize any person to erect and maintain telegraph lines within the Commonwealth, and to use the same for all purposes of and incidental to telegraphic communication. .

The inference is that no one can erect without authority. Is that the position which the Minister takes ?

Senator Drake

- No.

Senator Sir FREDERICK SARGOOD

- Then clause 124 seems to emphasize and indorse it by referring to the authority.

Senator DRAKE

- The authority referred to in clause 124 is authority to set up and maintain a telegraph line on any Crown lands, or in, or on any' public road, street, or highway. There is nothing in any other part of the Bill to show that a person has authority without the permission of the Postmaster-General to erect telegraph lines

under those circumstances.

Senator MILLEN

(New South Wales).-

Clause 77 says -

Nothing in this section shall be taken to prevent any person from erecting, maintaining, and using any telegraph line which is wholly within and upon land, whereof he is the proprietor or occupier.

That is Crown land principally in the State from which I come. These telephones are used more largely on Crown land than elsewhere. It means the land of which the owner of the telegraph or telephone line is in occupation. Surely that is the same as Crown land referred to in clause 124.

Senator HARNEY

(Western Australia). - Reading clauses 77 and 77a, what is provided is that the Postmaster-General shall have the exclusive privilege of putting up any public telegraph line and transmitting messages thereon, provided always that it is not to apply to certain private lines which are referred to. Clause 77a says that he may, on such conditions as he deems fit, authorize any person to erect and maintain telegraph lines within the Commonwealth, that is that he can authorize them to erect and maintain telegraph lines which are outside the proviso which is specially made. Clause 124 then comes and exactly fits in with clause 77a. It says that if such lines as a person cannot erect by virtue of the proviso, and which he can only do by reason of the authorization of the Postmaster-General are erected he shall suffer a certain penalty. It seems to me that nothing could be logically clearer than the reading of the three clauses.

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Senator CLEMONS

- I also am inclined to agree with Senator Harney in thinking that clause 124 is necessary. It seems to me to be obvious that any one who will read clause 77a and clause 124 together will see that clause 77 provides for the erection and maintenance of telegraph lines within the Commonwealth - and those terms are broad enough to cover every possible contingency - upon certain conditions. Clause 124 then goes on to provide for what happens if lines are erected and maintained without complying with those conditions. The conditions in question are clearly the permission of the Postmaster-General. So that it seems to me that clause 124 is not only desirable, but absolutely necessary. Clause 77a provides that you may do it upon certain conditions, and clause 124 provides what will happen if you do not comply with those conditions.

Senator MILLEN

(New South Wales). If the clause really said what the last speaker has declared it does say, there could be no objection to it. But it does not. Clauses 77, 77a, and 78 provide that, while the Postmaster-General has the exclusive privilege of erecting telegraph lines, there are exemptions in favour of certain individuals. Clause 124 does not provide a penalty for those who erect telegraph lines contrary to clause 77, but goes on to say that persons to whom clause 77 has exempted shall apply to the Postmaster-General. That is my point. I have no objection to a clause providing a penalty for those who erect and maintain telegraph lines illegitimately, but what I object to is that those who erect them under clause 77 shall have to apply to the Postmaster-General.

Senator PEARCE

-

It seems to me that the contention of Senator Millen is not correct, because parts of clause 77 provide for telegraph lines set up by private persons. "

Senator Millen

- No ; upon Crown lands upon which the person is the occupier.

Senator PEARCE

- If he is the occupier he would be in the position of a land-holder, in which case you could not speak of the lands as " Crown lands." I take it that the meaning of the words " Crown lands " in this Bill is unoccupied Crown lands.

Senator HARNEY

(Western Australia). - I think the lawyers in this Chamber will agree with me that the true construction of the proviso at the end of clause 77 is that the enactment there as to the exclusive privilege of erecting and maintaining telegraph lines that is given to the Postmaster-General does not apply at all to certain

exempt cases ; and that, therefore, persons who within the exemption erect telegraph lines, do not "erect and maintain" lines that are dealt with by this Bill. Clause 77a,

says that the Postmaster-General may, on such conditions as he deems proper, authorize persons to "use the same." What is meant by "the same" ? The things that cannot be erected under this Bill, under the exemption. Therefore you have to read clauses 77, 77a, and 124 with the proviso, which merely says that those who come within the proviso shall not erect telegraph lines at all within the meaning of this measure.

Senator CLEMONS

(Tasmania). - I think the Postmaster-General must have seen what is fairly obvious by this time, that clause 77 refers to land of which a man may be proprietor or occupier. The land of which he can be proprietor or occupier is also referred to distinctly in clause 124 in a contradictory manner when it deals with Crown lands. It is obvious to me that a man may be the occupier of Crown lands, and so far as the words "or on any Crown lands" are concerned, they seem to me to be contradictory of clause 77 in so much as a man may be the occupier of Crown lands.

Senator DRAKE

- I think it will be better for the amendment to come at the beginning of clause 124. I therefore move - That before the word, "any," line 1, the following words be inserted - "Except as provided in section 77." Amendment agreed to.

Senator Sir FREDERICK

SARGOOD (Victoria). - May I again call attention to clause 77a. It involves a very important question. Practically the whole of the trade are up in arms against it. They say that under clause 77a they cannot undertake to do any repairing or maintaining without the authority of the Postmaster-General. I must confess that the clause reads like that. I am sure that is not what the Postmaster-General mean's. I hope he will make a note of the point.

Clause, as amended, agreed to.

Clause 142 (Restrictions when telegraph lines injuriously affected).

Amendment (by Senator Drake) proposed -

That the following new sub-clause be added -

Where such electric lines or works have, with the consent of - the Postmaster - General or a Deputy Postmaster-General ; or the Postmaster-General of a State before the transfer of the department of Posts and Telegraphs to the Commonwealth, been constructed prior to the erection of the telegraph line of the Postmaster-General injuriously affected thereby, the Postmaster-General shall pay to the person owning or using or entitled to use such electric lines or works the amount of any costs reasonably incurred or damages sustained by him by reason of compliance with such conditions and restrictions.

Senator '

KEATING (Tasmania). - When the Bill was previously in committee the Postmaster-General promised to give consideration to such cases as that of the Municipal Council of Launceston, who, under statutory powers conferred upon them by the Parliament of Tasmania, have erected a system of electric lighting for that city. I do not think that the honorable senator has gone far enough in his proposed amendment. What I propose for the consideration of the committee is that as an amendment upon the amendment that has been moved there be inserted after the words "injuriously affected thereby" the following words - Or have been constructed by any person under powers in that behalf vested in such person by statute of any State.

Senator Drake

- It would be better to move the amendment as a new sub-clause.

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Senator KEATING

-I use the word "person" advisedly, because it would cover any body politic, such as a city corporation, under our Acts Interpretation Act I do not intend to necessarily restrict the operations of the amendment to any particular body, such as a municipal council, because in many instances inland towns have been lit - as is the case in New South Wales - by electrical authorities, the powers connected with which were

originally vested in individual person's. But those persons have assigned, their rights to a company for the purpose of exercising those rights in the public interest. Therefore, I use the word "person" to cover the case of any body politic or any local authority. I do not see that the adoption of my amendment can defeat the object the Postmaster-General intends to give effect to by his own amendment. The amendment of the honorable gentleman only refers to cases where the original wires have been erected prior to the erection of the telegraph line. In the case I am more particularly acquainted with, the city from which I come - Launceston - the telegraph wires were erected years before; but the authority to convey electric power for lighting purposes was conferred upon the Corporation by statute, together with such restrictions as would prevent the exercise of the power proving prejudicial to the State, which was conducting the Telegraph department in the interests of the people. I think I can convince the Postmaster-General, by reference to the statute under which the Launceston Corporation exercises its powers, that the Postal department has been amply protected, and that in the discharge of its duties it would be in no way prejudicially affected. I think the honorable senator will find, if he takes the amendment as I have suggested it, that it would be better than making it a new sub-clause.

Senator DRAKE

- I should like to consider this amendment carefully before I agree to it. I am sorry that Senator Keating, before he brought forward his proposal, did not in some way convey to me his intention of doing so. I ought to have an opportunity of ascertaining whether this is really a case for special legislation. This is a particular work which has been carried out by the Corporation of Launceston, and I am not in the position of knowing whether the department ought to be put in the position of having to pay for an alteration of the wires.

Senator Keating

- I drew the Postmaster-General's attention to the whole of the circumstances on the 10th instant, and he promised to give consideration to the case.

Senator DRAKE

- I have given some attention to it, and have accordingly brought forward this amendment, which was circulated some days ago. I am not prepared to go further than the proposal I have submitted. I think it is quite sufficient to exempt works which have been carried out with the consent of the Postmaster-General or a Deputy Postmaster-General or the Postmaster-General of a State before the transfer of the department to the Commonwealth. The amendment which has been suggested by Senator Keating would not fit in with the present phraseology of the clause.

Senator Sir John Downer

- Would not the word "lawfully" cover it?

Senator DRAKE

- I do not think so. A wire might be lawfully constructed and yet should not be exempt. This is not at all an analogous case to that under the English Act to which I previously referred where the wires were put up with the authority and consent of the Board of Trade.

Senator Sir FREDERICK

SARGOOD (Victoria). - I find that the words "prior to" are the key to the whole position. I am told that they will affect the whole of the wires of the city of Melbourne, and as I have said before it would be monstrously unfair to penalize any body which had erected lines in accordance with the law.

Senator Sir John Downer

- "Lawfully" is the right word.

Senator Sir FREDERICK SARGOOD

- I am only using the word as a layman. The question whether these wires are put up prior to or subsequent to the erection of lines by the Commonwealth should not affect the matter at all. The whole question is, whether they have been put up lawfully. If they have, the Postmaster-General must agree with me, that it would be exceedingly unfair to throw the cost on the parties. If the Postmaster-General does something which places his line in jeopardy he ought to pay for it.

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Senator Sir JOHN DOWNER

- It appears to me that the words "with the consent of," which appear in the amendment, are unnecessary. It would be quite sufficient to say "where such electric lines or works have been lawfully

constructed prior to," and so on. Supposing that a line can be lawfully constructed with the consent of the Postmaster-General, and that that consent has been obtained, then the line is lawfully constructed. It seems to me that . if the Postmaster-General were to adopt the suggestion I have made he would cover the whole thing.

Senator MILLEN

(New South Wales).The Postmaster-General has informed the committee that he wants time to consider the case introduced by

Senator Keating,

because it seems to him to be a special one. A general principle, however, is involved. It is not a matter of individual cases.

Sir Frederick

Sargood has mentioned a case in this State, and I know of several in New South Wales where municipal councils have constructed electric lighting works.

Senator Drake

- Such cases would be covered by the words - " With the consent of the Postmaster-General."

Senator MILLEN

- -Some of these works have been carried out under special Acts.

Senator Keating

- And the Postal department has been protected by those Acts.

Senator MILLEN

- Amply protected. I am of opinion, however, that the words " prior to," which appear in the amendment, will still be necessary if the suggestion made by Sir John Downer is carried out. If the Postmaster-General erected his lines first he should stand in the position which we now contend should be occupied by those who construct the works referred to here. Therefore I think the words " prior to " should remain.

Senator DRAKE

- In all the States I think it is the Postmaster-General who has to consent to the erection of private wires, and probably if I had time to inquire I should find that the Postmaster-General had consented to the works referred to by Senator Keating.

Senator Keating

- They had to give notice to the Postmaster-General before they erected the wires, so that he might take action if necessary. As he has not done so they should now be protected.

Senator DRAKE

- Seeing that these wires have been erected with the consent of the Postmaster-General the expense of any alterations that may be necessary must be paid by the Postal department. That is provided for.

Senator Harney

- Why not use the word "lawfully," as suggested 1

Senator DRAKE

- I do not know exactly the force of that word, but the provision ' contained in the amendment covers everything.

Senator CLEMONS

(Tasmania). - I would point out to the Postmaster-General that the insertion of the words " prior to " prevents this clause from covering even contingency. As a matter of fact the electric lighting lines in Launceston were not constructed prior to the erection of the State wires. They were erected, however, under statutory power, which provided carefully " and fully - against any possible injury to the telegraph lines of the State of Tasmania. I cannot see why the Postmaster-General should insist upon the use of words which introduce a qualification that must inflict an indirect injustice, and a qualification for which, under no circumstances, can I see any justification. I would urge the honorable and learned senator to remove the two words I have referred to. They create a limitation, or they would not be there. If they do that the Postmaster-General must also admit that they may give rise to an injustice. As a matter of fact we who represent Tasmania assure the honorable and learned senator that they may do considerable injustice in that State if they are permitted to remain.

Senator DRAKE

- We say that the telegraph wires are to be first, and that other wires which are erected so as to injuriously

affect them, must be removed, at the expense of the owners. If there are wires which are already lawfully in position, and it is necessary for the department to remove them, then the department must pay the cost. If the telegraph line is erected first, and other lines are subsequently put up, which we say must be removed, then the parties who own them must bear the cost.

Senator CLEMONS

(Tasmania). - I am still unconvinced. Why is the Postmaster-General not satisfied with the legislation carried out by Tasmania to secure the Postmaster-General of that State from injury? The State of Tasmania by direct legislation has given the Postmaster-General all the protection he asks for, and if he consents to insert in the clause the word "lawfully," he will secure his department, while at the same time he will prevent our rights from being imperilled.

Senator Drake

- But "those rights will not be imperilled."

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Senator CLEMONS

- The attitude taken up by the Postmaster-General is one that I cannot possibly understand. I do submit, with all respect, that if the honorable and learned senator inserts the word "lawfully" he makes ample provision for his own department. At the same time he will satisfy us. If we are both satisfied then what is the objection.

Senator HARNEY

(Western Australia). - If I am wrong in my interpretation of the amendment, I hope the Postmaster-General will tell me. The first thing is to get a clear understanding of what is intended. I should take it that the clause means this. Where certain electric wires are put up by persons other than the Postmaster-General in accordance with the law, then if the Postmaster-General puts up public wires afterwards he shall compensate the persons who are injured by anything he has to do in the erection of those public wires. But if the Postmaster-General puts up wires for the public convenience first, and then individuals who want to erect lines for their own private purposes come along, they shall not be paid compensation. If the Postmaster-General substitutes "lawfully" for the words contained in paragraphs

(a)

and

(b),

then I shall have no fault to find with the latter part of the clause. The latter part says that the Postmaster-General shall give compensation when wires have been put up prior to those owned by the department, in case the person who has put up those wires is put to loss without any warning on the part of the department. When the Postmaster-General erects his wires first the private individual who comes long afterwards will get no compensation, because he should have opened his eyes and seen that the public wires were already there. I would simply suggest to the Postmaster-General the substitution of the word "lawfully" for the words contained in paragraphs

(a)

and (6). Those words are exhaustive of what would be "lawful." I think it would be better to use the more general term. If the Minister considers that private lines can only be lawful when they are put up with the consent of the Postmaster-General or a Deputy Postmaster-General, or the Postmaster-General of a State before the transfer of a department, it is right to put those words in, but if there are other cases in which they might be lawfully erected then we should use the general term. Certainly the Postmaster-General will have no objection to using the more general term if really all that he means is contained

in

paragraphs

(a)

and

(b).

I am not with

Senator Millen

in his objection to the use of the words "prior to." I do not see

nay

reason why a person should get compensation when he comes along after public wires have been erected and puts up his own.

Senator Millen

- That is what I endeavoured to saw

Senator HARNEY

- Then I am with the honorable senator.

Senator KEATING

(Tasmania). - So foi: as substituting the word "lawfully" for the words "with the consent of," and also for the words contained in paragraphs

(a)

and

(b),

I am perfectly in accord with, those who have given expression to the necessity for such a course. At the same time I cannot agree with the Postmaster-General that there is strong necessity for the retention of the words "prior to." Some of the authorities in Launceston who have erected these electric wires for the purpose either of: conducting power or light have done so under direct statutory authority conferred on them. Some of these lines may have been erected ten or twelve years. They were erected in compliance with the stringent, provisions of statutes, imposing on their owners obligations which necessitated their safeguarding the interests of the Postal department. If they have carried out those provisions rigidly and strictly, and have had ten or twelve years' use of the wires,, then I say that they had an already existing vested right, when the department was transferred from the State to the Commonwealth, which the Postmaster-General should recognise. Take the instance to which I have already referred. The Postmaster-General has taken over the administration of the Telegraph departments of the several States, and amongst them the Telegraph department of the State of Tasmania. If the Telegraph department of that State has recognised that the erection of certain wires in the past have not -in any way prejudicially affected the wires under their control, surely the Postmaster-General should take over the property of the Telegraph department of Tasmania, subject to the conditions existing at present.

Senator Harney

- And as laid down in the statutes

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Senator KEATING

- And as laid down in the statutes. It is precisely for that reason that I ask for the elimination of the words "prior to" from the amendment. At the present time certain persons in the State of Tasmania, have satisfied the authorities of the State, and have complied with the conditions laid down in the Act empowering them to erect certain wires. The same thing will apply in the case of persons in other States of the Commonwealth, and I think the Postmaster-General should take things over as they are, subject to the existing liabilities, and carrying whatever advantages the department may have at the present time. Certainly the position in Tasmania is that these wires could not be shifted by the State department without recognising the vested rights already in existence, inasmuch as those who have erected the wires have absolutely complied with the conditions of the statute. It was hardly correct to say that the Postmaster-General or the Deputy Postmaster-General in the State of Tasmania had consented to the erection of these wires. I find that it is only in certain cases that it is necessary for this body to notify the department, within a certain period, of their intention to erect wires in any direction, and if the Postmaster-General thinks fit he can then take action. If he takes no action at all, can it be said that by his silence or inaction he has given the consent which is referred to here? I contend that these bodies, by virtue of the statutory provisions under which they have constructed their works, have acquired, and will continue to acquire as the years go on, vested rights which should not be interfered with, simply because of the transference of the different departments to the control of one person. I am prepared to suggest an amendment, leaving out the words - " With the consent of," and paragraphs (a) and (b), and inserting the word "lawfully " after the word " been," so that the amendment would read - " Where such electric lines or works have been lawfully constructed," and so on.

Senator Drake

- I will agree to that.

Senator KEATING

- Then I move-

That in the amendment the words "with the consent of (a) the Postmaster-General or a Deputy - Postmaster-General; or (b) the Postmaster-General of a State before the transfer of the department of Post and Telegraphs to the Commonwealth ", be omitted.

Senator DRAKE

- If that can be accepted as a compromise I am willing to agree to it so long as it is understood that we put' in the word "lawfully" before the word "constructed," and leave in the words "prior to." I think they are absolutely necessary.

Senator Keating

- Then we will have got no further.

Senator DRAKE

- We ought to be able to insist that any lines which are put up in such a way as to injuriously affect our lines shall be removed at the expense of those who have put them up. When the matter was previously before the committee I quoted for honorable senators the practice adopted in Great Britain. In a case where the wires, of a corporation have been put up before the telegraph line, and the telegraph line is injuriously affected by those wires, it is a fair thing that we should pay the cost of shifting them. I am therefore willing to accept the amendment now proposed, and the insertion of the word " lawfully," if the Senate will agree to that as a compromise.

Senator CHARLESTON

- I wish to have it understood whether honorable senators are, in agreeing to this amendment, pledging themselves to the Postmaster-General not to make any further amendments in the clause, . because it appears to me that the honorable senator has accepted this suggestion on the condition that no further amendment is made.

Senator Clemons

- The Postmaster-General must indicate whether or not a further amendment is to be permitted, or I must discuss the proposal.

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Senator DRAKE

- I cannot of course prevent any debate, but I think that in a matter of this kind, we ought to be able to agree as to what we are going to do. I make the proposition I have made, and which has been pressed upon me by a great number of senators, and perhaps against my better judgment. I am willing to accept that proposal, but I do not think it right, if this is going to be accepted, that it should be proposed immediately afterwards to make some further amendment.

Amendment of the amendment agreed to.

Amendment (by Senator Keating) agreed to-

That the word "lawfully" be inserted after the word " been," line 10.

Senator CLEMONS

(Tasmania).- This question is now in a serious position, because I can assure the Postmaster-General that if he insists upon these words " prior to " being inserted in- the clause, he will have to face a direct, collision between this Act of the Commonwealth and an enactment of the Parliament of Tasmania. I assure him that the Parliament of Tasmania has directly legislated in a manner that is opposed to this clause with regard to the rights of certain corporations to erect electric works and wires, and that those works were not erected prior to the erection of the telegraph lines which the Postmaster-General of the Commonwealth has taken over. This clause, if amended, as now proposed, will be in direct antagonism to the Tasmanian legislation. I do not want to speak at any length now upon the constitutional aspects, and I ask the Postmaster-General to let us know what he proposes to do.

Senator DRAKE

- If the works referred to were not erected prior to the telegraph line, and if their wires injuriously affect ours, they should go to the extent of putting their wires in such a position that they would not injuriously affect our telegraph wires. That is the policy in connexion with telegraphs all over the world. I think Senator Clemons does not bear in mind that the wires which do our work carry .a very light current of



electricity, while the wires the honorable senator is speaking of probably carry a very heavy current of electricity, and where they injuriously affect our wires I think they should at the expense of the persons who have received authority to erect them be placed in such a position that they shall not injuriously affect our line. That is the policy adopted in England and in the States, and it is the right policy.

Senator Sir FREDERICK

SARGOOD (Victoria). - This is contrary to the understanding we arrived at previously. I see that as used here the words "prior to" will have a very much wider effect than I understood was to be the case. I understood that the reference was to any line constructed prior to telegraph lines erected by the Commonwealth, but not to lines taken over by the Commonwealth, which is a very different thing. If it is to affect all lines taken over by the Postmaster-General it seems to me to be an injustice.

Senator MILLEN

(New South Wales). - I spoke just now in favour of the retention of the words "prior to," but looking back through the Bill it appears to me that they are quite unnecessary. The Postmaster-General maintains that lines which maybe erected now should be removed without any claim, for compensation where they interfere with telegraph lines, and if the honorable senator does maintain that, I am with him. I point out that they would not be lawfully constructed because they would be an offence against clause 136 of this Bill, which states that no electrical works shall be carried out whereby any telegraph line of the Postmaster-General is or may be injuriously affected. We have only to deal with the lines already constructed, and we have to legalize their construction. Clause 136 appears to me to give ample protection to the postal authorities in the case of any works which may be constructed from this time forward. That being the case, I am now inclined to agree to the suggestion that the words- " prior to " should be omitted.

Senator CLEMONS

(Tasmania). - I move -

That the words " prior to the erection of the telegraph line of the Postmaster-General injuriously effected thereby," be omitted.

I have given my reasons, and I cannot tell the Postmaster-General with any greater force than I have used so far, that if these words are retained he will precipitate immediately a Constitutional question, because we will be interfering directly with the vested rights of corporations created by the enactment of a State. I tell the honorable senator that every precaution has been taken by Legislative enactment in Tasmania to safeguard the interests of the post-office in the matter. I therefore put it to the Postmaster-General - and he could not succeed as a question of Constitutional law in overriding that legislation of Tasmania - that he ought not to attempt here to make a provision which is unnecessary. I urge him in all sincerity, to remove the words, because I feel sure that if he does not, he will be committing a grave error.

Senator HARNEY

(Western Australia). - We are really getting into a mix about the clause. I quite agree with what Senator Millen

-said in reference to lines being put up by private persons subsequently. They are not protected by clause 136, because, if they do happen injuriously to affect a public line, they are put up unlawfully. The Postmaster-General is taking over the public telegraph lines of all the States. It may have been that subsequently to the erection of those public lines, certain persons may have put up private lines authorized by Act of Parliament. That is the case in Tasmania.

Senator Sir Frederick Sargood

- And here in Melbourne.

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Senator HARNEY

- If the Postmaster-General thinks that. those lines, .although put up subsequently, injuriously affect his lines, find therefore, they have to be removed, who ought to pay ? That is really the question. I think the . private right ought to subserve to the public convenience, and I cannot see that the great hardship would be done, which is apparently contemplated by Senators Clemons and Keating.

Senator Sir John Downer

- It will make no difference whether the words are in or out.

Senator HARNEY

- It will make a great difference if they are not in, because if the lines they speak of have been erected by the authority of the State, then, if the Postmaster-General finds it necessary to remove them, and says "they were put up subsequently, but they were put up under statutory authority, and therefore you must pay," would not that State be liable to compensate the person for any cost he is put to ? I think so. If we leave out the words "prior to," what position are we put in? Supposing that a private person, like Senator Sir Frederick Sargood, had in Victoria put up a private line long after the public line had been put up, and that the Postmaster-General now finds it necessary to say to him, "Your line is injuriously affecting my line, and it must be removed," who is going to pay for it ? In common fairness, ought not Senator Sir Frederick Sargood to pay?

Senator Sir Frederick Sargood

- Certainly, because I put it up afterwards.

Senator HARNEY

- Therefore it is absolutely necessary to retain the words " prior to," otherwise in such a case as I have put the Postmaster-General would have to pay.

Senator Clemons

- I quite agree with all that.

Senator HARNEY

- So that the only difficulty created is the special one of Tasmania. Supposing that in exactly the same circumstances Senator Sir Frederick Sargood had put it up under the authorization of the Victorian Act, ought his position to be any different ? I submit not because he could then say " You, the Victorian Government, have authorized me to do this, and I would not have done it except under your authorization," and if he can make out a case of being misrepresented by the Victorian Government, he has a claim for compensation against them. I do not think he can make out any claim, or that he ought to get any compensation from them, because all that was done in Tasmania, as all that would have been done in the hypothetical case I am giving, is that the sanction of the Legislature would be given to the doing of an act which was to the benefit of a private individual. The public line is there, and the private line is put up. If the private line is put up after this Bill becomes law, clause 136 says it is put up unlawfully if it injuriously affects the public line. That does away with that case. The next case says, if the private line has been put up before the Bill became law, but after the public line was erected,, and the Postmaster-General says - " I find it necessary to remove that private line," who ought to pay? Surely it is only common justice that the individual ought to pay who, with his eyes open, put it up close to the line run for the public convenience, and therefore took all the risk.

Senator Clemons

- But he had legislative authority.

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Senator HARNEY

- Therefore make the State pay compensation.

Senator KEATING

(Tasmania).- According to the definition clause, telegraph line covers telephone line, and in most of the instances which have been referred to, and which are covered by this clause, it will be the telephone rather than the telegraph lines of the Minister, which are likely to be injuriously affected. As we all know many of these wires are carried along side by side through the streets ; numbers of them possibly may have been erected before the private wire was put up, and, perhaps, a far greater number of them may have been erected after the private wire was put up. We have that peculiar position to face. I think the amendment will save the rights of those who have acted under statutory authority, and it will also preserve the status quo,

not only of those particular persons, but of the several States with respect to those particular persons in connexion with the authorities which were vested in them. I ask that the Postmaster-General will recognise that in taking over the departments of the several States, he took them over exactly as they stood, not only in themselves, but with regard to the individuals of that community. I do not think that honorable senators should consider, simply because illustrations have been used here having reference

to existing rights in Tasmania, that this amendment is proposed merely in the interests of those particular persons. There are also others who are interested in a provision of this character. The city of Melbourne and other municipalities and districts throughout the Commonwealth will be affected, and their rights may be seriously entrenched on by a Minister, who, taking a totally different conception of the circumstances from what was taken previously by the Deputy Postmaster-General of the State, may consider that the wires were injuriously affected. I hope that the Minister will see his way to accept the amendment.

Senator Sir JOHN DOWNER

- I have had two or three opinions about this question while it has been discussed, because it is very hard to pick up the effect of the various clauses on each other. I am very much influenced by what Senator Harney said. Clause 136 says-

An electric authority shall not construct any electric line or do any other work for the generation use or supply of electricity whereby any telegraph line of the Postmaster-General is or may be injuriously, affected.

That has nothing to do with the past. It all relates to future lines which he is to construct. But then comes in this proviso as to electric works which have been constructed under the common or statute law, as the case may be, prior to the erection of telegraph lines by the Postmaster-General. It is sought in an indirect way to make the two clauses consistent, and repeal clause 136 by an alteration in the subsequent clause, which is not a correct way of drafting a Bill and probably is against the standing orders. What strikes me is that there is no danger in the thing, and that we are all pulling the same way, although using different means. It appears to me that none of the difficulties which Senator Keating mentions can arise, because, so far as the lines are concerned, they are constructed. Any line which is constructed by the Commonwealth must be constructed subsequently to his lines. Therefore his lines were constructed prior to the others.

Senator Sir Frederick Sargood

- It does not say so.

Senator Sir JOHN DOWNER

- The Commonwealth is dealing with what exists now, and with lines to be erected in the future.

Supposing that you have the lines existing, or supposing that you have not the lines existing, and that after your lines are created the Commonwealth erects some line which is in conflict with it; it has to pay you, but if your line is erected subsequently to that line no State shall have authority to give you power to construct a line which is destructive of a Commonwealth line. I think the provision is entirely right.

Senator Sir FREDERICK

SARGOOD (Victoria). - If the clause means what

Senator Sir John

Downer states, 'I am entirely with him, but it must be borne in mind that the Postmaster General has already taken over a number of lines and that some of these private lines have been erected since those lines were put up. As I understood the clause it was to apply to all lines to be erected subsequently to the passing of the Bill, and if words are put in to that effect I think we shall all be content, but with all due deference to the last speaker I do not think that it reads in that way. It says -

Prior to the erection of the telegraph line of the Postmaster-General.

The Postmaster-General has now in his possession a number of lines, and as a matter of fact a considerable number of electric lines have been put up since the telegraph lines have been put up.

Senator Sir John Downer

- Since the Commonwealth was established?

Senator Sir FREDERICK SARGOOD

- No ; since the lines taken over by the Commonwealth have been erected.

Senator Sir John Downer

- I do not think that is what it means.

Senator Sir FREDERICK SARGOOD

- It says "Prior to the erection of the telegraph line of the Postmaster-General." If it said "subsequent to the passing of this Act" it would be perfectly clear. The Minister has thousands of miles of electric lines which have, been handed over to him, and since the erection of those lines these other electric lines have been

erected lawfully.

Senator Sir John Downer

- Who is the Postmaster-General ?

Senator Sir FREDERICK SARGOOD

- The Postmaster-General of the Commonwealth.

Senator Sir John Downer

- He has not put up the wires ?

Senator Sir FREDERICK SARGOOD

- Not an inch.

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Senator Sir John Downer

- Then the honorable senator is mistaken.

Senator HARNEY

(Western Australia). - I want to give an illustration to support

Senator Sir John

Downer in his contention. It comes from Western Australia. Honorable senators understand that the point we are considering is whether in reference to the lines now taken over by the Postmaster-General the owner of a private line should or should not pay for its removal. In Western Australia there were certain electric wires put up that injuriously affected the public lines.

Senator Sir Frederick Sargood

- Lawfully put up?

Senator HARNEY

- Lawfully, by virtue of a private Act of Parliament.. I acted as counsel for the promoters of the private line. I think nobody will deny that if the particular private line I am speaking of were put up after this Bill becomes law, and it then had to be removed, the promoters would have to pay. All the Postmaster-General asks is that he should be put in the same position in reference to the State lines he takes over in regard to private lines already erected as he is in at the present moment in reference to private lines put up hereafter. In Western Australia it was considered a very great grievance that the lines of the public authority having control of the telegraph system should have been injuriously affected by the private lines. Nothing was done in that case; but I think it should be in the power of the Postmaster-General to say to these people - "Though your lines were put up before this Bill became law, you are in exactly the same position as if you put up the lines after I was clothed with the authority. I give you notice by this Act that you put them up at your own risk inasmuch as if you interfere with public property you take the consequences ; and it is not because the State of Western Australia has not hitherto asked you to remove those lines, that the Postmaster-General of the Commonwealth on taking over the work should be precluded from the same power of removing, at your expense, that the State of Western Australia would have had if it had chosen to exercise the right."

Senator CLEMONS

(Tasmania). - I should like to point out to the Committee that it is quite obvious to us who are arguing this matter in reference to a case that we know well, that at the present time the telegraph lines in Launceston are not being injuriously affected by the electric lighting lines. In that respect we feel confident that this Bill will not hurt us even if the words complained of are left in ; because ample provision has been made by legislative enactment to prevent any injury. The Postmaster-General may ask - " Why, then, are you making this fuss

"1

I will tell him.

It is quite possible that the Postmaster-General may erect in Launceston an additional telephone wire, which may be injuriously affected by the electric works that have been erected there, under legislative enactment. The electric lighting wires might communicate injury to the whole telegraph service, under . which circumstances this clause would come into operation. I do not wish to detain the Senate, but the point is important, and I desire to place honorable senators in possession of the facts. I admit frankly that unless the Postmaster-General should do that sort of thing, these words would not hurt us, but I respectfully call his attention to the fact that we should be very seriously, injured if a new telephone line

were put up, by means of which the wires belonging to the corporation did injury to practically the whole of the lines in Launceston, which would not be injured, however, except for the erection of that new line. That is the difficulty we have to consider, and I appeal to honorable senators to help us in the matter.

Senator DRAKE

- It seems to me that the honorable senator who has just sat down misapprehends the point. I understand now that he is supposing that if there' has been a certain line of telegraph erected before some other wires were put up, it would be held that those wires were put up after the telegraph line was' constructed. The case, however, is as follows : - The department puts up a telegraph line. We find that it is injuriously affected by some other wire. The only question that will arise is - did we have our telegraph wire there before the private wire was put up ? If so, the private wire must be removed at the cost of the owner; but if that wire were there' before the telegraph line was erected, the removal must be at the cost of the department.

Amendment of the amendment negatived.

Amendment, as amended, agreed to.

Bill reported with further amendments.

AUDIT BILL

Bill received from the House of Representatives, and (on motion by Senator O'Connor) read a first time.

ASSENT TO BILLS

Royal assent to the following Bills, reported : -

Acts Interpretation Bill.

Supply Bill (No. 3.)

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22:28:00

Senate adjourned at 10.28 p.m.