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1901-09-04

House of Representatives.

Mr. Speaker took the chair at 2 p.m., and read prayers.

#### PETITIONS

Mr. KNOX presented a petition from residents of East Kew and Malvern, praying that the House may retain clauses 54 and 55 of the Post and Telegraph Bill.

Mr. McCOLL presented a similar petition from certain residents of Rush worth.

Petitions received.

Mr. GLYNN presented a petition, signed by 42 electors of the Commonwealth resident in the riparian districts, praying that the House may sanction a federal project for the improvement of the navigation of, and the conservation of water in, rivers constituting channels for Inter-State commerce.

Petition received and read.

#### SPECIAL ADJOURNMENT

Royal Agricultural Show

Mr KNOX

- As to-morrow is a State holiday in Victoria, and a very important occasion in connexion with the interests of the State, ceremonies are taking place then which will make it impossible for Ministers and many other members to be in their places at two o'clock in the afternoon. I ask the Prime Minister, therefore, if he will consent to-night to an adjournment until three o'clock.

Sir Malcolm McEacharn

- Until after dinner would be better.

Mr KNOX

- I am in favour of having no interruption of business that can be avoided, and, in my opinion, we shall all be able to come here at three o'clock.

Minister for External Affairs

Mr BARTON

. - Representations have already been made to me on this subject by several honorable members. It has been the practice of the State Parliament to adjourn on the occasion to which the honorable member for Kooyong refers, and I understand that that body will adjourn over to-morrow. I do not propose, however, to move a similar adjournment here, because - I think that the state of the public business urgently requires that we shall sit to-morrow. But, as a considerable number of honorable members are anxious that the hour of meeting shall be slightly deferred, I have no objection to moving that the House at its rising adjourn until three o'clock tomorrow afternoon. I think that is a fair compromise with the wishes of honorable members generally. With concurrence I therefore move -  
That the House at its rising adjourn until tomorrow at 3 o'clock p.m.

Question resolved in the affirmative.

#### PAPER

Mr. BARTON laid on the table

A return to an order of the 30th August, showing the average time occupied in the transmission of mails from London to Sydney during the last six months as compared with the time occupied during the last six months when the mail steamers were calling at Albany.

#### QUESTIONS

##### SUPPLY OF AMMUNITION

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Mr PHILLIPS

asked the Minister of Defence, upon notice -

Whether he is aware that a large number of members of the rifle clubs within the State of Victoria are of opinion that the price charged by the Defence department for 303 rifle ammunition is too high, and whether he will take steps to reduce the price of same by, say, one-half the present amount charged.

Minister for Defence

Sir JOHN FORREST

- I have no recollection of any special representation having been made on the subject. The price now

paid 5s. per 100 for what costs nearly 12s. per 100, and this being so I do not think any reduction at present is possible.

#### "GOLD-FIELDS ALLOWANCE" TO LETTER-CARRIERS.

Mr MAHON

asked the Minister representing the Postmaster-General, upon notice -

. Whether his statement in reply to a question on the 5th June last, viz., that the petition of letter-carriers on the Western Australian goldfields to be paid a goldfields allowance had been approved of by the Postmaster-General, has been officially communicated to the Deputy Postmaster-General at Perth ? Whether the promise implied in such answer, that the gold-fields allowance would be paid to the letter-carriers, has been given effect to, and, if not, why ?

Minister (without portfolio)

Sir PHILIP FYSH

- The answers to the honorable member's questions are as follow : -

It has been officially communicated to the Deputy Postmaster-General at Perth.

The gold-fields allowance has not been paid to the letter-carriers, because the provision made for this purpose on the Estimates for the current year is not yet available.

#### FEDERAL CAPITAL SITE

Mr CONROY

asked the Minister of Home Affairs, upon notice - ] . Whether it is a fact that the Premier of New South Wales has communicated with the Commonwealth Government stating that Crown lands have been reserved in the neighbourhood of the Canobolas, Bombala, and Yass, as sites suitable for the federal capital?

Whether he will inform this House of the steps which the Government propose to take to bring to a final decision the selection of a site for the federal capital ?

Mr BARTON

- I have the following information : -

. Yes ; and Mr. See has been asked to submit other sites and make the necessary reservations.

All the existing information is being obtained by the Home Secretary's department, and an officer has been specially deputed to obtain information in reference to water supply, accessibility, climate, soil, scenery, suitability for building purposes, supply of building material, proximity to settlement, and cost of acquirement.

#### RECALLED POSTAGE-STAMPS

Mr CROUCH

asked the Minister representing the Postmaster-General, upon notice -

Whether the latter is aware that postage stamps which were sold before 1st July by the Victorian Postal department as good for postal purposes are now valueless, unless the buyer is ready to pay a heavy discount for their repurchase by the department ; and whether he will direct that the Post-office officials shall exchange stamps useful for postal purposes for such other stamps without discount.

Sir PHILIP FYSH

- I have been supplied with the following answer : -

The Postmaster-General is not aware of any such practice as stated. Stamps sold before the 1st July for postal purposes and which are not now available for postage, are exchanged, without any charge, for postage stamps of the present issue which are available for postal purposes.

#### EXCHANGES : POST AND TELEGRAPHIC SERVICE

Mr MAHON

asked the Minister representing the Postmaster-General, upon notice -

Whether the Postmaster-General will permit postal and telegraphic officials stationed on the Western Australian gold-fields, to exchange with officers occupying similar positions in the Eastern States who may be willing to make such exchange ?

Whether in the case of officers who have served for some years on the gold-fields, and whose health has suffered by the severe conditions of life in a new country, he will facilitate such exchanges by contributing to the expenses involved?

Sir PHILIP FYSH

- The answers to the honorable member's questions are these -

. The Postmaster-General will permit such exchanges in the case of officers with equal qualifications and in the same grade.

He can not find himself to contribute to the expenses of transfers for the convenience of any officers, but will deal with each instance brought under his notice on its merits.

#### ATTENDANCE BEFORE SELECT COMMITTEE

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Resolved (on motion by Mr. Barton) -

That leave be given to the Right Honorable Sir George Turner, if he thinks fit, to attend and be examined by the select committee of the Legislative Assembly of the State of Victoria appointed to inquire into and report upon the case of Walter Reynolds.

#### SERVICE AND EXECUTION OF PROCESS BILL

In Committee (consideration resumed from 30th August, vide page 4392).

Postponed clause 13 -

When a summons has been issued by any court or Judge or justice of the peace having jurisdiction in any State or part of a State or part of the Commonwealth, commanding any person who is charged with any offence alleged to have been committed in such State or part, whether such offence is punishable by indictment or upon summary conviction, to appear to answer to such charge or to be dealt with according to law, such summons may be served on such person in any other State or part of the Commonwealth.

Such service may, subject to any rules of court or regulations which may be made under this Act, be effected in the same way, and shall have the same force and effect, as if the summons had been served in the State or part of the Commonwealth in which it was issued.

If such person fails to appear at the time and place mentioned in such summons, all such proceedings may be taken as if the summons had been served in the State or part of the Commonwealth in which it was issued.

Attorney-General

Mr DEAKIN

- When this clause was considered the feeling of the committee was that the authority given was too large to be exercised by a justice of the peace, and I undertook to amend the clause by providing that summonses should be issued by police, stipendiary, or special magistrates, who are experienced in the law, : - and have a large acquaintance with the class of business to which the clause refers. I move - That the words "justice of the peace," line 2, be omitted, with a view to insert in lieu thereof the words "police stipendiary or special magistrate."

Mr. Winter Cooke. - Do I understand that the word "court" remains in the clause, and that the interpretation of the word "court" includes justice of the peace?

Mr DEAKIN

- Yes. It will include justices of the peace sitting as a court, but not acting independently.

Mr GLYNN

- I think it would be desirable to provide that the information upon which a summons is issued should be taken on oath, because this would offer protection to any one who was outside the jurisdiction of any particular State, and it would be a proper thing to require that every precaution should be taken before a summons is issued under a clause having such a wide scope as that now under discussion.

Mr CROUCH

- I think the Attorney-General is making the amendment in the wrong place, and that it should be inserted in the sub-clause relating to the issue of warrants. It would be a very great convenience to the public if justices of the peace were allowed to issue summonses, but the objection taken by the committee was to giving justices of the peace the further powers contemplated in the latter part of the clause. I am afraid that if the amendment now proposed is made we shall have the course of justice very much delayed. I do not think it at all likely that police or stipendiary magistrates will take any more precautions in the matter of issuing summonses than justices of the peace, because police magistrates will readily sign a summons under ordinary circumstances, but regard the issuing of a warrant as quite a different matter.

Mr Deakin

- I took the same view as the honorable and learned member but the committee thought differently. I have

an amendment to propose in subclause (3) which will bring it into accord with the first part of the clause as I now propose to amend it.

Amendment agreed to.

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Mr DEAKIN

-I move-

That the words "and it appears to such court, Judge, or magistrate that the summons was duly served on the defendant a sufficient time before the day appointed for the hearing," be inserted after the word "summons."

The objections taken to this clause were two-fold, viz., that the power to issue even a summons should be placed in the hands of a magistrate of a higher standing than a justice of the peace, and that the further proceedings authorized by the clause should also be placed only in the hands of magistrates, as indicated in the amendment. I fail to see the force of depriving justices of the peace of the power of issuing summonses, but the committee appeared to be almost unanimously in favour of the amendment now made. Then a further objection was taken with regard to the time allowed for the serving of summonses. There are objections to the fixing of a time for the serving of summonses in criminal procedure, which do not apply to civil processes. It may happen that a person at whose instance the summons is issued is residing on one side of a river, and the person upon whom the summons is to be served is residing on the other side of the river, in another State. The person upon whom the summons is served may be only a few miles away, and, consequently, it would be undesirable to fix a long term between the date of issuing the summons and the hearing of the case. It is therefore considered desirable to leave the clause in such a form that the procedure may be sufficiently elastic to meet all cases.

Mr PIESSE

- I am glad that the Attorney-General has considered the objections raised on the score of time. But I was hopeful that he would have been able to discriminate in the new draft of the clause between those cases which are purely of a criminal character, and in regard to which perhaps as short a time as is reasonable should elapse between the serving of a summons and the hearing of a case, and cases in which the penalties are of a pecuniary nature such as are provided for in the Customs Bill. There is not a great deal of difference between this grade of cases and those in which a remedy would be sought in the form of a writ, and I think power should be given to fix, by rule of court, the period to be allowed for service. In the case of writs of summons, 45 days are allowed for the writ to be issued and served in the State of Western Australia or in the northern territory of South Australia, while in other cases the period is fixed at 30 days. I presume the Attorney-General has considered the matter, but I desire to direct his attention to it, so that the point may not by any chance be lost sight of.

Mr Deakin

- There are so many practical difficulties in the way of fixing any term that I have been forced to adopt the form of amendment now proposed.

Amendment agreed to.

Mr. GLYNN(South Australia).- I should like to know whether the Attorney-General will consider the point mentioned by me that a summons should be issued only where information has been given, or a complaint made on oath.

Mr Deakin

- It is rather late to make the amendment now, but I will consider it.

Mr. CROUCH(Corio).- As the interpretation of "court" includes any Judge or justice of the peace acting judicially, and as the word " court " has been retained in the clause it seems to me that the clause as it now stands is sufficiently wide to permit of a justice of the peace issuing summonses or warrants. I agree with such power being given in regard to the issue of summonses, but I think it would be dangerous to give the further powers<sup>1</sup> conferred by the clause to justices of the peace. It seems, therefore, that the amendment made in subclause (3) is ineffective in that it does not prevent justices of the peace from issuing warrants.

Mr. HIGGINS(Northern Melbourne).I should like to know whether, in the event of a magistrate deciding that a sufficient time has not been allowed for the issue and service of a summons he can extend the time, or whether he is simply bound to refuse to adjudicate. The only provision of the Constitution 1 can

find relating to this matter is in section 51, which allows the Federal Parliament to pass laws relating to the service and execution of civil processes. When we have exercised our federal powers by prescribing that a summons issued in Victoria can be served and executed in another State, I think we have gone as far as we can go, and that the power to prescribe what a police magistrate ' should do is in the hands of the State. Assuming, however, that we can prescribe what a State magistrate can do, we ought to prescribe that he shall have power to adjourn a case to a certain date. Otherwise the person who takes out a summons will not know what number of days the magistrate will consider to be sufficient. This is a matter in regard to which I would not ask the Attorney-General to draft an amendment at the table, because it is worthy of very serious attention. If the honorable and learned gentleman will give it that attention, we shall have an opportunity of reconsidering it at a later stage.

Mr DEAKIN

- I shall be very glad to consider the point raised, but it suggests itself to me that after all an adjournment will be very little better in this case than the commencement of proceedings de novo. The notice which will have gone forth will be to the effect that the person against whom the information is laid is required to be in attendance upon a certain day. If he does not attend, complete time has to be taken, as if the proceedings were being commenced afresh,, in order that notice may be sent to him as to the future day on which he is to appear.-

Mr Higgins

- It is a very expensive and dilatory proceeding.

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Mr DEAKIN

- What the honorable and learned member suggests will have the advantage of keeping alive the original proceedings, but the practical gain in time cannot be very much. It -would need a special power of adjournment to be .-given here if the adjournment of the proceedings is to be authorized; and .although .that might practically take just as long as if the proceedings were commenced afresh, it might prove a little cheaper. The point is well worthy of consideration.

Mr. GLYNN(South Australia).- The point taken by the honorable and learned member for Northern Melbourne struck me especially in connexion with clause 10. The object of the Bill really is to allow service outside of any State of a summons issued. When the summons is served, why should we question the competency of the court to entertain the suit or to proceed regularly with it? Why should we do so as .a matter of expediency if, as honorable members contend, we have the power to do so as a matter of constitutional light ? Under clause 10 a most elaborate series of conditions are prescribed before the court, whose process has been served under the -other parts of this Bill, can allow a suit to go on in the regular course.

Mr Deakin

- If there is no appearance.

Mr GLYNN

- Why should these conditions be prescribed at all seeing that the court is the judge of its own methods ? A change in the procedure of the court may be made, and it may not fit in with the. provisions of this Bill. All cases in which the court now has jurisdiction -to entertain a suit arising out of locality have been for no purpose specified in this Bill. I think there is a tremendous lot of force in what the honorable and learned member for Northern Melbourne has said, that we are really going beyond the powers vested in us by the Constitution.

Mr. CROUCH(Corio).- I should .like the Attorney-General to postpone the consideration of this clause. Sub-clause (2) really says that, a summons can be served in Western Australia after it has been served in that State. But I would point out that if a summons has once been served in Western Australia there is no power to serve it further. The service of it exhausts the further .power to serve. The court will decide at once, therefore, that no service under this clause can be effected. The amendment which was inserted after the word " summons " in sub-clause (3) says-

And if it appears to such court, Judge, or magistrate, &c.

That really means that the court, Judge, or magistrate issuing the summons must be the person who is to take the .final hearing. If we limit the process in the manlier pro- posed, it will be impossible to expedite justice. The word " such " must be omitted in order to make the provision effective, otherwise it will .be-

necessary for any particular matter to go back to the magistrate or Judge who issues the summons. If 'the word "court " in the definition clause includes a justice of the peace acting judicially, then we may take it that in clause 13 it certainly means a justice of the peace. The Attorney-General argues that a justice of the peace does not act judicially when he issues a summons or a warrant but - that he only acts administratively. But in Victoria I would point out that no one justice can act judicially by himself. Therefore as the words of an Act of Parliament are not intended to be lame and to die of themselves the Judges will read into that, provision the powers which justices have at the present time. If justices of the, peace cannot act judicially it will therefore be assumed that they must act administratively.

Mr CONROY

- Surely the words of limitation following do away with that ?

Mr CROUCH

- Certainly not. There is sufficient ground for doubt upon the three points which I have raised to make us feel that the clause should be reconsidered by the Attorney-General, and submitted to the committee at a later stage.

Mr. CONROY(Werriwa). - I agree with the point raised by the honorable and learned members for Northern Melbourne and South Australia, and I trust that the Attorney-General will consider it.

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Mr Deakin

- I propose to reconsider the matter.

Clause, as amended, agreed to.

Postponed clause 14 -

When a subpoena or summons has been issued by any court or Judge or by any justice of the peace in any State or part of the Commonwealth, requiring any person to appear and give evidence in civil or criminal trial or proceeding, such subpoena or summons may by leave of such court Judge or justice on such terms as the court Judge or justice may impose be served on such person in any other State or part of the Commonwealth.

If such person fails to attend at the time and place mentioned in such subpoena or summons, such court Judge or justice or any other justice of the peace having jurisdiction in the State or part of the State or part of the Commonwealth in which the subpoena or summons was issued may on proof that the subpoena or summons was duly served on such person, and that a reasonable sum was tendered to him for his expenses issue such warrant for the apprehension of such person as such court Judge or justice might have issued if the subpoena or summons had been served in the State or part of the Commonwealth in which it was issued.

Such warrant may be executed in such other State or part of the Commonwealth, in the manner provided in this Act in the case of warrants issued for the apprehension of persons charged with an offence.

Amendment (by Mr. Deakin) agreed to-

That the words " by any justice of the peace " be omitted, with a view to insert in lieu thereof the words " police stipendiary or special magistrate."

Sir JOHN QUICK

- I move -

That after the word "person," line 18, the words ' ' that the attendance of such person as a witness is necessary in the interests of justice" be inserted.

The adoption of the amendment will enable the court or Judge to consider whether the attendance of a witness is really necessary, or whether merely a frivolous subpoena has been issued.

Mr Conroy

- Who is to be the judge? Mr. GLYNN (South Australia).- There is a good deal in what the honorable and learned member for Werriwa suggested. Is the person who is served to be the judge of the expediency of attending? The person served will see that his attendance may not be necessary. He may risk contempt of court. As far as I have ever known the offence of contempt of court is absolute. If a witness does not attend on a summons he is arrested. I think it will be a great mistake if we insert the condition proposed. It might be a condition precedent to the issue of a summons, but after the summons has been issued a person ought to attend on the imperative command of the court, and ought not to trust to luck, providence, or a lawyer, that his neglect to obey the mandate or summons may be subsequently

overlooked.

Mr. CONROY(Werriwa). - I think that the insertion of these words is entirely unnecessary. We must take it for granted that all courts will sit with a certain amount of common sense. It does not follow that the court is bound to issue a warrant. We are putting in a condition which is unnecessary, whereas we ought to keep the measure as simple as possible, and allow the court to perform its duties as heretofore.

Mr. PIESSE(Tasmania).- The honorable member for Werriwa is not distinguishing between processes issued as of course and other processes. I have known subpoenas issued without a name on them at all. First of all, subpoenas are allowed to go because the prosecuting officer or the plaintiff desires them ; but, when the court or magistrates are told that a certain witness will not come, then the court or officer issuing the warrant should require evidence that the witness' attendance is absolutely necessary.

Mr McCAY

- The effect of the amendment is that all witnesses will be bound to attend except in cases where the subpoena is obviously frivolous ; otherwise they would be taking a risk. We know that subpoenas to witnesses usually go as of course, and are commonly issued in blank, or, at any rate, "with only one name on them, so that as it is ascertained what further witnesses are necessary, names may be added. Whether that be technically a proper course, it is the course usually taken. The difficulty might possibly be met by altering the amendment in such manner as to make it read that the subpoena, when issued, shall have the indorsement that it has been made to appear to the person issuing it that the witness' attendance is necessary in the interests of justice. This will be a check on the indiscriminate issue of subpoenas.

Mr Deakin

- The last part of clause 1 gives power to do that.

Mr McCAY

- I take it those words mean terms as to payment and so forth.

Mr Deakin

- They may mean any terms.

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Mr McCAY

- But it is rather a stretch of language to make the word " terms " include an indorsement. If there is to be a limitation as to compulsion of attendance, the "wisest way would be to make the person taking out the subpoena satisfy the person issuing it that the attendance of the witness is necessary in the interests of justice, and make an endorsement to that effect. There is no objection as regards expense, because subpoenas are issued at very low charges, and when once a person has been served he must take the risk of saying whether his attendance is necessary in the interests of justice. That risk cannot be taken unless it is obviously a frivolous subpoena. I have heard of justices of the peace being subpoenaed as witnesses in matters pending before the court, in order to prevent their adjudicating on a particular case. That particular form of frivolous or unnecessary subpoenas could not arise in this instance ; but I dare say that the ingenious mind of an individual connected with the law might occasionally think of circumstances in which equally frivolous subpoenas might be issued. If we are to have a limitation it should be one which gives notice to the witness that the subpoena has been determined to be a proper one, and must be obeyed.

Sir JOHNQUICK (Bendigo).- I propose the amendment in order that the court or Judge should be required to consider not merely whether there has been proof of service, or a reasonable sum tendered for expenses, but also the questions of relevancy and necessity. A man ought not to be arrested and sent from one end of the Commonwealth to the other as a witness without proper means being taken to ascertain that he is a necessary witness. A justice issuing or signing a subpoena is not called on to decide whether a witness is necessary; but if the Attorney-General is willing to provide for the question being determined on the issue of a summons, I will withdraw my amendment at the present stage.

Mr. DEAKIN(Attorney-General).- After listening to the argument I am satisfied that the preferable course is to have this precaution taken at the outset. I admit that the stage at which the honorable and learned member proposed to introduce the precaution is really the practical stage, and the one at which it is most needed ; but, on the other hand, I feel impressed by the argument of the honorable member for South Australia, Mr. Glynn, and others, that when once a summons has been issued it is inadvisable to allow the

witness to speculate whether he is or is not a necessary witness.

Mr Piesse

- How can he speculate? He will not know this law.

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Mr DEAKIN

- If he has any doubt he will, if he be a wise man, seek advice ; and the first thing he would be advised is that if he can satisfy the court his attendance is not necessary he need take no notice of the subpoena. If a person has been tendered the necessary expenses and is properly summoned, and the authority issuing the summons is satisfied that his attendance is necessary, the witness ought to be required to attend.

Mr. HIGGINS(Northern Melbourne).The honorable and learned member for Bendigo has hit on a real blemish, which must be' removed, because one can easily see that service on persons at a distance may be greatly abused. I have known cases, even within the limits of Victoria, in which men have been put to great inconvenience, loss of business, and loss of employment through being frivolously subpoenaed as witnesses ; and the honorable and learned member for Corinella has mentioned a device which is sometimes used to get police and other magistrates out of the way by serving them with subpoenas. There are three different stages provided for. In the first place, a subpoena for John Smith, for instance, is issued as of course. John Smith being away at Port Darwin, then, under the second part of sub-clause (1), special leave has to be got to serve him at that place. It may mean tremendous expense, and loss of livelihood, to John Smith, to come to Melbourne or Perth, and very properly the idea is to give the particular court discretion as to whether it will allow the process to be served outside the jurisdiction. To meet this, the Attorney-General has provided that service outside the jurisdiction is to be allowed on such terms as the court may think fit, security, perhaps, being required, that a certain sum will be paid should the subpoena be found to be frivolous. All this time John Smith has had no opportunity of saying a word. We come to the second sub-clause, and, supposing he does not appear, there is to be a warrant issued for his apprehension without his having been heard. Just fancy a man at Port Darwin having a warrant issued at Melbourne for his apprehension, without his having a chance of being heard ! If the Federal power can deal at all with the consequences of non-compliance with service of process - which I doubt - there ought to be an opportunity for John Smith's advisers or himself to apply to have the order allowing the process to be served outside the jurisdiction set aside, on the ground that it was issued from spite or some other improper motive. However, there is the large question by which I cannot help feeling obsessed. The only power we possess under the Constitution Act is to pass a law for the service of any process. A summons may be served, or a warrant for apprehension may be executed at, say, Port Darwin ; but I do not know that we have any power under the Constitution to go further, and say what shall be the consequence of not obeying that summons.

Mr Conroy

- Could not the court of the State deal with that ?

Mr Deakin

- This only applies to the courts of the State.

Mr HIGGINS

- All the court can say is that the summonses maybe served, although the person may not be in, say, Victoria. It is for the State court to say, if a man is sued in a Victorian court, and is served lawfully with a summons to answer, "If you do not answer we shall give judgment." I do not think the Federal Parliament has power to say what shall be the consequences of failing to answer a summons. That is purely a matter for the State legislation.

Mr CONROY

- Would not a person who failed to answer be in the same position as a witness, who need not appear until his expenses have been tendered, but who, once he gets inside the court, is bound to conform to the rules of the court 1

Mr HIGGINS

- Once there has been service of process the Federal jurisdiction ceases, and it is for the State Legislature to say what the consequences shall be. Ordinarily a State Legislature does not allow an order to be taken out against a man who is outside the jurisdiction, except under special circumstances. The



matter is a difficult one to deal with, and, as I understand that the Minister is prepared to postpone its consideration, I suggest that the large question of the degree ' to,, which we can specify the consequences of being served should be considered very carefully. I myself think that we are going too far.

Amendment, by leave, withdrawn.

Mr. CROUCH(Corio).- I should like the Attorney-General to make an amendment in the clause to give Victorian litigants rights similar to these of litigants in the other States. Under sub-clause (2), if a person fails to attend at the time and place mentioned in a subpoena, a magistrate having jurisdiction in the State in which it was issued may issue such warrant for his apprehension as he might have issued if the subpoena or summons had been served in a State or part of the Commonwealth in which it was issued. Under the Victorian Justices Act, a magistrate cannot issue a warrant for the apprehension of any person for non-attendance after subpoena. All he can do is to fine him an amount not exceeding £0, which, if not paid, is recoverable by distress, would like to see the words " or inflict such penalty " inserted after the word " person."

Mr. DEAKIN(Ballarat - Attorney-General). - What the honorable and learned member is asking us to do is to extend the jurisdiction of Victorian justices, which is clearly beyond our power. I recognise the difficulty to which he has called attention, but the line of demarcation drawn around the exercise of our power must exclude the extension of the jurisdiction of any local magistrate.

Mr. GLYNN(South Australia).- The matter to which the honorable and learned member for Corio has drawn attention still further shows that the method of the clause is wrong. I do not know that the Attorney-General intends to do anything in consequence of the withdrawal of the amendment of the honorable and learned member for Bendigo.

Mr Deakin

- The clause will be recommitted.

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Mr GLYNN

- If that is so, perhaps the honorable and learned member will consider this point. When a summons is served something else is to be done. The jurisdiction to arrest for contempt does not necessarily arise under this Bill, and does not exist unless we give it under the Constitution. A summons is served outside the boundaries of the State in which it is issued, but it does not follow that by service you acquire the power to arrest ; so that something must be done in this Bill to allow the same procedure to take place outside the jurisdiction as now takes place inside the jurisdiction. What you are doing in the Bill is to prescribe a particular method of action for non-obedience to a summons served outside the jurisdiction, which may not be the method of action of the State which issued the summons. So that there may be two conflicting sections for enforcing obedience to it. The draftsman has followed a wrong principle throughout the Bill, and this clause is an instance of what I consider rather loose draftsmanship. Do not let us prescribe as a special procedure what is to be done in default. Let us simply say that a summons shall be quite as effective when served outside the jurisdiction as if served within the jurisdiction. If in Victoria there is one method of enforcing obedience - the infliction. of a fine for non-attendance - it will hold good in Victoria for a summons served there, in the same way as the power to arrest for contempt will be sufficient to enforce obedience to the mandate of a summons served anywhere in Australia and issued in South Australia.

Mr Deakin

- The honorable and learned member has no doubt about the power to do that in the Bill?

Mr GLYNN

- What the Constitution gives us power to do is to serve the process, and we should provide that, the process being served, the remedies available in each State shall be applicable to its enforcement there. At present we are putting in the Bill a particular method of enforcement which may not coincide with the methods of the different States. I suggest that it may be provided that the summons issued outside a jurisdiction may be enforced in the same manner as a summons issued within the jurisdiction of a State. Clause, as amended, agreed to.

Mr. PIESSE(Tasmania). - It has already been pointed out that we are giving very extensive powers, which will enable courts of all jurisdictions to extend their processes to the extreme limits of the Commonwealth.

But, while that is necessary, it is also desirable that any defendant who has to come a considerable distance, and, perhaps, bring witnesses with him to defend himself, shall be able to recover, without any doubt, all reasonable expenses, and, I think, too, compensation for loss of time. If that is not provided for, cases of great hardship may arise. In order to bring the matter before the committee, I move - That the following new clause be inserted to follow clause 24: - "Where a defendant becomes entitled to costs in any proceedings under this Act, he shall also be entitled to receive for himself and witnesses reasonable personal expenses, including compensation for loss of time, which, until prescribed by any rule of court applicable to the proceedings, may be assessed by the court before whom the cause is heard."

Surely that provision will commend itself to the consideration of honorable members as a fair one for the protection of persons who might otherwise be exposed to the great hardship of having to travel from one end of the continent to the other at their own expense in order to defend themselves.

Mr Deakin

- At the present time a man may be brought from Port Darwin to Adelaide without being able to obtain expenses, and no greater case of hardship than that could occur within the Commonwealth.

Mr PIESSE

- If a man succeeds in defending his action, and has been brought a great distance to do so, he should not only receive travelling expenses, but should also be compensated for loss of time; and the other expenses to which he may have been put. Without such compensation a man might as well not have got the verdict, but have stayed behind and suffered all that the court might do to him.

Mr. CONROY(Werriwa).- If one man issues a summons against another, and the charge is dismissed, the defendant has his remedy in the way of an action for malicious prosecution. But the honorable member proposes that the Judge shall go into the question of the amount of expenses to be paid to him. In civil cases we could not do more than is already done. We know that sometimes the processes of law may be used to inflict hardship, but such cases are so few that they can hardly be taken into consideration. If it is proposed that we shall deal with matters within the jurisdiction of the States, I would point out that that is beyond our power. But if it is proposed to deal only with matters arising under the Bill, I would point out that similar provision has not been found necessary in the States, and is not necessary here.

Mr DEAKIN

- It is impossible to deny that cases continually arise which would lead the sympathetic to wish that there were a power such as the honorable and learned member for Tasmania wishes to provide. It could be exercised in the interests of justice, in a certain number of cases, but those cases are comparatively few and far between, while the introduction of this novel principle would have a grave and fundamental effect upon the administration of justice.

Mr Glynn

- It would often prevent the enforcement of the provision of the Bill.

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Mr DEAKIN

- The amendment as it is drawn is mandatory in its provision that the person who succeeds and obtains costs shall also be given compensation for loss of time. But in many cases it is difficult even for an advising counsel to say whether his client is within or without the law on some point or points which may determine the case. A client acting under advice brings his suit in good faith, and is defeated, perhaps on a technicality, or because of the discovery of some piece of evidence of which he was unaware, or for any one of a number of other accidents which may arise. Yet, having brought his action in good faith for a reasonable sum of money as compensation for breach of contract, or loss, or damage, the plaintiff finds himself not only defeated, as he might have expected to be, and required to settle the costs of the suit, but also called upon to pay an unknown amount, because the other side called certain witnesses, who have to be compensated for loss of time. A man bringing a perfectly simple action for breach of contract might, under conditions such as these, find himself involved in absolutely ruinous expenses. Complaints are now made as to the expense of actions at law, and it is impossible even for men of great experience to fix with anything like accuracy the cost of a suit. If to this uncertainty there is to be superadded the possibility of all sorts of unknown expense, litigation will become such a luxury that very few people will be able to take advantage of the courts. I can quite understand the honorable and learned member having

met with cases in which hardship might be inflicted, but to place a provision on the statute in such a mandatory form as he suggests would work greater injury in the great bulk of cases than would be compensated for in the hard cases he has in mind.

Proposed new clause negatived.

Progress reported.

Mr. DEAKIN(Ballarat - Attorney-General). - With the indulgence of the House I will move -

That the Bill be now recommitted for the consideration of clauses 2, 3, 5, 7, 8, 9, 10, 16, 20, and 25.

Mr. CONROY(Werriwa) . - I am very much averse to any departure from the rules of this House, which have been well considered, and which are based upon the experience gained in all the Parliaments. I think that the practice of setting aside our rules is a very dangerous one.

Mr SPEAKER

- I cannot allow the honorable member to discuss the question. Honorable members have it in their own hands to refuse leave. The House is asked to grant leave for the immediate recommitment of the Bill, and if any one honorable member objects, leave is refused.

Question resolved in the affirmative.

In Committee(recommitment).

Clause 2 (Repeal of Acts of Federal Council).

Mr.DEAKIN. - I move-

That the following new sub-clause be added: - (2) This repeal shall not affect any right, privilege, obligation,, or liability acquired, accrued, or incurred under any Act so repealed, or affect any legal proceeding or remedy in, respect of any such right, privilege, obligation, or liability ; and any such legal proceeding or remedy may be instituted, continued, or enforced as if this Act had not been passed. This sub-clause contains the usual provision for any interval between the Act repealed and the Act which takes its place.

Amendment agreed to.

Clause; as amended, agreed to.

Clause 3 (Definitions).

Amendment (by Mr. Deakin) agreed to -

That paragraph (d), "'Court of a State' includes the Vice- Admiralty Courts in the States of New South Wales and Victoria respectively," be omitted.

Clause, as amended, agreed to.

Clause 5 (Indorsement on writ for service outside State).

Amendment (by Mr. Deakin) agreed to -

That the words " Every such writ of summons to which, by the law of such. State or part, an appearance is required to be entered shall have indorsed thereon a notice to the following effect, that is to say" be inserted before the form of indorsement recited in the clause.

Clause, as amended, agreed to.

Clause 7 -

A writ of summons for service out of the State or part of the Commonwealth in which it was issued may be issued and marked as a concurrent writ with one for service within such State or part of the Commonwealth.

Amendment (by Mr. Deakin) proposed-

That the words "shall be" be inserted before the word " marked," line 3.

Mr McCAY

- I would ask the Attorney-General whether this amendment does not go rather too far. When I objected to the clause in its present form my object was to provide that in the case of concurrent summonses being issued there should be some indication on the face of the summons presented to the court that concurrent summonses had been issued. The amendment is proposed to avoid the necessity of having a concurrent writ issued within the jurisdiction of the court when such a writ is not wanted, because it is known that the defendant is beyond the jurisdiction of the court. I think the effect of the amendment would be to compel the issue of concurrent writs:

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Mr GLYNN

- I think the clause has been passed under a misapprehension. There is only one writ issued, but there are several copies for service, and therefore the writ is not marked as a concurrent writ.

Mr DEAKIN

- There are concurrent writs issued in some States. I am not satisfied entirely with the expression to which the honorable member for Corinella has called attention, and will see what can be done to improve it. In the meantime I will ask that the clause be postponed.

Clause postponed.

Clause 10-

When no appearance is entered by a defendant to a writ of summons served on him under this Act, if it is made to appear to the court from which the writ was issued or a Judge thereof - and if it is also made to appear to such court or Judge -

that the writ was personally served on the defendant, or, in the case of a corporation, served on its principal officer ; or

that reasonable efforts were made to effect personal service thereof on the defendant, and that it came to his knowledge (in which case it shall be deemed to have been served on him) ; and that he omits to appear to the writ, or is living out of such State or part in order to defeat or delay his creditors or deprive the plaintiff of the relief to which he is entitled such court or Judge may on the application of the plaintiff order from time to time that the plaintiff shall be at liberty to proceed in the suit in such manner and subject to such conditions as such court or Judge may deem fit, and thereupon the plaintiff may proceed in the suit against such defendant accordingly.

Amendment (by Mr. Deakin) proposed -

That the words "or made" be inserted after the word "entered," line 1.

Mr GLYNN

- It is provided in this clause that because an appearance has not been entered an inquiry shall be made as to the jurisdiction of the court ; but that seems to me to be a matter for the State Legislature, and not for us, to prescribe. Moreover the provision will put all sorts of difficulties in the way of a plaintiff where an appearance is not entered. The defendant who has made default has been properly served with a summons, which has been issued only under all the precautions prescribed in the other parts of the Bill. There is no necessity to inquire into the jurisdiction of the court to issue the writ in the first place, and we certainly ought not to impose on the court the obligation to make an elaborate inquiry which in some cases may involve great difficulty. Under this clause it is necessary to prove not only the jurisdiction of the court, but that personal service of a summons has been effected on the defendant, and that it came to the knowledge of the defendant. In very many cases it would be impossible to prove that after service in the ordinary fashion it came to his knowledge. When the writ of summons is served, according to law, we ought to assume that the defendant has the knowledge. The clause imposes a lot of conditions which are absolutely unnecessary, and, which are not required in the States themselves. We ought to assume that for the purpose of any particular writ the jurisdiction of the State in which such writ was issued is co-extensive with the limits of the Commonwealth. This clause does not bring about a uniformity of procedure. There may be a procedure under this Bill for one class of service, and another procedure under the State laws for another class of service. I suggest that the greater part of the clause be omitted.

Mr DEAKIN

- It is rather a misfortune that when this Bill was before us we had not the advantage of the presence of the honorable and learned member for South Australia, Mr. Glynn. He would then have heard the discussion which took place upon this very issue, and the criticism which has been repeated throughout the debates in connexion with this Bill. The honorable and learned member for Bendigo took very strongly the same attitude as that now adopted by the honorable and learned member for South Australia, but, of course, quite independently. The committee, however, almost without exception, were against the honorable and learned member for Bendigo, and were against me in many respects, insisting that further and more stringent provision than that originally proposed in this Bill should be introduced. The honorable and learned member for South Australia will recognise that this is the clause which obtained in the Act of the Federal Council.

Mr Glynn

- The hesitant procedure of a council without any executive.

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Mr DEAKIN

- It was not a hesitant procedure with regard to this matter. The clause strikes back to the old English Common. Law Procedure Act. The feeling of the committee was not that we had hedged round this service of process with too many restrictions, but with too few. The committee deemed it wise, at any rate, until we have become accustomed to the idea of unity, that we should exercise only to a limited extent those possibilities of legal uniformity which ultimately lie before us. The committee seemed unanimously of that opinion, especially the honorable and learned members who sit upon the opposite side of the House. They were particularly anxious that this first attempt to allow a process to run throughout the Commonwealth should be surrounded with safeguards which can be removed when the fact that they are not necessary has become manifest.

Mr. HIGGINS(Northern Melbourne).I regret that I also happened to be absent when the second reading of this Bill was discussed. It seems to me that the honorable and learned member for South Australia, Mr. Glynn, is substantially right in regard to his criticism of clause 10. That clause prescribes that when no appearance is entered by a defendant to a writ of summons, if it is made to appear that the subject matter of the suit is land or other property within the State, or part of the Commonwealth in which the writ was issued, the court is to be at " liberty to proceed." Clause 4 prescribes that any summons may be issued out of any of the State courts for service anywhere within the Commonwealth. The question is as to what power the Constitution gives the Federal Parliament with regard to service and execution of process. It 'seems to me that the Federal Parliament is not under any obligation to make all writs of summons capable of being served in any part of the Commonwealth. This Parliament may say - "We will only allow certain writs of summons, or writs of summons under certain conditions, to be issued." That is where the Federal power comes in. The Federal power may say " We will allow a writ of summons to be issued as for land in Victoria upon a defendant in Queensland." But this Parliament may also say - "We will not allow a writ of summons to be issued and served upon a man in Queensland for a cause of action which is wholly applicable to Western Australia, which arose in Western Australia, and the land for which is in Western Australia." The Federal Parliament may insist upon its own conditions absolutely. But as soon as the writ is served, it is for the State authorities to say what are the consequences. We have power by the Constitution to say what writs may be served throughout Australia. We have power to determine what warrants may be served, and under what conditions those writs and warrants can be served. But as soon as they are served the consequences are to be dictated by the State Legislatures and not by the Federal Parliament. Clause 4 provides that all writs of summons may be served. I think there is a flaw in that provision. It ought to say that all writs of summons which fulfil the conditions imposed by clause 10 may be served. In other words a writ of summons issued in Victoria may be served in Queensland provided that the land in question is in Victoria.

Mr Deakin

- Would the honorable and learned member go so far as to say that he would make no difference between cases in which an appearance is entered or made, and cases in which an appearance is not entered or made?

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Mr HIGGINS

- I think not. If a man enters an appearance he submits to jurisdiction. But clause 10, in effect, says that if there be no appearance entered by defendant to a writ of summons served upon him and it is made to the court to appear that the land in question is in the State from which the summons is issued, the court shall be at liberty to proceed. To vary the metaphor of the dog, that is saddling the wrong horse. We ought in fact to treat clause 10 as a qualification of clause 4. I feel that we are starting a completely novel system, and that no one is. to be blamed for the difficulty that has to be faced by us. I think that no degree of care is too great in order to avoid friction and expense, which must follow from a too hastily passed Bill. There has been a good deal of unjust criticism in this connexion with regard to our proceedings in this House. Considering that we have to deal with a novel system and to apply it to old circumstances, to recast our whole legislation upon certain subjects from a new point of view, I think that we have done very fair work. No one is to be blamed if we have not followed perhaps exactly in this Bill the lines which the Constitution contemplated. In conclusion, I repeat that we have power to say that all writs may be served

in all parts of the Commonwealth. We have power to say that all warrants may be similarly served, or that only some writs and warrants may be so served. We have power to impose conditions in regard to the issue of these writs and warrants, but as soon as they are served we have nothing more to do with them. I think, therefore, that the form of clause 1 is a mistake, and I feel that it would be well if we could reconsider that clause with the other provisions which the Attorney-General has promised to recommit.

Mr McCAY

- Personally, I am impressed by the view of the honorable and learned member for Northern Melbourne, but I would like to point out that sub-section (25) of section 55 of the Constitution Act refers to the recognition throughout the Commonwealth of the judicial proceedings of the States, and it occurs to me that there is an opportunity of bringing clause 10 within our constitutional powers by proclaiming it to be a power under this sub-section (25), if it be not a power under sub-section (24). It is better we should pass Acts about which there is no legal doubt as to their constitutional effect than to create work for the Federal High Court.

Mr. GLYNN(South Australia). - I understand that the limit of 5 miles has been changed to one mile, and this seems to me the most extraordinary case of protection I ever heard of. By this change lawyers outside the mile limit cannot act as agents.

Mr Deakin

- The limit of 5 miles was objected to, and the amendment means simply giving an address within the mile limit.

Sir JOHN QUICK

- The question as put by the honorable and learned member for Northern Melbourne is open to argument ; but it seems to me that clause 10 can be regarded as a clause which defines the mode and conditions of service, rather than as one imposing a particular duty on a particular court or Judge of a State. If there are any doubts about the clause imposing a duty or obligation on a State court, the objection can be met by omitting the words " such court or Judge may on application of the plaintiff be at liberty to proceed," &c. Clause 11 provides that when judgment is given, such judgment shall be assumed to have the effect as if the writ had been served on the defendant in the State, and that shows it is not the intention to interfere with the jurisdiction of the State courts or their constitution, but merely to indicate to those courts what is to be considered effective service for the purposes of this measure.

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Mr PIESSE

- There are courts which allow service of their processes to be effective merely by leaving the document at the last known residence of the defendant, and surely the honorable and learned member for South Australia, Mr. Glynn, would not allow this extended power to be used against a man who happened to have left his residence for a distant part of the Commonwealth. I have known cases in Tasmania, and one case in particular, in which the first intimation a person had was the arrival of the bailiff to levy execution on his goods. We ought to cut out of the operation of this Bill those courts which allow service to be effected in that way. I agree with the honorable and learned member in his objection to some parts of the clause. In regard to the main objection taken by the honorable and learned member for Northern Melbourne, I would point out that sub-section (39) of section 51 of the Constitution Act gives us power to deal with " matters incidental to the execution of any power vested by the Constitution " ; and I think it could be argued that when power is given in subsection (24) to deal with " service and execution throughout the Commonwealth of the civil and criminal process," it would be no great strain of the power to consider that what we have embodied in the Bill are " matters incidental to the execution of any power," &c. We ought to be able, when we give extended power to the State courts, to state the conditions on which that power shall be operative.

Amendment agreed to.

Amendments (by Mr. Deakin) agreed to -

That the words " principal officer " be omitted with a view to insert in lieu thereof the words " or manager or secretary within the State or part in which service is effected " ; and that the following words be omitted:

- "and that he omits to appear to the writ, or is living out of such State or part in order to defeat or delay his creditors, or deprive the plaintiff of the relief to which he is entitled."

Clause, as amended, agreed to.

Clause 16 -

When a warrant has been issued by any Court or Judge or any justice of the peace having jurisdiction in any State or part of a State or part of the Commonwealth, for the apprehension of any person -

Who is charged with deserting or leaving without means of support his wife and children.

Amendment (by Mr. Deakin) proposed - That paragraph (c) be omitted.

Mr GLYNN

- It is difficult for an honorable member to recast such an elaborate clause as this. But I would suggest to the Attorney-General that the clause be amended so as to provide simply that a warrant may be issued by a court, and may be executed in any part of the Commonwealth. There is no necessity to go beyond that. Sub-clause (4) provides as to the procedure and the transmission of the person arrested back to the State in which the warrant was issued, and it seems to me that all the elaborate conditions provided are not necessary.

Sir JOHN QUICK

- Why is it proposed to omit sub-clause (c) which was added to the Bill on its last consideration for the purpose of making the provision applicable to the cases of men who desert their wives and families and go to other States? In "Victoria at the present time such an offence is not punishable by summary conviction, and is certainly not an indictable offence. Provision is made in the Marriage Act for apprehending such a man and making an order against him for the maintenance of his wife or family, but there is no provision for his conviction and imprisonment. It has been found in years past that the Fugitive Offenders Act does not apply, and in a large number of cases absconding husbands and fathers have been able to defy the Victorian law.

Mr DEAKIN

- I bring this amendment forward in order to give the committee further opportunity of considering the question, having agreed to the introduction of the words subject to reconsideration. All that is required under the new sub-clause is that a person shall be charged with deserting or leaving his wife or family without means of support, and then he may be apprehended on that mere charge. This supplies an elastic means by which warrants could be issued against persons who in the ordinary exercise of their business go from State to State. No man could pass from State to State without the possibility of his being charged and apprehended for the alleged offence of attempting to desert his wife and children ; and as this seems to be a serious matter, I think the committee are entitled to reconsider it. I sympathized, and still sympathize with the object of the new sub-clause.

Mr Higgins

- The Attorney-General would not, perhaps, object to the clause applying in cases where an order has already been made?

Mr DEAKIN

- Certainly not. And if the honorable and learned member for Bendigo will alter his amendment in that direction I shall be prepared to accept it.

Sir John Quick

- I do not care what is the form of words so long as such cases are met.

Mr DEAKIN

- A charge of leaving his wife and children without means' of support is about the most elastic that could be possibly launched against a man.

Mr Glynn

- The States could themselves legislate in this direction.

Mr DEAKIN

- Yes, and we could give effect to their legislation. We ought to be satisfied we are giving effect to some legal procedure already taken, in which the court is satisfied that justice requires further action. We ought not to permit any man, who may be travelling, to be brought up under this extremely elastic charge.

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Mr CROUCH

- I hope that the honorable and learned member for Bendigo will adhere to his proposal, because it meets a condition of things which I know from practical experience should be met. The Victorian Parliament has so often felt the disadvantage which exists at the present time through the absence of a provision of this

sort in the Marriage Act, that a Bill which has passed the Legislative Assembly is now going through the Legislative Council, and may, if enacted, make the amendment unnecessary ; but I do not think we should take any risk. If, under the State law, a man can be brought forward on a charge of desertion, we should not now insist, as the Attorney-General suggests, upon an order first being obtained, because, by the time the order is obtained, the man will have gone out of the jurisdiction altogether. In Victoria the law in this matter is not the same as that in force in New South Wales, where even an attempt to desert wife or children is an offence for which the offender may be brought back under the Extradition Act. In Victoria, such an act is only a complaint, so that, while a man may be brought back from Victoria to New South Wales, he cannot be brought back to Victoria from the other States.

Mr. GLYNN(South Australia).- I hope that the amendment will not be agreed to, because it is a very dangerous one. The words " deserting or leaving without support " are not the words used in some of the State Acts. In South Australia the words are " deserting or leaving without adequate means of support," and there is a special provision in regard to children. In South Australia it has been made a criminal offence to desert wife and children, and persons so deserting can be arrested outside the boundaries of the State and brought back again. "We should not, however, dictate to the States as to their legislation, and should deal only with cases in regard to which the State Legislatures are powerless. There has been a great deal of abuse of these warrants. Many a man has been dragged back upon an information that he is leaving his wife without adequate means of support, when all the woman wants is to have her husband back again. I had a great deal to do with the State Children's Council in Adelaide, and I know that there have been cases in which, rightly or wrongly, the arrests have been challenged on the ground that the remedy was applied to cases not contemplated by the Act. The State Legislatures can make the disobedience of an order of the State courts a criminal offence, and have the offenders brought back under the Acts providing for the service and execution of process outside the boundaries of the States.

Amendment, by leave, withdrawn.

Amendment (by Sir John Quick) proposed -

That sub-clause (c) be omitted, with a view to insert the following words: - "Against whom an order for the maintenance of his wife and the support of his children has been made by a State court."

Mr DEAKIN

- I have no objection to the amendment, subject to the reconsideration of the general form of the clause.

Amendment agreed to.

Clause, as amended, agreed to.

Clause 7 amended to read as follows, and agreed to: -

A writ of summons for service out of the State or part of the Commonwealth in which it was issued may be issued as a concurrent writ with one for service within such State or part of the Commonwealth, and shall in that case be marked as concurrent.

Bill reported with further amendments.

#### POST AND TELEGRAPH BILL

In Committee(consideration resumed from 28th August, vide page 4239).

Postponed 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 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.

Sir PHILIP Fysh

- I propose to strike out certain words in this clause and insert others, with a view, instead of repealing the whole of the Post and Telegraph Acts of the various States, to enact that they shall cease to apply to the post and telegraph services of the Commonwealth. "When we come to the schedule, instead of repealing the whole of the Acts, we shall include in the schedule such Acts as we intend shall cease to apply to the Commonwealth post and telegraph services. I move -

That the words "are repealed to the extent in the said schedule indicated," lines 2 and 3, be omitted, with



a view to insert in lieu thereof the words, "shall cease to apply to the postal and telegraph services of the Commonwealth."

Amendment agreed to.

Sir PHILIP FYSH

- It is desired that the regulations shall continue in force as they now are subject to revocation in whole or in part by the Governor-General. I move -

That the words " in whole or in part" be inserted after the word "revoked," line 8.

Sir WILLIAM McMILLAN

- Are we to understand that the various postal systems in the States are to be maintained, and that the present penny postage rate throughout Victoria is to be continued, until revoked in whole or in part by the Governor-General ?

Mr Deakin

- Yes.

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Sir WILLIAM McMILLAN

- Is that compatible with the Constitution? Have the Government considered the matter or are they simply chancing it ? It seems to me that such a provision as it is intended to insert here would be entirely in contravention of the provision in section 99 of the Constitution, which precludes the Commonwealth from giving the people in one

State or part thereof any undue preference over those in another State or part of a State.

Mr Deakin

- It is intended that the present regulations shall remain in force until we can pass this Bill and make substituted provision.

Sir william mcmillan

- Once this Bill is passed its effect should be, in order to bring it into accord with our constitutional principles, to secure uniformity in all matters connected with the post and telegraph departments throughout the Commonwealth. Surely the idea of these machinery Bills is that we should bring under the Constitution all those great services of the State to which certain principles of the Constitution apply.

Mr Deakin

- That is precisely the object.

Sir WILLIAM MCMILLAN

- It seems to me that what is now proposed here is absolutely in contravention of that uniformity which is a leading principle of the Constitution.

Mr Deakin

- The object is to secure uniformity.

Mr WATSON

- There cannot be much objection to this proposal so far as its desirability is concerned, because during the bookkeeping period each State will have to bear the expense of its postal and telegraph system. If we enacted that, on the mere passing of this Bill all State Acts and regulations should cease to determine the various State charges, I doubt whether we could afterwards impose differential charges in the States. This would have the effect of seriously interfering- with the State finances, and it might be desirable to allow some portion of the existing regulations to remain in force for the bookkeeping period.

Amendment agreed to.

Amendment (by Sir Philip Fysh) agreed to-

That the words " until rates and charges fixed by the Governor-General under this Act come into operation," lines 9 and 10, be omitted.

Mr GLYNN

- i would point out that, as the clause now stands in its amended form, the revocation of a part of the regulations would involve the revocation of the whole of them, and that some amendment will be necessary in order to achieve the object in view.

Mr Deakin

- i see the point raised by the honorable and learned member.

Clause, as amended, agreed to.

Postponed clause 13 (Officers of the department free from tolls).

Amendment (by Sir Philip Fysh) agreed to-

That the words " The Postmaster-General may pay to the person entitled by way of compensation for the use of any pier, wharf, quay, landing place, or ferry, and the landing, shipping, or conveying any material or tools for the construction or repair of a telegraph line such sum as may be agreed upon, and in default of agreement, as may be settled by arbitration," be added to the clause.

Clause, as amended, agreed to.

Postponed clause 14 (Arrangements may be made for British or foreign mails).

Sir PHILIP FYSH

- This clause and the following one give the Postmaster-General power to make arrangements for the carriage of British and foreign mails, and the honorable member for West Sydney raised the question, when these clauses were formerly under discussion, as to how far coloured labour should be employed on mail steamers. That matter has been considered, and special provision will be made to deal with the whole subject at a later stage in the Bill. These clauses will not be in any way affected, and I would ask the committee to pass them in their present form, so that the coloured labour question may be discussed separately.

Mr HUGHES

- These clauses were postponed at the request of the Prime Minister, to enable the Government to bring down a provision which would achieve the object I indicated in connexion with the non-employment of coloured labour on mail steamers. Now I understand that it is proposed to make some such provision in another part of the Bill.

Mr Deakin

- Yes, in clause 93, dealing with regulations.

Mr HUGHES

- I would like to know the nature of the provision that is to be made. I understand that what the Minister proposes is to make provision that this shall be done by regulation 1

Mr Deakin

- Yes.

Mr HUGHES

- I do not agree with that at all. I want it specially set down in this Bill. The Minister in charge of this Bill intends to give the authorities power to accomplish my purpose by regulation, but that such power shall not apply to mail steamers.

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Sir Philip Fysh

- By a regulation which will be submitted to Parliament for its approval before it can be acted upon.

Mr HUGHES

- I want the power to curtail a contract inserted in connexion with this clause. The contention that it would be better in the regulations does not appeal to me at all. Either it is a good thing or a bad thing. If it is a good thing it ought to be inserted in the Bill, and if it is a bad thing it should be knocked out altogether. I move -

That the following proviso be added to clause 14: - " \* Provided that no contract or arrangement shall be entered into with any person or corporation that directly or indirectly employs other than white British subjects in the carrying out of such contract or arrangement."

Sir PHILIP FYSH

- I wish that the honorable member would permit the discussion on that important point to be an entirely separate matter. Ministers have a desire to meet the object which honorable members have in view. But after due consideration they determined to ask the committee to pass these two clauses, because it is essential that we should have the power to make contracts. What those contracts shall contain Ministers think must be provided for in a separate clause of the Bill. Such a clause will be drafted. If it be not sufficiently clear when it is submitted for the consideration of the committee, opportunity will be offered to make such amendments as may be desired. I ask honorable members to pass these two clauses giving the Postmaster-General the power to enter into contracts, so that some later clause may be printed and circulated limiting the conditions under which such contracts shall be made. A clause will be proposed to

carry out the purpose of the honorable member, the purpose of limiting the power of making these contracts, and any such limitation will have to receive the authority of Parliament before any contract is entered into. A general provision will be introduced, but I want first of all to give the Postmaster-General the power to make contracts. What shall be the conditions of those contracts can be settled afterwards. Mr. HUGHES(West Sydney).- The Minister, in his objection to my amendment, asserts that a better opportunity of accomplishing, what I desire is offered in some other portion of the Bill. He urges that he wants to obtain power under this clause to make contracts. I object to any contracts being made unless the proviso which I have submitted is inserted in them. The

Minister cannot say that he cannot get his mails carried without a contract, because he knows that he can. His proposal is a very ingenious one. We desire to set down in the Bill in so many words one of the conditions under which contracts shall be made. Either the proviso will have to be general or exclusive and confined to one point. If it be general many honorable members may have objections to giving so wide a power to the Postmaster-General. If it be specific I see no object that is to be gained by the Government. proposal. There maybe arguments why this proviso should not be attached to the clause, but the Minister has been careful not to advance one of them. His only argument is that for the sake of the harmonious appearance of the Bill, for the sake of its artistic finish and beauty, we should postpone the inevitable tug-of-war till we have reached the consideration of clause 93. No good purpose can be served by such a postponement. We' say that coloured labour should not be employed on subsidized mail steamers. That is the specific objection which we take to the unrestricted power to make these contracts. Possibly the Minister may be able to supply some good reasons why the amendment should not be adopted. Unless the Government can do so, I fail to see the sense of their attitude. If they have no objection to the amendment, but only to the place which it should occupy in the Bill, their present attitude is a very irrational one. If on the contrary they propose to throttle the amendment in a quiet and perfectly gentlemanly way, I can understand their position, but I cannot agree with them.

Mr. WATSON(Bland) - I think it is fair, perhaps, that we should have an opportunity of judging what the Ministerial proposal is. It is not possible for any other honorable member to move that the clause be postponed, but I would certainly suggest that if the Government desire the committee to be made acquainted with their proposal, they should postpone the consideration of this clause until clause 93 has been reached.

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Mr DEAKIN

- I think that the proposal of the honorable member for Bland is a perfectly fair one. It will assure the honorable member for West Sydney that no advantage is sought to be taken of him either in a gentlemanly or an ungentlemanly way. We shall propose another way by which the committee will have its hands perfectly free to act in this matter, either in the manner the honorable member desires, or by going farther, if that is possible, or not so far, just as the House prefers. Our proposal is one, the object of which is not to decide this issue, but to leave the House perfectly free to decide it hereafter, and to leave it in such a form that nothing can. be done in regard to any contract whatever until the House has decided it. I now move -

That clauses 14 and 15 be postponed.

Mr Hughes

- Under the circumstances I have no objection to withdraw my amendment.

Amendment, by leave, withdrawn.

Clauses postponed.

Clause 136 -

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.

Mr DEAKIN

- The first matter with which we had to deal was the apprehension entertained by some honorable members that this clause interposed an absolute bar to , construction by any electrical authority of any work by which any line of the Postmaster-General was injured. In spite of the fact that one or two of my honorable and learned friends held a contrary opinion, I, believing that clause 136 has to be read with the

clauses following, undertook to introduce words to make it clear that the clause only lays down a principle, and that it is intended to be subject to the other clauses. I move - .

That after the word " not," line 1, the words " except subject to the conditions hereinafter contained " be inserted.

Amendment agreed to.

Sir LANGDON BONYTHON

- I move -

That after the word "Postmaster-General," line 4, the words "or any line connecting the shore end of any cable " be inserted.

Knowing that the Attorney-General objected to striking words out of this clause, I ask him whether he is willing to accept this amendment?

Mr Deakin

- I should not propose the insertion of the words, but I do not object to them.

An Honorable Member. - What is the object of the amendment ?

Sir LANGDON BONYTHON

- It is to protect the interests of the Eastern Extension Cable Company and the Pacific Company ; and I think honorable members will see the reasonableness of the proposal.

Mr WILKS

-The amendment, if it means anything, means the re-opening of the whole question. If there is danger, and it is right to protect the shore end's of the Pacific cable or the Eastern Extension cable, there is also danger to the other services we discussed last week. I understood that provisions were to be introduced to get over the difficulty which then arose, but on looking over the suggested amendments I see nothing proposed in the way of protection against the dangers we considered when the Bill was last before us. I should like the Attorney-General to state whether, in his opinion, this amendment is necessary, and whether the alterations he is about to suggest get over the difficulty to which I have alluded.

Mr DEAKIN

- I think the honorable member for Dalley, and the committee, will see that the cases are not parallel. Telegraph and telephone lines need protection, because they are worked on low current systems, which are liable to be affected by strong current systems, used for electric lighting or electric traction. Telegraph and telephone wires, no matter how worked, cannot have any conceivable influence on electric lights or electric tramways, so that the latter do not need protection. As to the necessity of the proposed amendment, I do not think it obvious. The point the honorable member for South Australia, Sir Langdon Bonython, makes is obvious. He says there will be a short piece of line connecting the Pacific Cable Company's cable with the nearest line of the Postmaster-General, and that though this short piece may not technically belong to the Postmaster-General it ought to be protected against the influence of cable, tram, or electric light wires, if we can imagine such things on the shores of Northern Australia, where that cable is likely to land. The same thing applies to the Eastern Extension Telegraph Company in South Australia.

Mr Watson

- Why should we set upstate protection for one company's interests as against those of another company ?

Mr DEAKIN

- It is a reasonable protection if any is needed. Telegraph and telephone lines always need protection, no matter to whom they belong.

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Mr Higgins

- It is giving the companies the protection of property for nothing.

Mr DEAKIN

- No, it is giving them rights, and "except as hereinafter mentioned" will bring them under the operation of the later clauses, and enable them to have this protection against electric light or electric traction.

Practically, there is no danger from such causes on the shores of the ocean, where these cables will land. All I can say is that I see no harm in the amendment.

Sir MALCOLM MCEACHARN

- It appears- to me there is a very great deal of liana m the amendment. Suppose, for instance, the end of a cable -were landed at St. Kilda, and, at a later -time, it was desired to alter the present tram : system to one of electric traction. By this clause such a change would be absolutely precluded, because no electrical authority could construct a line which would interfere with the shore end of the cable.

Mr Deakin

- Not without complying with the later provisions.

Sir MALCOLM MCEACHARN

- The object of the clause is to protect the cable company in landing their cable in South Australia. We know the tram companies there are contemplating the alteration of their system to electricity, and the chances are that this amendment will seriously affect them. We require a great deal more information before we attempt to protect the cable companies to the detriment, perhaps, of a system of conveyance essential to a large number of people in that State.

Mr WATSON

- There is wide -distinction between the protection which we -are enacting on behalf of the Postmaster-General, who represents the whole people, :and that which it is now attempted to enact -on behalf of a private syndicate. Why should a set of private individuals, working only in their own interests, have special protection afforded them by the State, as against another set of private individuals, seeing that there is already a remedy at law ? If I am one of the promoters of an electric lighting or tramway company, and I run my service so close to an existing line as to injure it, there is a remedy at common' law, as far as I understand, and whatever remedy is available can be taken advantage of without our exhibiting any special preference for one set of individuals over another set. It is a proper thing to protect the Postmaster-General, because he acts for the whole people, but no such claim can be made on behalf of the amendment.

Mr. BATCHELOR(South Australia).The honorable member for South Australia, Sir Langdon Bonython, is quite right in seeking to include in the scope of the clause the cable or international connexion of our telegraph lines.

Mr Watson

- The private line of the Eastern Extension Company.

Mr BATCHELOR

- It would appear that if there be a possibility of doing the Eastern Extension Company any good, honorable members get into a frightful state of alarm at once, though I do not know that that company have ever done anything in Australia to give rise to such alarm. I do not suppose the Eastern Extension Company care whether this amendment be inserted or not, but the question is whether an international communication should be protected. Indirectly we are protecting the Eastern Extension cable and the Pacific cable, as well as the Government line. The Pacific cable will not be a line of the Postmaster-General, but will be in precisely the same position as that of the Eastern Extension Company. It will be landed in all probability in some part of Queensland, and the proposal is to run the shore end across the intervening country to a particular \* office to some distance inland, at least three or four miles. I cannot see what possible objection there can be to protecting those connecting lines in the same way that we are protecting the telegraph lines of the Postmaster-General. Objections to the amendment seem to be conceived in altogether a "dog in the manger" kind of spirit.

Mr Watson

- We are not going out of our way to protect private individuals.

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Mr BATCHELOR

- There is no desire to protect private individuals, but we might be excused for going out of our way to protect the shore end of of a cable which presents the only means by which we can send international messages. In the case of South Australia, the delivery point will be at Adelaide, and the heavy shore end of the cable will be landed at Grange and connected with a line buried underground, so that messages may be taken up to the Post-office ; that connecting line is quite as much part of the telegraph system of the Postmaster-General as is any other line in the State. The only other way in which the Eastern Extension or any other company can get protection is by introducing a private Bill, and I do not suppose any company is likely to do that. There can be no possible objection to the amendment, except on the

score that we are not here to protect the interests of private individuals, but it must be remembered that in protecting them in this instance we are simply protecting our own rights.

Mr. HIGGINS(Northern Melbourne).If the amendment be not carried, the Eastern Extension and all other private companies will have the same rights as they have now. We are not interfering with or disturbing in any way the rights which the Eastern Extension Company have under various Acts of Parliament and concessions ; but we are passing a Bill for the purpose of protecting the Federal telegraph lines. Why on earth should we go out of our way to protect private lines 1 This is no " dog in the manger " policy. We have a right under the Commonwealth to provide that our telegraph and telephone system is not to be interfered with by any one, but I doubt very much the jurisdiction of Parliament to protect, private companies. If we once trench on any piece of private property, there is a tremendous howl ; but, when a Bill is introduced to protect Commonwealth property, there is this ingenious attempt to include words which practically make the property of the Eastern Extension Company more valuable. The company has done splendid work for Australia ; but this is not the time, even if we have the power; to give a valuable concession to a private company without being paid for it.

Sir WILLIAM McMILLAN

- It seems to me that in dealing with many of these Bills there is a tendency to take the local rather than the Commonwealth view. This cable, no matter by whom constructed, is a means of telegraphic communication, and is very closely allied to the subject of the Bill. I think, therefore, that the concession is one which should be made under the circumstances. I do not know that it will make any very great difference, but I think that it is justifiable, seeing that we are dealing not only with the telegraphic communication between the various parts of Australia, but also with our communication with the rest of the civilized world. Any company that has capital and enterprise to improve that communication should be given every protection.

Mr G B EDWARDS

- - 1 think that the honorable member for Wentworth takes a wrong view of this matter. The amendment would give to a private company a protection which, it has been urged, is larger than should be given to the Commonwealth Government, and which we are going to refuse to the State Governments. It is too much to ask us to grant this protection to one company to the exclusion of any other companies that may spring up. Many municipalities are applying for large powers in the matter of providing light, and the States are carrying electric traction very far. I am inclined to the opinion of the honorable and learned member for Northern Melbourne, that it would be unconstitutional to place in the Bill a provision for the protection of any private company. The only authority we can protect is the Postmaster-General. If there were any trouble, it could be got over ' by letting the cable company's rights stop at the shore end of their cable, putting the land ends under the jurisdiction of the Postmaster-General.

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Mr ISAACS

- Although, no doubt, the honorable member for South Australia was actuated in moving the amendment by motives which cannot be impugned, I think that we shall be taking a wrong course if we adopt it. We provide in the clause for the paramountcy of Commonwealth undertakings. No one is to interfere with the telegraphic or telephonic arrangements of the Commonwealth. Although, in my opinion, we can prohibit, or regulate, or deal as we please with telephonic and telegraphic works, I think it would be unwise, in the last degree, to do what is now suggested. The clause forbids the State Government, in supplying electricity to this building, to interfere with the telegraph lines of the Commonwealth, and the amendment, if carried, would prevent the States from giving powers, for purely State purposes, which might clash with the interests of a private company. Surely that cannot be tolerated. I can understand the States being made subordinate to the Commonwealth, but not to private individuals. I hope that the honorable, member, having heard the various objections to his amendment, will not persevere in it. I shall feel bound to cast what weight I have against the adoption of any provision which would place a private company, however useful and eminent, above not only other private companies and private citizens generally, tout also above the State Governments.

Mr GLYNN

- I hope that the amendment will be carried. I had noted as an objection to the clause the fact that it gives the Postmaster-General a paramountcy. I cannot see why we should put him in a position in which he

may violate the rights of the subject without redress. Where it is a question of damages the Postmaster-General represents the Crown, and the law, therefore, does not afford tiny remedy in damages for a wrong done by him.

Mr Deakin

- Not yet.

Mr GLYNN

- I tried to have the matter dealt with when the convention was sitting, and I hope, from the interjection of the Attorney-General, that the citizens of the Commonwealth will yet be put in the same position in regard to the Crown as they are in regard to each other. That is not done, however, by the Bill, and, whilst the Postmaster-General is fenced round from interference by private citizens, the clauses which give a private citizen the right of appeal to a Judge against the acts of a Postmaster-General are worthless, because the Bill does not bind the Crown. If the Postmaster-General is to be given all sorts of immunities, why should not a competing cable company be put in a similar position ? As the owner of the telephonic and telegraphic system of the Commonwealth, the Postmaster-General merely subserves the convenience of the people who use it. If he were not there, private enterprise would do the work almost as well. I do not say quite as well, because I believe in nationalizing services which in the hands of private individuals may become a monopoly. In this case we have a private cable which must be used by the Postmaster-General in connexion with the telegraphic system, and yet we refuse to extend to the company owning it the protection we give to the Postmaster-General.

Mr Watson

- The company have their remedy at law.

Mr GLYNN

- Why should not the Postmaster-General be left to his remedy at law? If you give this protection to one owner of the telegraphic system you should give it to another, and therefore I shall support the amendment. It would be absurd to pass the clause as it stands. I would rather strike it out.

Sir WILLIAM McMILLAN

- The argument against the amendment is that it gives assistance and additional rights to a private company ; but it must be remembered that we are dealing with the company not as a company but as a means of putting ourselves in communication with the outer world, and we want to protect that communication. Is it to be said that for such a reason we are not to give protection in regard to a matter affecting the whole Commonwealth? It matters not to me whether it is a privately owned cable, a State owned cable, or a cable owned by the Commonwealth. So long as it is part and parcel of our means of communication it should be protected for the benefit of the people of the Commonwealth.

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Mr KNOX

-I shall not attempt to deal with the technical questions which have been raised by the legal members of the committees but, looking at the matter from a common-sense point of view, it seems to me that it is only an incident that the cable belongs to a private company. The existence of the Eastern Extension Company's line is a national necessity, and the same protection would be given to any other private cable as it is now proposed to give to that cable. Practically these cables are a necessary extension of our Commonwealth telegraphic system, and, if they were interfered with, large commercial operations would be hindered. It is not intended that there should be an interference with the existing rights. I hope that the amendment will be carried.

Mr. BATCHELOR(South Australia).If the clause is not amended in the way suggested by the honorable member for South Australia, Sir Langdon Bonython, we shall be subject to having our communication between the sea and land lines interfered with by any electric lighting or electric tramway plant that may be erected near the landing place. The cable companies have no responsibility regarding anything beyond their sea lines; and provision should be made for properly protecting those small portions of lines which act as connecting links between the sea and land services. Probably the whole of these connecting lines will not measure more than 10 or 12 miles, and the suggestion that we shall be serving the interest of some private company affords no ground for rejecting the amendment, and thus, practically, cutting off our nose to spite our face.

Mr.W ATKINS (Newcastle). - Some honorable members who are supporting this amendment would

almost make it appear that we were going to do something to interfere with the rights already enjoyed by one of the cable companies. But I do not suppose that the passing of the clause in its original shape will in any way alter the position of the company. We have already refused to give the Postmaster-General certain powers as against the States, and it would be entirely wrong to confer any special privileges on private individuals. It has been pointed out that these companies have their ordinary rights at law, and we should not confer any special powers upon them under this clause.

Mr WILKS

-I do not see any reason why we should afford special protection to the property of the cable companies or place them in any position of advantage as against the various electric lighting enterprises which are being carried on in the various States by the State Governments, by municipalities, or by private companies. Personally, I should strongly object to the Eastern Cable Company being placed in a position which would enable it to interfere in any way with the electrical concerns that are being conducted in the State of New South Wales. Moreover, I think that the various concessions that have been granted to municipal bodies under the State laws should receive just as much consideration at our hands as any other lights that may be involved.

Mr DEAKIN

- In view of the strong feeling that has been shown against the amendment, I hope the honorable member for South Australia will not think it necessary to press it to a division. I really believe that there is no necessity for the amendment, because the cable companies do not need any such protection. On the other hand there is really a great deal in the argument that it is indefensible to single out the property of a private company for a privilege denied to State-owned electric enterprises. I trust that the honorable member will see his way to withdraw the amendment.

Sir LANGDONBONYTHON (South Australia). - I cannot accept the suggestion of the honorable the Attorney-General, because it seems to me that the amendment is a very reasonable one. In moving it I was not at all concerned about the special interests of the Eastern Extension Cable Company. I hope the day will come when Australia will be touched at various points by cables under the control of different companies, and if the Commonwealth allows these companies to touch our shores we should protect their lines from the landing place to the point at which they form a junction with the ordinary land lines. It seems to me that the protection of these connecting lines is a matter of as much concern to the Commonwealth as is the protection of any lines belonging to the Postmaster-General.

Mr Deakin

- Even though that may be so, provision should be made somewhere else.

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Sir LANGDON BONYTHON

-I am sorry I cannot look at the matter in the same light as does the Attorney-General. I shall have to press the amendment.

Mr. V.L.SOLOMON (South Australia).I quite agree with the view of the honorable member for South Australia, Sir Langdon Bonython, that the case of the cable company is not at all on all fours with that of any private tramway or electric lighting company. The connexion to be made between the cable near Adelaide and the Post-office in that city is very similar to one we have had at Port Darwin for the last 27 years, and that connexion has been as much a matter of public importance to the whole of Australia as any of our land lines. Now that the cable company are landing another cable, on the shore near Adelaide, and are desiring to connect it direct with the Post-office, so as to obviate the necessity for having a repeating station right on the shore, it is to the general interests that they should be met in every possible way, so that the transmission of messages may be facilitated. It is absurd to speak of what is now proposed as being done in the interests of any private company, because it is a matter of the greatest importance to the State that connecting lines between the cables and the land lines should be preserved intact and protected against interference.

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

The House divided -

Ayes ... .. 13

Noes ... .. 37

Majority 24



Question so resolved in the negative.

Clause, as amended, agreed to.

Clause 137 -

Any telegraph line of the Postmaster-General shall be deemed to be injuriously affected by a work if telegraphic communication by means of such line is in any manner affected by the work or by any use made of the work.

Amendment (by Sir William McMillan for Sir Edward Braddon) proposed -

That the following words be added to the clause : - "Provided that in the case of an electric tramway, the electric authority using such tramway shall not be held responsible for its lines or works affecting the lines of the Postmaster-General on which an earthed return is used if such electric authority has adopted all known and reasonable precautions to avoid such injurious affection."

Mr DEAKIN

- The Government will accept the amendment with an addition. The proposal of the right honorable member for Tasmania is that the tramways are not to be held responsible for injury to a telegraph line if they have adopted all known and reasonable precautions. But what are known and reasonable precautions may be open to some argument. At all events, they will be much less than what the regulations propose under this Bill. Therefore, I suggest adding to the amendment the words, " and has complied with the regulations."

Sir William McMillan

- I will accept the suggestion of the honorable the Attorney-General.

Mr WILKS

- I am very pleased that the Government have accepted the amendment of the right honorable member for Tasmania, Sir Edward Braddon. I do not think there is much in the Attorney-General's objection to the use of the words "known and reasonable precautions." The honorable and learned gentleman will remember the fight that occurred in the Federal Convention over the reasonable use of the waters of the Murray. Seeing that that difficulty has been overcome, I am satisfied that the State Governments can take the words " reasonable precautions " on trust. I do not find in this Bill a provision to overcome the difficulty of the municipal lighting of the city of Sydney or of any other city. In Sydney the municipal authorities are willing to spend a very large sum of money in this direction. They have secured an Act of Parliament under which to conduct their operations, and the post and telegraph department have had all necessary precautions for the protection of its property placed in that Act. I should like to know from the Attorney - General whether he could not embody in this amendment a provision recognising rights which have been acquired by municipal authorities.

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Mr G B EDWARDS

- B. EDWARDS (South Sydney). - These clauses were discussed at considerable length the other night, and were postponed to allow the Government an opportunity of considering the very many suggestions made. Those suggestions were, in the main, made upon the authority of municipal councils and of large companies using electric power. The amendments now proposed by the Government have been submitted to the committee only within the last few minutes. It will be utterly beyond the power of most honorable members to deal with those amendments without further consultation with those who are so deeply interested in these clauses. It would only be a fair thing, therefore, to still further postpone the consideration of the proposed amendments, to enable those who are acting partially under instructions from the people who are largely interested, to see how far they meet the objections which have been urged. If the rights of electric tramway companies are to be protected, I think that the same protection should be extended to electric lighting companies. The people throughout the Commonwealth are as much interested in the electric lighting of their various localities as they are in electric traction. If the amendment is to be accepted it ought to be in some form that would govern both.

Mr WATSON

- The Attorney-General might consider whether any special conditions require to be set forth in respect of tramways as distinct from electric lighting. I do not see that any distinction should be drawn, and I presume the honorable member for Tasmania, Sir Edward Braddon, merely omitted to deal with the electric lighting companies, borough councils, and other similar authorities. I trust the Attorney-General

will see the desirability of treating both sets of authorities in exactly the same way. I do not suppose it is in order now to refer to clause 148, which provides for arbitration, but it might facilitate discussion if the Attorney-General would let the committee understand how far any procedure of the sort would meet a case where a tramway or lighting authority came into conflict with the lines of the Postmaster-General. Mr. DEAKIN(Attorney-General).- I think the honorable member will find that in the next two clauses, but particularly clause 139, the question to which he last refers is raised, and as it is raised again in subsequent clauses, I shall be glad to deal with it when these are reached. These amendments submitted by the honorable member for Tasmania, Sir Edward Braddon, are designed to meet the circumstances of municipalities and other authorities to which the honorable member for South Sydney referred. These authorities have considered the measure, and recommend amendments which they consider most important and necessary. During the interval I have had the opportunity of consulting the Postmaster-General, and the head of the electrical branch, and I have "discovered that, with the trifling amendments I have indicated, we can accept the amendments proposed, so that it cannot possibly be serving the interests of the municipalities and others concerned to postpone the clauses.

Mr. WATSON(Bland).- I have been informed there is greater probability of trouble occurring through the proximity of electric light wires than the proximity of tramway wires, especially in regard to telegraphs where only earthed returns are used. That is a case which has to be provided for, because, in quite a number of cases, municipalities are running electric light plants, and should have some means by which they can escape the payment of unfair damages.

Sir Malcolm MCEACHARN

- The introduction of electric lighting plant is not necessary. This clause has been considered by the city engineer of Melbourne, who is of opinion that there is no necessity for any amendment.

Mr Deakin

- Evidently that is the reason no representations have been made on this point.

Mr WATSON

- No harm could follow from making it quite clear that both electric lighting authorities and electric tramway authorities are in the same position.

Mr Deakin

- If the electric lighting people take care not to ask for a provision to that effect, such a provision cannot be to their advantage.

Mr WATSON

- Some municipalities have written and asked me to see that they are not left open to unreasonable liability. I would suggest that the amendment be withdrawn temporarily, to allow the feeling of the committee to be tested on the first of a series of amendments, to make the clause provide that an electrical authority shall not be held responsible. That would include all the electrical authorities.

Mr Deakin

- Then the honorable member is entering into an unknown realm, because we do not know what there may be in the future besides lighting and tramways.

Mr WATSON

- The clause might be postponed long enough to allow the Attorney-General to consult his electrical advisers. I am strongly urged that there is a danger of municipalities which have electric light installations, being put to undue expense, as might also electric tramway authorities.

Amendment, by leave, withdrawn.

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Sir MALCOLM MCEACHARN

- After consultation with electrical engineers, I am told there is no occasion for taking steps so far as electric lighting is concerned. At the same time I can see no harm in postponing the clause in order to get more definite information on the subject.

Mr. DEAKIN(Attorney-General).- I will consent to a postponement of the clause until half-past seven o'clock, and between then and now I may see the head of the electrical branch. If there be no objection to the amendment from an electrical stand-point, I have no objection to offer myself ; but I gather, from the absence of communications, that the electric authorities do not desire any alteration.

Mr.CONROY (Werriwa).- Honorable members have received communications from municipal electric

lighting authorities, objecting most strongly to the powers given to the Federal Government.

Mr Deakin

- But not to this particular clause.

Mr CONROY

- We are now dealing with the clauses which give protection to telegraph lines from injurious effects, and if this power be given in this clause, it cannot be taken away in a later clause.

Clause postponed.

Clause 138-

Before any electric line is constructed or work is done by any electric authority other than repairs or the laying of consumers' connexions with mains where the direction of the electric line crosses a telegraph line of the Postmaster-General.

Amendment (by Mr. Wilks, for Sir Edward Braddon) agreed to -

That after the word "authority," line 2, the words "within ten yards of any telegraph line of the Postmaster-General" be inserted.

Attorney-General

Mr DEAKIN

. - I move -

That sub-clause (2) be omitted.

This sub-clause provides that differences between the Postmaster-General and electric authorities are to be determined by arbitration. The provision now, however, has application only to the particular clause in which it stands, and I wish to take it out of this clause, and to insert it as a substantive clause to cover the whole of the relations of the Postmaster-General with electric authorities in reference to the requirements of the measure and the cost of alterations which may have to be made. In moving this amendment I am complying with a request which was very strongly pressed during the discussion of these clauses last week.

Amendment agreed to.

Clause, as amended, agreed to.

Clause 139 (Provision when work to be done involves alteration in telegraph line).

Amendment, by Mr. Wilks, agreed to -

That before the word "expenses," sub-clauses (c) and (d), the word "the" be omitted with a view to insert the word "reasonable."

Clause, as amended, agreed to.

Clause 142 -

When any electric lines..... are used for the generation, use, or supply of electricity in such a manner as to injuriously affect any telegraph line of the Postmaster-General, the Postmaster-General may..... require that such supply be continued only in accordance with such conditions and restrictions for the protection of the telegraph lines..... as he may by..... such notice prescribe.

Amendment (by Sir Malcolm McEacharn) proposed -

That, after the word "protection," the words "of the safety of the persons and property of the public and," be inserted.

Attorney-General

Mr DEAKIN

. - Although the proposal of the honorable member for Melbourne is an excellent one, it was thought, when the matter was being considered, that if we inserted such a provision we might be passing beyond the strict bounds of our authority. An important element in the protection of the public is the protection of the telegraph and telephone wires. There is, of course, no danger in these wires themselves ; but they may become dangerous by coming into connexion with more powerful currents of electricity generated for traction or lighting purposes. We hesitated to go further, because such services are within the control of the State Governments.

Mr WATSON

- One of the difficulties in connexion with the amendment is that it implies that the Commonwealth Government should appoint officers to find out whether these various works are or are not safe, apart from the fact of their possible interference with the telegraph lines. But, inasmuch as it is the State

authorities who give permission for the construction of these works, they are the parties whose business it is to see that the terms and conditions which are required in the public interests are observed. I think that we shall be treading on very dangerous ground, and possibly have some dispute with the honorable gentlemen in another place, if we pass an amendment that appears to interfere to some extent with the functions of State authorities.

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Mr McCAY

- I agree that the object which the honorable member for Melbourne wishes to attain is a desirable one, but I doubt if we have the power to pass the amendment. If the amendment were carried, the curious result would happen that, before we could protect the persons and property of the public, however much they might be injured by these electric works, we should have to prove that the telegraph lines of the Postmaster-General were injured.

Sir Malcolm McEacharn

- I have no desire to press the amendment.

Amendment, by leave, withdrawn.

Mr WILKS

- I move-

That the following words be added to sub clause (1) : - " Provided that this shall not apply to the supply of electricity through any electric lines or work lawfully laid down previous to the erection of the telegraph line so affected." I have moved this amendment for the right honorable member for Tasmania. It may happen that a company has constructed an electric tramway, or laid down electric light lines in a street with the permission of the State authorities, and that the Post and Telegraph department may afterwards consider it advisable to place telephone or telegraph wires in that street. Under the clause as it stands the persons who had erected the other electric lines or works would be responsible for any interference with the Postmaster-General's lines.

Mr. DEAKIN(Ballarat- Attorney-General eral). - Clause 139 has reference to works which have been constructed under State Acts, and, to meet the case to which the honorable member is referring, subclause (3) of clause 142, which was not in the Bill as it originally stood, was inserted. That sub-clause provides that the Postmaster-General shall pay the amount of costs reasonably incurred, or damages sustained, where electric lines or works have been lawfully constructed prior to the erection of lines of the Postmaster-General, and are placed under conditions and restrictions for the protection of the Postmaster-General's lines.

Mr. HIGGINS(Northern Melbourne.)Section36 of the Victorian Electric Lighting Power Act contains the words which the honorable member for Melbourne wished to have inserted, and I should like to know whether it is intended to include that Act in the schedule of Acts, which shall cease to apply upon the passing of this measure into law. It is not there now, but the Electric Acts of Queensland and Tasmania are named there.

Mr DEAKIN

- The Act to which the honorable and learned member refers is not in the schedule now, and the only alteration that we intend to propose is the omission of the last column of the schedule amendment, by leave, withdrawn.

Clause agreed to.

Mr DEAKIN

- I move-

That the following new clause stand clause 149 of the Bill: - "Any difference which arises between the Postmaster-General and an electric authority or its agents with respect to any requirements of the Postmaster-General, or as to the cost of any alterations of. telegraph lines, shall be determined by arbitration."

This is a clause which makes a general provision for arbitration in lieu of the subclause which was struck out when the Bill was passing through committee in the first place.

Mr CONROY

- Is the Attorney-General aware whether every State has an Arbitration Act in operation, because, if not, it may be necessary to make an addition to this clause 1

Mr Deakin

- Every State has some provision for arbitration in its Supreme Court or some other Act providing for arbitration.

New clause agreed to.

Sir MALCOLM McEACHARN

- When clause 149 was under discussion I raised the question whether, when arbitration was asked for, there should not be some limit to the time within which the arbitrator should be appointed. I have received a suggestion from New South Wales that the Bill should be amended so as to make provision for this.

Mr DEAKIN

- I believe the New South Wales State Acts make the necessary provision, but I will make further inquiries.

Schedule 1 -

Amendment (by Mr. Deakin) agreed to -

That the column headed "Extent of Repeal " be omitted.

Schedule, as amended, agreed to.

Schedule 2 -

Sir MALCOLM McEACHARN

- I would like to ask the Attorney-General whether form (c) in the second schedule is the usual one, because it seems to throw upon every shipmaster, whether he carries mails or not, the responsibility of filling up the form prescribed.

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Mr DEAKIN

-The provision made in clause 66 evidently relates only to vessels carrying mails, because there is a special provision that a postmaster, in case of vessels which are believed to have no mails on board, may authorize a Customs officer to report without requiring the declaration to be signed and the certificate to be delivered. This is a copy of the provision in the New South Wales Act, and is one of those clauses which would apply only to outlying ports to which communication is irregular.

Sir Malcolm McEacharn

- I find that section 56 of the Victorian Act covers it.

Mr CONROY

- This is one of those provisions which should be made by regulation, and it seems a great mistake that we should raise all these questions when we are discussing the Bill. I do not think the committee can too strongly protest against the introduction of such matters as these into the body of the Bill.

Schedule verbally amended and agreed to. Mr. DEAKIN.- I move-

That the following new clause stand clause 10 of the Bill : - " Every person taken into the employment of the department as a telegraph messenger after the commencement of this Act shall immediately on attaining the age of seventeen years cease to be so employed."

This is intended to fulfil an engagement given to the committee to make certain provision with regard to the employment of telegraph messengers.

Mr WATSON

- I do not remember that the committee were very emphatic about preventing these boys from being appointed to the public service.

Mr Deakin

- No, that is not the intention.

Mr WATSON

- I think that if the conditions are equal these boys should have the preference in connexion with any appointments which may be made to the public service. I quite agree with the reduction of the age to seventeen, because that will give the boys a better chance of learning another calling ; but I would like to see some provision made to the effect that if a boy shows that he has the necessary qualification he shall be eligible for another appointment in the service.

Mr Deakin

- That cannot very well be done here. The provision would have to be made in the Public Service Bill.

New clause agreed to.

Bill reported with further amendments.

Motion (by Sir Philip Fysh, with concurrence), agreed to -

That the Bill be now recommitted for the purpose of reconsidering clauses . 14, 15, 26, 27, 78, 82, 84,93, 126, 137, 146, and 149.

In Committee(Recommittal).

Clause 14 (Arrangements may be made for British or foreign mails).

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Mr DEAKIN

- Clauses 14 and 15 as the committee are aware were postponed in order that the honorable member for West Sydney might have an opportunity of moving an amendment, which raises a very important question. In the first place it is material to notice the purpose of these clauses. They are to empower the Governor General and the Postmaster-General or any person authorized by the Governor-General to make contracts. Clause 14 empowers the Governor-General to make arrangements with the Postmaster-General of the United Kingdom or with the proper authorities for the transmission of mails, the collection of postage, and various other matters. The transmission of mails constitutes the important feature of that clause. Clause 15 empowers the Postmaster-General or any other person authorized by the Governor-General to enter into contracts on behalf of the Commonwealth in respect of the carriage of mails by land and sea, or for any other purpose incidental to the carrying out of this Act. Both these clauses are therefore empowering clauses. Their object is to enable the mails of the Commonwealth to be carried within its own territory or between the Commonwealth and other countries. In connexion with this very necessary power - an "absolutely essential power in the administration of the Post-office, and a power which must be conceded - the honorable member for West Sydney proposes to set out on the face of the Bill an addition which limits it, in regard to the persons employed in the carriage of mails, whether within or without the Commonwealth. Now, the question which above all others has interested the public mind of the citizens of the Commonwealth has been the determination of the future citizenship of Australia. I think that we interpret the universal feeling correctly, if we describe it as a determination that the citizenship of the Commonwealth shall be extended only to those who by blood, birth, and breeding are qualified to discharge all the duties of citizenship, and to intermix and blend with the other elements of the Commonwealth, so as to form one people, who shall be a whole, not divided by marked distinctions of colour, nor by greater differences than those which everywhere obtain between men of the same race, using that word in its broadest sense. Consequently no complaint can be made to the proposal even in the consideration of a measure which has been described, perhaps inadequately, as a "machinery Bill." It does deal with the machinery of an important department, it is true, but in connexion with the working of that machinery, touches our national and social life - as we have proved during the course of these debates - on a great many issues, some of which are critical issues. We cannot be surprised that in this measure there should be sought to be imposed a restriction upon the employment which the Commonwealth will give by the disbursement of its moneys - moneys collected from the people of the Commonwealth for the purpose of the maintenance of its post and telegraph offices and kindred services. Within the Commonwealth there will be comparatively little difference of opinion as to the course to be pursued, and little difficulty in following that course. It is only reasonable that the carriage of the mails of the Commonwealth shall be in the hands of its citizens, or of those who are qualified to become its citizens, and that we shall not have introduced, in the employment of the Commonwealth, what may be termed a servile element - an element which must fall short of the full rights of citizenship. But, whilst we are perfectly agreed as to the end to be gained, there may be some difficulty regarding the means to be adopted to secure it. That will appear even more manifest in connexion with the other great branch of the mail service in which the Commonwealth, probably with other partners, will be concerned in contracts with great shipping and steam-ship companies for the conveyance of mails from the Commonwealth to other parts of the world, and vice versa". Here we are confronted with the same desire, namely, that the taxpayers of the Commonwealth shall feel that by their expenditure they are assisting to build up their own country and to support their own race, and that they are showing - as they naturally, and I think properly desire to do - a preference for people of their own race gaining the benefits of conducting the commercial business of the Commonwealth so far as it consists in the carriage of mails. Here, however,

we have had in the past and are likely to have in the future partners who are entitled to consideration. If we are to act independently of those who have been our partners, it will call for a reconsideration of the cost as well as of the conditions of our contracts, not only in regard to the persons employed. What this House desires is that the determination as to the persons to be employed in either of these mail contracts shall rest with this Parliament. The object of the amendment which the honorable member for West Sydney desires to submit is, that the Commonwealth shall in this matter promptly declare its policy. We have already called attention to the fact that to place on the face of the Bill and in set terms, a disqualification of certain classes of persons whom it is not desired to employ in connexion with either class of contracts - either within or without the Commonwealth - would be obviously to place certain obstacles in the path of our legislation, which may or may not be removable. These may require some time for their removal, and may possibly postpone the operation of this measure so important to every State of the Union, and fraught with such possibilities of improvement in the services which are to be controlled under its clauses. This Bill is not only a very important Bill ; it is a very urgent Bill, and anything calculated to delay its operation will be and should be avoided. Consequently, to come direct to the point at issue, we have to ask ourselves whether it is not possible to deal with this problem of providing as to the class of persons to be employed in connexion with our mails, without expressing it on the face of the Bill ; and yet as effectively putting the matter absolutely under the control of the House, and achieving that end almost as promptly as if it were put on the face of the Bill. If Such a course as I have suggested can be taken, there is obviously much to recommend it. There is the whole of this Bill to recommend it ; there is all the urgency that rests on the difficulties occasioned by six distinct Acts and six distinct systems of administration of the Post-office, and which must continue until some such Bill as this is placed on the statute-book. There is the advantage of obtaining this without delay, and there is, possibly, the greater advantage of achieving the end which the honorable member desires, more rapidly than if he placed his clause on the face of the Bill, since the operation of this Bill might be postponed for any time by the fact of its appearing there.

Mr Hughes

- How would it be postponed?

Mr DEAKIN

- I think the honorable member knows.

Mr Hughes

- I do not know anything at all about it, and I am asking the Attorney-General.

Mr DEAKIN

- I prefer to answer by means of an illustration. There was a measure passed in Queensland in relation to the Central Sugar Mills, which failed to become law.

Mr McDonald

- Why? Because the Attorney-General advised the Governor to withhold his consent. He would not do that in the case of the syndicate railway Bills, which have exactly the same clause.

Mr DEAKIN

- I do not make this reference for the purpose of attempting to discuss State politics with which I am not familiar ; but whatever may have been the initial step, the decisive action was taken outside Queensland, and the reason for it is explained in a despatch which has been made public.

Mr Crouch

- We would not submit to it.

Mr Page

- How does the Attorney-General account for an exactly similar clause appearing in the Queensland Postal Act?

Mr DEAKIN

- This particular clause?

Mr Page

- Yes; prohibiting coloured labour from being employed on any ship which carries His Majesty's mails.

Mr DEAKIN

- I am not charged, happily for myself, with reconciling the inconsistencies of anybody but myself, and I find that hard enough occasionally.

Mr. Fowler. - Then the Attorney-General's illustration is inapt.

Mr DEAKIN

- It is not inapt, because I take it the later incident has to be borne in mind. While I do not suggest that there is a parallel between the two cases, it is a matter to be borne in mind.

Mr Glynn

- It was in 1897 that Mr. Chamberlain refused assent to the Coloured Labour Bill.

Mr DEAKIN

- The case I mention is within the last few months.

Mr Glynn

- I know ; but the Queensland Postal Act may have been passed before 1897, since which year the Royal assent has been refused.

Mr DEAKIN

-The honorable and learned member for South Australia indicates that there has been a change of policy, and that since a certain date objections have been taken which were not previously taken. Practically, the question I want to put is this : Are we not in a position as a Parliament to find a means of attaining our end without running the risks which this amendment will certainly run ? Whether these risks be great or small, each honorable member can form his own opinion. Can we attain the same end without running the risks we must necessarily run judging by recent experiences, if we put this clause in the forefront of our Bill ? I venture to suggest one means by which it can be done. I have proposed an amendment in clause 93, which is the clause which gives power to the Governor-General to make regulations. That in itself would be comparatively harmless. It was as a preliminary provision that I proposed to insert a new paragraph in clause 93, giving the Governor-General power to make regulations for the purpose of providing for the conditions in regard to the employment of persons in or about the carriage of mails under any contract entered into by or on behalf of the Commonwealth.

Mr Wilks

- That only confers a power, and does not express a policy.

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Mr DEAKIN

- I am coming to that. It confers a power to make regulations in regard to all classes of mail contracts, whether relating to the conveyance of mails within or without the Commonwealth. That by itself is no more than a power conferred. But I proposed to supplement it by the further statement, if this power were granted, that directly the Bill was passed and had received the Royal assent in the ordinary course, the Government would be prepared to bring down to the House certain regulations under which all contracts would be required to be entered into by the Commonwealth so far as they affected the employment of persons. It would then be open to this House to accept the regulations as proposed, or to amend them, in order to attain the end which we all have in view. I further proposed that when the regulations had been amended, if necessary, or when they had been adopted by this House with or without amendment, they would be applied to every contract let under this department, and, by that means, practically without any delay or risk whatever, the conditions which this House desires to see imposed upon employment in either class of contract would be secured.

Mr Glynn

- There is no power to amend the regulations under clause 93.

Mr DEAKIN

- There is no power, but there is always the power of the Government to amend regulations, and they can take instructions from the House.

Mr Glynn

- There is no power for Parliament to amend the regulations.

Mr DEAKIN

- Exactly. But there is always that power in the Government, and always power on the part of Parliament to indicate its wishes. That, however, is immaterial.

Mr Higgins

- In what way has Parliament power to express an opinion as to regulations except by motion?

Mr DEAKIN



-The regulations would be brought forward and discussed.

Mr Higgins

- And left on the table?

Mr DEAKIN

- In the ordinary course the regulations would be merely laid on the table ; but in regard to these regulations, the Government would take the sense of the House upon them.

Mr G B EDWARDS

- A Ministerial promise ?

Mr DEAKIN

- Exactly ; a Ministerial undertaking to do so.

Mr Isaacs

- Of course, the regulations will have the force of law directly they are gazetted.

Mr HUME COOK

- But some other Government may alter the regulations in what we should consider a bad way.

Mr DEAKIN

- The publication in the Gazette would not take place until the regulations had been discussed. The interjection which the honorable member for Bourke has made indicates one, and possibly the only serious difference between legislation, so to speak, by regulation, capable of repeal at any time by the same authority making the regulations, subject of course to their being laid before Parliament, and a provision in a statute which can be amended only by another statute. One advantage of carrying the amendment of the honorable member for West Sydney, in the way he proposes, would be that it would then become part of a statute to be altered only by another statute passed by both Houses of Parliament. By the proposal I had thought of submitting, it would have been possible for the authority who made the regulations to have unmade them, if at any time it felt it had the support of Parliament in so doing, or even if it had the support of this House. Of course, this contingency has to be recognised, and, it seems to me, can be provided for. But it will no longer be possible to secure this safeguard by simply making an addition to the powers conferred under clause 93. It will be necessary to go further. It seems to me that, under all the circumstances, it is important enough for this committee to consent to its being dealt with in a special clause and by a special further provision. We can, of course, follow in a general way the same first steps. We can pass a clause which shall empower regulations, not only to be prepared, but in this instance to be drafted rather than prepared, and to be laid on the table, and require them to be discussed and approved by Parliament ; that is to say, by both Houses of Parliament.

Mr Higgins

- Before they become law ?

Mr DEAKIN

- Before they become law. Regulations proposed in the ordinary way have the force of law, but we can go further and provide that these special regulations when adopted shall be, to all intents and purposes law, inasmuch as they can be made alterable as if they formed part of the law only by statute passed by both Houses.

Mr Hughes

- How then would they differ from law?

Mr DEAKIN

- They would not differ from law in any respect except this : What would appear on the face of this Bill would be a power to make regulations in regard to the employment of persons, which regulations are to be submitted in a special way to Parliament, and which, when approved, can be altered only by statute ; but as to what will be in those regulations or conditions nothing would appear on the face of the Bill. It would show simply a grant of power, but power of a particular kind in regard to a particular subject.

Mr McDonald

- Suppose one House objects to the regulations ?

Mr DEAKIN

- Suppose one House rejects the Bill as it is ? It is the same contingency.

Mr McDonald

- It is different in the case of regulations.

Mr DEAKIN

- No; my suggestion is that they shall occupy exactly the same position. The same regulations will pass through both Houses.

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Mr McDonald

- If 'the Senate refuse to pass the regulations they cannot become law.

Mr DEAKIN

- I do not know whether I am in order when referring to another place, but judging from a discussion which took place there at no distant date in connexion with much the same issue, honorable members ought to be re-assured that they are quite as certain of a majority in another place as in this House.

Mr Crouch

- The Government were against the clause then.

Mr DEAKIN

- No, the proposal was that a particular thing should be done at a particular time, instead of being done in the ordinary course by legislation. In the course of that debate practically the whole of another place declared themselves in favour of the principle embodied in this proposal.

Mr Higgins

- Does the honorable gentleman say that the regulations will not require the Governor- General's assent, or cannot be reserved for the King's assent ?

Mr DEAKIN

- The regulations are not in the statute, and will not require special assent.

Mr Wilks

- How would that affect the partnership ?

Mr DEAKIN

- The partnership is another issue ; it is a matter of pounds, shillings, and pence, and when the question of partnership or no partnership has to be taken into account, this House or another House, whichever it is, will have to face the question, deciding on the steps to be taken if the partners refuse to act with us, or, for acting on our own behalf. But these are questions with which at present we need not concern ourselves. They will not arise for two or three years, and when they do arise will require to be dealt with in a practical way. There is nothing to prevent the safe and speedy attainment now, by the means I suggested with regard to the contracts we are about to enter into, of the object which the honorable member for West Sydney has in view.

Mr Poynton

- If we accept the, Government proposal, may we not be shunting the responsibility of saying whether black labour shall or shall not be employed on to some future Government?

Mr DEAKIN

- No responsibility in regard to the matter will be put on any future Government, unless they bring down a Bill to repeal this

Act, and to undo what is done under it. That is a course which may be taken by any Government in regard to any matter of legislation. I feel, however, that it would be unfair to ask the honorable member for West Sydney to pronounce upon my proposal without consideration. I am quite prepared, therefore, if he wishes it, to allow these clauses to be postponed, so that he may have an opportunity to consider whether he can accept my proposal or any amendment of it, or suggest any means of attaining his object other than the insertion in the Bill of the clause which he has drafted. I do not desire to offer any objection to his proposed clause on its merits. What I ask him to consider is whether we cannot agree as to the method we should adopt in order to attain the end that we all desire to reach, either by the means I suggest, or by some other means which some more ingenious member may devise.

Mr Glynn

- The other means would be for the Government to have a policy in regard to coloured labour. Why not apply the same principle all round?

Mr DEAKIN

- We are applying the same principle all round. The Immigration Restriction Bill is drawn upon lines parallel to those upon which my proposal is framed, so' far as it aims at avoiding all friction and delay. I

desire to attain the end in view without the adoption of means which some honorable members hope may lead to the rejection of the Bill.

Mr V L SOLOMON

- That is not fair. We want to see the object attained in a straightforward way, not by a sinuous course.

Mr DEAKIN

- We all prefer the straightforward way, and it is not possible in parliamentary matters of this character to attain anything by a sinuous course. It is impossible for us to put our heads in the sand, and pretend that no one sees us, because it is certain that what we do by either of these means will be equally well understood. No one will be deceived.

Mr McDonald

- Then, why not do it in the way proposed by the honorable member for West Sydney ?

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Mr DEAKIN

- Because, by doing it in the way I suggest we are much more likely to attain our end without delay and difficulty. No one can fail to understand the object and purpose of this proposal.

Mr V L SOLOMON

- It is to mislead the Imperial authorities.

Mr DEAKIN

- They are better informed than the interjection of the honorable member would lead us to suppose. They know what the programme of this Government has been, and what the platform of Australia as a whole is. It is a white Australia. It is simply the choice of the best and most expeditious means to attain that end, and to secure the employment of men of our own race in the transmission or conveyance of mails to and from Australia that we have to make. Honorable members have to decide which course they will adopt to give effect to our principles in this respect. I do not think we differ at all in regard to our object. The question is, can we not be united as to the means to be taken to win the goal which we are striving to attain. I do not think that this will prove to be a party matter. I leave it to the honorable member for West Sydney either to proceed or to suggest a postponement.

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Mr HUGHES

- The Attorney-General has, in a very thorough fashion, set before us the two methods to be pursued. One method is surrounded by difficulties, or, let us rather say, by dangers the nature of which he has indicated only by illustration and innuendo. I do not know what other honorable members may think, but I want no time in which to- consider this proposal. He suggested that some more ingenious person than himself might suggest a still more ingenious method, but I do not know that a more ingenious method could be discovered. I was rather astonished to learn that no particular end is to be gained by adopting the honorable and learned member's suggestion. Mr. Chamberlain is not to be hoodwinked. The Imperial authorities were to see on the very face of it the reason for the subterfuge, which was to effect by a side wind only what could be better obtained by an open attack. The Attorney-General did not contend that his method was as good as the other. He said that it would nl most do what the other would do. Why should we pause at the "almost," when the " actual " and the " quite " can be obtained by an open method which will enable us to know where we are 1 The objections and dangers at which the Attorney-General hinted are that the Imperial Government may veto the Bill because it may conflict with their ideas as to their world-wide responsibilities, and that, this Parliament would have to subordinate its wishes to the requirements and the exigencies of the Imperial Government. I venture to say that there is not a scintilla of argument or a shadow of reason to be brought forward in support of such an opinion. There is no reason to believe that the Imperial Government would veto this or any other Bill of the Commonwealth Parliament. The only evidence which the Attorney-General had to offer was that the Home Government had vetoed a Queensland Bill. But is it not one of the reasons why we have set up tins costly and cumbrous federal machine that by it we may have a wider influence and an extended sphere of national life? Yet at the very threshold, when we propose to expend our money as we please, we are told that the Home Government will not allow us to do so ! That is an absurd and si dangerous statement. It is absurd, because there is no precedent to warrant it, and it is dangerous, because, if we once establish such a precedent, the Home Government will not be slow to follow it up. If we admit that in our legislation we are

to be hampered and embarrassed by any considerations of what the Home Government may do before they have given us any clear and unmistakable indications of their intentions, we give them an open invitation to inter-, fere. Any Government in the circumstances in which the Home Government finds itself, hampered on the one side by foreign treaties and on the other side by the necessities of an expanding trade, would veto any measure that in the slightest degree might embarrass its relations with foreign nations. But we are not to consider that. We have been sent here with the clear and unmistakable mandate that we are to secure a white Australia, and if we cannot do that when we have the money in our hands to expend upon a service which is to be carried out for our benefit, we cannot , do. it at all. The Attorney-General says that there is an analogy between what he proposes and the treatment to be extended to coloured immigrants under the Immigration Restriction Bill which has yet to be discussed. I do not admit, and there is no need to admit, that the method adopted by the Government in that Bill is a good one ; we have yet to decide that. But there is no such analogy as the Attorney-General speaks of. It is proposed in the Immigration Restriction Bill to pass certain regulations in regard to the immigration of coloured persons or persons possessing a certain degree of education, but what we propose in the clause now before us is to expend some £70,000 a year upon the carriage of our mails to and from other places under certain conditions as to the labour to be employed. "We are going to pay for this labour. It has always been the proud boast of the English Commons that having the control of the purse they controlled the policy of the country. This is a matter which touches the control of the purse, and yet we are told that we are not to determine who shall earn the money we pay. The Attorney-General said that the end we. have in view can be brought about by regulations. If the regulations, are to be passed by both Houses of Parliament they differ in no essential from a law. They cannot be repealed except by a process similar to that by which they are enacted ; no departure from them can be legally permitted ; the Home Government will know all about them ; and foreign nations who may be affected will be in a position to protest against the regulations through their ambassadors and diplomatic agents. In what do the processes differ ? They differ only as a plain blunt statement differs from a roundabout one. Another Parliament may be called upon to' decide as to the terms upon which we shall enter into this contract with Great Britain. It may be that this Parliament will be sent about its business in another six months or twelve months, and the contract under which the mails will be carried after the expiration of the present contract, or the correspondence relating thereto, may be laid upon the table in another Parliament. Therefore this Parliament, which -is authorized directly by the people of Australia, may not have an opportunity of settling the new contract upon such -terms as they know to be in accord with the general will. I will not say that another Parliament may not be equally competent to do this with ourselves, but no Parliament can be more competent. We come fresh from the people; we are impressed by no petty political cries, but we are seized with the whole of the facts, 1 and we were sent here in an overwhelming majority. It would be a difficult thing to find six men in this chamber who would cast their votes against this proposal, and I therefore ask why there should be any delay? There can be only one reason, and putting aside the ingenuity of the Attorney-General it appears that that reason is the fear that the Bill may be delayed by some action on the part of the Home Government. I do not know that the Governor-General would refuse the Royal assent to this Bill, and I do not suppose for one moment that the Attorney-General has any special knowledge on the subject, or any reason for suggesting a possible difficulty, because it would be utterly unconstitutional to approach the Governor-General upon such a point. Either the Governor-General has extended powers beyond those of an ordinary State Governor, or he has not. If he has no extended powers beyond those given to the ordinary State Governor where is the ground for all this bombast about a nation and a destiny, and an enlarged sphere of usefulness. If the Governor-General is to be tied down within those limitations set for the State Governors why should we have a Governor-General? Is not the Governor-General superior to a State Governor - are not his powers more extensive ? Is the exercise of his discretion to be hampered by such comparatively petty restrictions as those which apply to a State Governor? We know nothing of these things of course, but, judging by analogy, and reasoning on common-sense lines, there is no doubt that a unanimous demand on the part of this new Parliament in respect to a measure upon which the people of this country have made up their minds - not ina hurry or in a moment of passion, but as the result of years of bitter experience in some parts of this continent, and with the experience of other nations which have been still more unfortunate staring us in the face - will be received with befitting respect. This nation has made up its mind that it will

have a white Australia, and that it will not pay one penny of subsidy in connexion with a contract which is carried on by means of anything but white labour. Such a demand in the name of such a nation could not be treated as the demand of a petty State of this continent. If we are going to receive the same treatment as the State of Queensland received in respect to its sugar mills, we shall have expended all our time and energy, have raised this magnificent edifice, and have unfurled the banner of this\* Commonwealth in vain. Federation will be a mere chimera, and there will be nothing solid, and no substantial basis on which to erect our national structure. I do not believe that any of these fears are well founded. I believe that the Governor-General would assent to this Bill, and that if it should be reserved for the Crown, the Royal Assent would be given. I believe that if it were known, as it must become known, "that this Parliament, not by a catch vote, but by an overwhelming majority, demanded that these conditions should be carried out in connexion with the mail contracts, no British Government, in the face of the experience of the past - which has taught the British Empire what it needed to be taught in respect to the government of its colonies - - would ever dare to veto such a provision. Now, as to this regulation, which the Attorney-General proposes, what would its effect be 1 He, its author, and its advocate - or rather its apologist - says it is a nice, entertaining, ingenious, and insidious method, by which we can nearly obtain an object that can be wholly obtained here and now by a plain, blunt statement. As to what will happen in another place, the difficulty will be at least as great in one case as in the other. I do not wall t this matter postponed, because we have already wasted too much valuable time. Let us have "the matter put plainly before the committee and come to a decision. It is very clear that the Government are prepared to deal sensibly and thoroughly with the question, and I believe that this alternative proposal that they have put forward will find no favour with the committee. Because of that, and because there seems, even according to the statement of the Attorney-General, no good and sufficient reason why the amendment as proposed by me should not be adopted, I, for my part, do npt care to postpone the matter, and I, therefore, move -

That the following word's be added as a proviso to clause 14 : - "Provided that no contract or arrangement shall be entered into with any person or corporation that directly or indirectly employs other than white British subjects in the carrying out of such contract or arrangement."

Sir Langdon Bonython

- I would like to ask the honorable member whether he intends that his motion shall apply to coolies employed for coaling purposes ?

Mr HUGHES

- I would not like to express any opinion about that.

Sir Langdon Bonython

- I am asking what the honorable member really intends.

Mr HUGHES

- As to the question of law, I do not know anything about it, but I do not intend the amendment to apply to coaling.

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Mr WILKS

- I am very pleased that the honorable member for West Sydney has expressed his opposition to the postponement of this clause. We have had too many postponements in connexion with the 'business that has been before this Chamber of late, and although I would not like to charge the Attorney-General with shilly-shallying, I am certain that the general public, when they read the report of this debate, will come to the conclusion that the Government wish to burke a decision as to the policy of employing coloured labour on mail steamers. If any members of the committee are in favour of continuing the present conditions, they cannot vote with the Government, because Ministers say that they are willing to carry out by regulation the. object which the honorable member for West Sydney has in view. The Government believe that the mail contracts should contain conditions which -will preclude the employment of coloured labour, and the Attorney-General has admitted the right of the taxpayers to devote their money to the building up of their own country and to the advancement of the interests of their own race. I am glad that the Ministry have declared themselves as opposed to the employment of coloured labour, but I do not quite understand why they should object to the proposal of the honorable member for West Sydney. The Attorney-General has stated that certain partnerships might be affected if the proposal of the honorable

member for West Sydney were carried out. But assuming that we agree to the proposal of the Government and that regulations are passed precluding the employment of coloured labour on mail steamers our partnership arrangements will be just as much affected as if we declared the policy of the Commonwealth in the body of the Bill. It has also been suggested that the Royal assent to this Bill might be withheld, but I cannot see that there is very much in the argument of the Attorney-General upon this aspect of the case. The people of Australia were told that one of the great advantages of federation would be that we should be able to speak with a united and powerful voice, and that many measures to which the Royal assent had been refused when such measures had been passed only by a single State would not meet with the same unfavorable reception if they were submitted with the whole influence of the Commonwealth behind them. At any rate we are not here to anticipate any difficulty, and if there is to be any objection raised, we may as well have it raised at once and fought out from the outset. If the veto is to be exercised, it will probably be directed against the Immigration Restriction Bill.

Mr Barton

- They cannot veto that, because a similar Act has been passed in Natal; and that is a different thing altogether.

Mr WILKS

- Whatever the case may be regarding that Bill, we should certainly assert our position in connexion with this matter. The suggestion of the Attorney-General would not meet the case at all, because it will not amount to a declaration of policy or a direction to the Government, but will simply confer certain powers upon the Government to make regulations, which they may, or may not exercise. It does not afford any assurance either to this House or to the country that the Ministry will carry out the policy of preventing the employment of coloured labour on mail steamers. I hope the Government will not postpone this matter, but that we shall decide it once and for all. If the committee support the Government in this matter, they will be voting against the employment of coloured labour on mail steamers without adopting the measures necessary to give "effect to their views, and, therefore, they should vote for the proposal of the honorable member for West Sydney, which will put the matter in practical shape from the outset. The sooner we come to a thorough understanding the better. The present Ministry may not occupy the Treasury benches in the near future. Their places maybe taken by a Government which may not be so inclined to restrict the employment of alien labour as are the present Government, and thus the regulation may never be carried out. It may remain a dead letter. I can quite understand some honorable members urging that there are portions of this Bill which should have been contained in the regulations. Now, however, the Government are attempting to import into regulations a most important matter which should be contained in the Bill itself. If they think that they can secure the Royal assent to the

Bill merely because the provision, restricting the employment of coloured labour appears in the regulations, then the Attorney-General is wrong in asserting that Mr. Chamberlain is quite in touch with the aspirations of the Australian people. I do not see anything to be gained by the course proposed by the Government except that it would give a sort of compliance with a vote which was taken somewhere else within the last two or three months, when some aged and respectable gentlemen declared- themselves, opposed to a certain clause being inserted in this Bill. I do not think that this House is prepared to take up that attitude. I shall vote for placing this provision in the Bill as a matter of policy. I hope that the committee will regard this matter as one of policy, and-not as one of regulation.

Mr. HUGHES(West Sydney).- It has been suggested by some honorable members; that the amendment as it stands would include coloured labour coaling operations- I had no intention of including those operations, and I therefore desire to add to the amendment the words -

Such provision shall not apply to coaling or taking in stores at foreign ports.

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Mr MCDONALD

- It is just about time that this matter was settled. The same question has been before the House on three different occasions, when we were told that we must not adopt this course or that course because of the fear of the veto of the Imperial Government. On each occasion the fate of the Queensland Sugar Works Guarantee Bill has been trotted out as a reason why we should adopt a course different from that which this House desires to adopt. If we cannot legislate upon certain matters, the sooner the Imperial Government tells us so the better. I believe that the Government ought to have sufficient courage to

declare their policy, and to allow the onus of preventing that policy from being carried into effect to remain with Mr. Chamberlain or with the British Government. The Government,, however, seem to be prepared to trim their sails to some idea which Mr. Chamberlain has himself expressed. I do not know that the same idea has been, expressed by any other member of the British Cabinet. But at the "Jubilee conference of the various Premiers in London, Mr. Chamberlain delivered a sort of lecture, and told his hearers that because a large number of coloured people formed a part of the .British Empire, no Bill would be accepted by the British Government unless based on the Natal Act. I have not Mr. Chamberlain's words here, but I shall have an opportunity, on a future occasion, of reading them to the House. That gentleman made a similar statement in connexion with the Sugar Works Guarantee Bill of Queensland, and a further report, which the Prime Minister referred to the other evening in his address on the Alien Restriction Bill, also went to show that that was the opinion of Mr. Chamberlain only. I repeatedly interjected to the Prime Minister and the Attorney-General, when they were addressing the House, that there were other Bills which were passed in Queensland almost within the same month, and which received the Royal assent containing exactly the same provision as the Sugar Works Guarantee Bill, which was rejected. It seems an extraordinary thing that the last named Bill was held over for the Royal assent and eventually vetoed, while the other Bills, containing an exactly similar provision, were passed. I have compared the clauses in the different measures, and I can assure the House that the proposal in the Sugar Works Guarantee Bill was exactly similar to the provision contained in the other Bills, with one exception. One of the measures does not refer to Africa, whilst all the other Bills contain the words "Africa and Asia." Section 6 of the Gladstone to Callide Railway Act provides -

No aboriginal native of Africa, Asia, or of "the Pacific Islands shall be employed by the company, or any of its contractors or sub-contractors, in or about the construction, maintenance, or management, &c. Then it goes on to recite the penalties to be imposed. That refers really to the persons whom it is desirable to exclude from working on certain contracts in Queensland.

Mr Higgins

- Does it apply to subcontracts as well ?

Mr MCDONALD

- Yes, it applies to contracts and sub-contracts. It prevents these persons from being employed in or around the works. In section 7 of the Albert River and Bourketown Tramway Act we have the following provision : -

No aboriginal native of Asia or of the Pacific Islands shall be employed by the company in or about the construction, maintenance, or management, &c.

The word " Africa " is there omitted. At the time the Bill was discussed feeling was running very high in Queensland, and the opposition to these, measures was so strong that the Government had to come down and pass certain standing orders which are known as the "guillotine." The result was that this Bill was put through at a late hour and. the word "Africa," which was inserted as. an amendment in the other Bills', was not inserted. Section 6 of the Glassford Creek Tramway Act provides -

No aboriginal native of Africa,' Asia, or of the Pacific Islands shall be employed by the owners in or about the construction, maintenance, or management of the tramway, &c.

Mr Deakin

- Were those private tramways t

Mr MCDONALD

- They were not private Bills. Private companies were to construct the lines, but the measures were introduced as public Bills. I raised the point, as to whether they were properly introduced on the ground that they were private Bills, and it was held that they were public Bills.

Mr Barton

- They did not have any select committees upon them 1

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Mr MCDONALD

- No. My own opinion is that they were private Bills. Again, in section 7 of the Mount Garnet Company's Railway Act we have the following provision : -

No aboriginal native of Africa, Asia, or of the Pacific Islands shall be employed by the company in or about the construction, maintenance, or management of the tramway, &c.

We have a similar provision which prevents, coloured aliens from taking out miners' rights for gold-fields. The Bill containing it was vetoed upon the first occasion by the Home Government, but exactly the same measure was passed in a later session, and received the Royal assent. In the Chillagoe Company's Act a similar provision was inserted, and that was accepted. There are therefore six measures operating in Queensland at the present time which contain similar legislation to that which the Attorney-General says will be vetoed if inserted in this Bill. I have always understood that it was our function to give expression to the desire of the people of this country. There are no two opinions, upon the question of -a white Australia. The Prime Minister went to the country upon that cry, and he was supported throughout the length and breadth of the Commonwealth. There was hardly a man who had the courage to declare himself upon, the hustings in favour of black labour..

Almost every Member of the Federal Parliament went to the country on the cry of a white Australia, and it was very gratifying to those who had been fighting for so many years for a white Australia to see the results achieved. Regarding the particular measure, which was vetoed, an extraordinary course was taken by the Attorney General of Queensland, when he instructed the Governor to withhold the Royal assent ; and the explanation which the Attorney-General gave when challenged at the beginning of the present session was equally extraordinary. As far back, I think, as 1883, when the first land grant railway was sought to be established in Queensland by Sir Thomas McIlwraith, the present Attorney-General moved that there be inserted in the Bill a provision that no coolie or Asiatic labour should be employed. The general opinion at that time was that the railway company which had obtained the concession, was going to construct the line by coolie labour ; and to prevent that and to kill the Bill, this clause was inserted. The Attorney-General now takes up the position that because that clause received the Royal assent, it became the policy of the country, and that, therefore, it was not within his province to advise that the Syndicate Railway Bill should be withheld from the Royal assent, while it certainly was within his province to advise the Governor to withhold the Royal assent to the Sugar Guarantee Act. I rise to make this explanation because there seems to have been a doubt as to what was really the reason. Looking at this matter from another point of view, my opinion is that a policy is being initiated by Mr. Chamberlain to make us recognise Indian coolies as British subjects and brothers. So far as the law goes they are British subjects, but I doubt whether many of us recognise them in the true spirit of brotherhood. A few years ago Mr. Chamberlain said to the Australian Premiers, that those men were often better born than was the average white man. That may be so, but personally I am one who doubts it ; and Mr. Chamberlain would doubt it too, if it was proposed that he should take one into his own family. In all seriousness we ought, to have sufficient courage to say to Mr. Chamberlain, or anyone else, that we are going to make this a " white Australia," no matter what the cost.

Sir WILLIAM McMILLAN

- It is a great pity that so much excited declamation has been wasted on the question whether or not the British Government will assent to any measure we may pass. It will be quite time enough when the situation arises, for this House and the Commonwealth to take the matter into consideration. So far as the present proposal is concerned, there is no reason whatever for saying that it will be disallowed by the British Government. It is purely a matter of our own arrangement. If we like to keep the coloured man, not merely out of Australia, but also out of the ships which carry our mails, we have only to " pay the piper," and probably we shall "pay the piper" if we place any such amendment in this Bill. In discussing the question to-night, we have nothing to do with what is called a " white Australia." The policy of a "white Australia" we shall all be able to refer to when the Alien Restriction Bill is before the House, and I shall give my view on that question at the proper time. At the present time we have to deal, not by declamation but in sober earnest, with a very practical question. We have been carrying the oversea mails of this country under international arrangements, and under customs and usages which have prevailed, and by which, on payment of a moderate subsidy, we have been able to obtain enormous advantages in our communications with the rest of the world. Even if I were in favour of a policy which would gradually do away with coloured men on subsidized lines of steamers, I should certainly say, as a practical person, that the time has not yet come to put any such restrictive amendment in this Bill. We are partners, as has been said, in all these arrangements for subsidized mails, and by the payment of a very reasonable amount, as compared with what used to be paid in years gone by, we get enormous advantages in this partnership. In a partnership of this kind we cannot dictate to the other partners the conditions on which



the mails are to be carried. Does any honorable member mean to say in sober earnest that he wants to say to these common carriers that if they allow a single coloured person to do any labour on board their ships, the subsidy will not be granted?

Mr Page

- Yes ; to every one !

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Sir WILLIAM McMILLAN

- And shall we also say that those employed must be white British subjects ? Does anybody know the trouble it takes to man ships all over the world, very much, no doubt, to the detriment of Great Britain - very much, no doubt, to the detriment of our mercantile marine, and very much, no doubt, to the detriment of our naval interests when the time comes for us to want able seamen 1 There is no doubt that there is a disinclination in the British islands to carry on a seafaring life, which disinclination did not exist years ago ; and ships cannot wait for months and months in port in order to make up crews, simply because they cannot get British subjects. As a practical question, this amendment is absurd. We cannot control the conditions of the civilized world, even from the great Commonwealth of Australia. Then, again, we expect to be the centre of the great commercial life of the Pacific in the southern "world. We shall be opening up trade relations with other countries besides Great Britain, and it might be well in years to come, to subsidize steamers carrying mails between America and Australia. What right have we to dictate, in any service which might be partly owned by America and partly owned by Australia, that none but Australian or British subjects should be employed on board such vessels t The thing is absolutely ridiculous. It will be quite sufficient for us, or those of us who desire this great consummation, to indicate to our Government that, if possible, an attempt ought to be made to gain this concession, But in a machinery Bill of this kind - in delicate matters that will have to be negotiated - to tie the hands of the Government in the way proposed is, to my mind, practically an absurdity. I must say that I feel very sorry the Government have not made a more determined stand to-night. I think they ought to have said either one thing or the other ; but the question has been evaded by the ingenious and eloquent speech of the Attorney-General. There is no doubt, to ray mind, that the Government do not approve of this move of the honorable member for West Sydney. And if the Government do not approve of the proposal, and think it is not a reasonable one to introduce into the Bill, why do they not honestly and straightforwardly dissent from it and take the chance of a vote ?

Mr Mauger

- The Government say they tlo approve of it.

Sir WILLIAM McMILLAN

-The Government do not say they approve of it.

They simply say they approve of the principle of a " white Australia," and that they approve, too, in a philosophical way, of the idea that subsidized vessels should be restricted to white sailors. But the Government do not come forward, as I think they should, and honestly tell the committee the practical difficulties of the situation. We are not going to disappear as a Parliament. We shall be able to legislate in the future, if this matter becomes of any great value, and if we think arrangements can be made by which the mail service of this country can be carried on expeditiously even under such drastic conditions. But would the Minister in charge of the Bill, or any Minister, attempt to say to-night that the present arrangements under which we get such enormous postal advantages all over the world, can be carried on under such a restrictive amendment as that proposed ? The Ministry can do no such thing. I do not want to say the Government are taking their present stand through any feeling of coercion, but they are taking it under the weight of a political necessity, which I think will be recognised ; and I think the difficulties would be recognised by this Chamber, if the Government were a little more straightforward and a little more firm in declaring their position. This enlargement of the idea of a " white Australia " - this dictating to steam-ship owners whose vessels go through places like the Red Sea, and voyage, into equatorial districts under the condition of modern steam-ships - is, on the face of it, an absurdity. Does any honorable member think that the work which is done in the Red Sea on some of the oceangoing steamers is work fit for any white man 1

Mr Page

- Yes. What about the men-of-war they have been howling about in Sydney for months past 1

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Sir WILLIAM McMILLAN

- The fact that there are white stokers on men-of-war, and that they often have to be carried out of the stoke-hole more dead than alive, is no proof that there ought not to be some common-sense principle adopted, where it can be adopted, in our mercantile marine. Nobody thinks for a moment that these ships are to be manned entirely by coloured men. I myself think that all these ships ought to be manned by white men, and, if possible, British subjects. I do not want to make my speech an absolutely British speech, but I do say, we- all feel safer when a ship is manned, in its principal positions, by British men ; but to say that no ship subsidized for carrying mails through equatorial regions shall have one man in the stoke-hole who is not a white British subject, is, to my mind, carrying the idea of a " white Australia " far beyond its logical conclusion. I take it for granted that the honorable member for West Sydney has gauged the opinion of honorable members, and I dare say he knows the temper of his fellow-countrymen as well as any man in this Chamber ; and when he says that there is an overwhelming majority in favour of restricting, if possible, the ordinary labour on board subsidized mail steamers to white men and to British subjects, surely no Government would dare to enter into a contract in which they did not, to the utmost of their ability, try to carry out the provision now proposed. But to say that we can ask any company to make a contract, from which we get enormous advantages on payment of a moderate subsidy, and in that contract to provide that on no condition shall one coloured man enter the ship or, even in the tropical regions, be allowed in the stoke-hole, is a practical absurdity.

Mr Hughes

- That is done now.

Sir WILLIAM McMILLAN

- I know it is in some cases, but it would be a good thing if it were not done in some cases. I hold that the conditions under which men work in stoke-holes on the Red Sea, for instance, are not conditions compatible with the constitution and habits of British subjects. I am largely in sympathy with the feeling which actuates this proposal, and, as I said before, I never like to be on a ship where the majority of the sailors are not white British subjects. I feel more safety, and I feel less fear of a panic, because I think that, under all the circumstances, every man will do his duty. But entering on the legislation of this great Commonwealth, which must, whether connected with the British Empire or not, have large international relations, such a proposal seems to me absurd, and will, I think, cause great comment. We should be very properly censured all over the world if we put into the Bill a drastic provision of this kind, and left no discretion with the Executive Government, upon whom the responsibility rests.

Mr WATKINS

- It is distressing to hear an honorable member stand up here and point out that the British sailor has practically disappeared, and at the same time object to legislation such as is now being proposed, which is the very thing that will cause him to return. It has been the introduction of cheap labour which has made it impossible for the British sailor to continue to follow the sea. When we compare the patriotism which has been dealt out to the British tar with the patriotism of other nations to their sailors, the tale tells against us. We do not find coloured labour employed on the French vessels coming into our ports.

Sir Malcolm McEacharn

- I have travelled in the French steamers time after time, and I know that scores of black men are employed on them.

Mr WATKINS

- We do not find black men employed on the German steamers.

Mr Sawers

- They are heavily subsidized.

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Mr WATKINS

- So much to the credit of those who subsidize them. We desire to pass the amendment so that those vessels which we at least partly subsidize shall be manned by white British labour. The argument that British sailors cannot work in the stoke-holds when passing through the Red Sea falls to the ground in the face of the statement that they do the work better than other labour, not only in the Red Sea, but also right up the China coast. White men have had to take the place of Chinamen, who have been unable to

fire British men-of-war, and it is idle to say that British sailors cannot fill these positions. The British sailor cannot, however, work under the same conditions as the black fellow is asked to live and work under. He wants better pay and better conditions. The whole thing is a matter of pounds, shillings, and pence. Are we to have no voice at all in regard to this matter? Are we simply to pay the piper, and allow the conditions of the contracts to be determined by the British Government? Even if we have to pay a little more than we are paying now, it is better to do so in order to have our wishes carried out. I shall support the amendment rather than the proposal of the Government, because the Government proposal simply puts the matter off indefinitely. The question is one which had better be dealt with in the Bill. I have not the slightest fear that the British Government will veto the Bill. When one of the State Legislatures has managed to get a more drastic provision agreed to in no fewer than three or four measures, I do not think that the Crown will offer any obstruction to us when we attempt to legislate in the direction proposed. I trust that the committee will carry the amendment. Let us at this stage say that we are determined that we shall have a white Australia, at any rate so far as the manning of the vessels which carry our mails is concerned.

Mr. HENRY WILLIS (Robertson). It seems to me, from the statement of the Attorney-General, that the difference between the amendment and the proposal of the Government is covered by the question, shall the policy we desire to bring about be established by regulation or by special enactment. The Government are practically in favour of the amendment as it originally stood, but the honorable member for West Sydney has amended it by the insertion of a word which I think will preclude the committee from adopting it. He now wishes to stipulate that the vessels carrying our mails shall be manned by white British subjects. I do not think that Parliament would pass such an enactment, because it would prevent other than British steamers from carrying our mails. But we have a right to stipulate that the steamers carrying our mails shall be manned by white men. If, by so doing, we are forced to pay more for the carriage of our mails, that is our business. All that the stipulation means is that the companies who employ black labour on their steamers shall not be allowed to undertake the conveyance of mails. I am of opinion that it is our duty to enact in every measure that is brought forward that white labour shall be employed. It is the policy of the Government, and I cannot see why they should raise any objection to the proposed amendment as originally introduced. If it is pressed in its amended form I must oppose it, but I am prepared to vote for it in its original form.

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Mr WATSON

- Whatever virtue there may have been in the suggestion of the Attorney-General, was destroyed by the explanation which he gave as to its probable effect, because the honorable and learned gentleman's explanation made it easy to see the object of the course which he suggests. I think that the sooner this Parliament comes to an understanding with the British Government as to the powers conferred upon it by the Constitution Act, whether it be in relation to the immigration of people to these shores, or to the carrying out of the necessary services of the Commonwealth, the better it will be for the future conduct of the affairs of Australia. I do not share the pessimistic views held by a number of people with regard to the treatment this matter is likely to receive at the hands of the home authorities. Leaving out of account the parallel that might be drawn in regard to the treatment afforded to the American colonies years ago, and coming down to more recent times, we find that during the last ten or twenty years there has been a marked change in the attitude of the Colonial-office in regard to the affairs of these States. I think that this change will be accentuated by the fact that this Parliament can speak for the whole of Australia. If the desire of Australia in respect to this or any other aspect of the coloured labour question be stated by us to the home Government, I do not think it will have to be stated twice to secure their consent to the course of action which we \* favour, so long as they are assured that it is the wish of Australia, and not the expression of a chance majority. As to the form the amendment should take, and as to whether it would not be wise to make the issue between white and coloured labour a little more distinct, that is a matter for the honorable member in charge of it. It is distinctly refreshing to find that an honorable member like the honorable member for Wentworth has the courage to voice the opinions to which he has given expression in regard to this question. I dare say that no honorable member is more fully acquainted than he is with the conditions prevailing on board the British merchantmen which come to these States. But he should know that it is only a small proportion of those vessels that carry coloured labour. Of the vessels

of the tramp lines, the regular cargo steamers, and the mail steamers, how many are there which employ coloured labour even in the stoke holds? The two "White Star" lines employ white labour wholly, and the P. and O. Company employ coloured labour. Except' with regard to one ship, which I am afraid marks the initiation of a new policy, the Orient Company employ white labour. The Blue Anchor line also employ white labour, and I believe the Gulf line, which is represented by the firm of the honorable member for Wentworth, also employ white labour. These companies employ white labour, and yet the sympathy of the honorable member is going out for the company which transacts only a fractional part of the business done with these colonies. The Atlantic lines also employ white labour. They do not employ so large a proportion of Britishers as I would like to see, in view of the preservation of the British mercantile marine, but they do without the assistance of coloured labour. The honorable member for Wentworth stated that if we inserted a clause of this description we should hold ourselves up to the ridicule of the civilized world. As a matter of fact, however, quite a number of the most prominent of the civilized nations of the world have very similar conditions to those now proposed governing their mercantile marine, but they go very much further. The American mail steamers are compelled not only to employ white labour, but a certain proportion of United States citizens, while in the German mail steamers they employ only German subjects. In the French steamers coloured subjects are employed in the stoke-hold only, and all the deck employes are white subjects. As far as the P. and O. Company are concerned, they employ coloured men on deck as well as in the stoke-hold, and with the exception of the quartermasters, officers, and engineers, all their employes are coloured. If the various nations named have in their own contracts imposed such conditions, what becomes of the contention of the honorable member for Wentworth that by following in their footsteps, even in a modified degree, we are likely to subject ourselves to the ridicule of the rest of the world? The honorable member for Wentworth also contended that the Executive Government ought to be best able to judge in these matters. I admit that so far as the minor conditions are concerned the Executive Government is better fitted to judge and to advise Parliament, but with regard to a matter of policy this House should not trust any Executive Government. We have a right to lay down the main lines of policy to be followed, consistent, of course, with our having behind us the mandate of the people. I contend that the citizens of this Commonwealth - even in the most unlikely quarters, and to the great surprise of many of the leaders of public opinion in Australia - have spoken with one voice, and that it now rests with this Parliament to carry out the wishes of the people and to arrange that there shall be all along the line a white Australia for all time.

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Mr HARPER

- I feel that in dealing with this question we ought not to anticipate, the discussion that will take place when we have to decide the question of a white Australia. The Government announced their policy on this question, and they have intimated their intention to introduce Bills that will have the effect of carrying out their policy. I would remind the honorable member who introduced this, amendment to-night in a very able speech, and also those honorable members who are supporting him, that we have not been discussing a white Australia, but have been going very much beyond that question. I think it would be particularly unfortunate if honorable members who differ from the honorable member for West Sydney should be put in the position of apparently opposing a white Australia, because they do not see their way to support this particular amendment. I understand that the desire of the people of this country is to see that we do not receive within our borders, and allow to settle amongst us a coloured alien population. But the new clause that we are now discussing goes further than this and says that we shall not allow any ships coming here and receiving public money for carrying our mails to employ any other labour than that of British white subjects. It seems to me that for the last two hours we have been discussing a question quite apart from the subject of this Bill. We are dealing now with a question which it is perfectly right for this House to consider, but we are not called upon to deal with it at the present time at all. When this question was raised originally, the Prime Minister took the sensible course of intimating that, inasmuch as the present mail contract had another four years to run, Parliament would have an opportunity of deciding as to what contracts should be entered into in future and also of making those contracts subject to any conditions they desire. Honorable members must remember that we are not here as members of a debating society to discuss abstract questions, and when the time comes for us to deal with the mail contracts we can decide the question as to whether white or coloured labour shall be employed on the ships used for

carrying on the mail service.

Mr Watson

- We shall have to contract a long way ahead.

Mr HARPER

- Exactly ; but there will be nothing to prevent the honorable member for Bland from bringing forward a motion affirming that no contract shall be entered into except on the lines he desires in the future, and that resolution may be carried as a direction to this or any future Government. There is, however, no necessity for us to dispose of the question now in connexion with a machinery Bill having reference to the organization of our Postal department. Moreover, it is undesirable that we should tie the hands of the Government by imposing certain extreme conditions which may very seriously limit our choice when we come to make arrangements for our mail service. Then, again, the British Government may not see their way to enter into a contract on the lines that are now proposed, because the cost involved would be so much greater. Furthermore, the people of this country, if they found the cost would be enormously increased, as it undoubtedly would be, might consider that, inasmuch as the black men employed on these ships are not likely to contaminate Australia, it would not be worth while to carry their ideas regarding a white Australia so far as to object to the employment of coloured labour on the mail boats.

Mr Page

- How does the honorable member account for a similar law being in force in Queensland to-day?

Mr HARPER

- I cannot account for what happens in Queensland, but I am trying to look at this matter in a business way. We might carry a resolution that would prevent the employment of black people in the postal service within our own borders, but there is no necessity for making a similar declaration in regard to our mail contracts which will not require to be considered for the next eighteen months or two years. I regret that the Government did not adhere to the position taken up by the Prime Minister in the first instance, when he stated that he would see that before a new contract was entered into negotiations would be opened up with the idea of carrying out the wishes of the people - or the assumed wishes of the people - on this question. We should then have before us the whole of the facts, and we should know whether it would be possible to enter into a contract on the terms we desired, and what it would cost the country. The position taken by the Government then was a sound one, but if the action now proposed by the honorable member for West Sydney is agreed to it may have the effect of causing a reaction and leading the people of this country to say that those who are putting forward their views in favour of dispensing with coloured labour on mail steamers are going too far. I think the proposal of the honorable member for West Sydney is a mistake from the stand-point of those who wish to see a white Australia, because it will be going far beyond that demand, and far beyond the necessities of the case. I shall be quite prepared, when the question comes up, to discuss the whole subject of the employment of black labour on these ships, but, as one who has travelled frequently by the various lines of steamers, including the Orient line, upon which they employ only white labour, I might tell honorable members that I have been sorry beyond measure to see white men employed in the stokeholes of these ships in the Red Sea, and on the way across to Colombo. No one who has witnessed the condition in which these men are brought up - absolutely more dead than alive - and who has seen them restored by means of throwing buckets of water over them, would desire any one of their fellow-countrymen to occupy a similar position.

Mr McDonald

- Would not the same, thing apply to the black man ?

Mr HARPER

- No. For very sufficient, reasons it does not apply to the black man. The latter is accustomed to living in hot countries, whereas our northern fellow countrymen are not inured to those latitudes. It has been said that the two White Star lines employ only white stokers. That is so, but their course is. down through the southern latitudes, so that they have cool weather all the way.

Mr Tudor

- They have to cross the Equator.

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Mr HARPER

- That is a matter of only two or three days. It is very different indeed from travelling from .the north of

Western Australia to Aden or Port Said, thus following a course which is within the tropics all the way. But I do not desire to anticipate a discussion which we may profitably enter upon on a future occasion when we come to deal with the necessity for making new contracts but which is altogether beside the question at issue on the present occasion.

Mr RONALD

- -There are certain words in the proposed amendment which are entirely unnecessary. I refer to the words "employ directly or indirectly other than white British subjects." These mail steamers are, understand, naval reserve steamers. They are reserved for naval service in time of emergency, and consequently they must have all British subjects on board. There is no reason why we should confuse the issue of a white and coloured Australia by using such an exclusive term as "British subjects." By doing so we are putting a stigma upon a very superior class of people as sailors. We do not object to the black man because of his colour, but because of the cheapness of his labour. The Swedes and Norwegians have a finer form of democracy than we have, and -will not work for starvation wages. They are not cheap labourers, and we have- no right to put a ban on a large body of Australian citizens. I have hundreds of them in my own constituency. We have no right to place a ban upon them to the extent indicated, because if they are employed on the mail steamers - those steamers being reserve naval ships - they must be British subjects. Consequently, I object to the amendment as it now appears, but would gladly welcome an opportunity of voting for it in its original form. In regard to this matter, the Government have attempted to put off the evil day. It seems to me that their methods simply offer a premium or inducement to the British Government to take exception to this provision. The authorities in Downing-street will say - "If there were any consensus of -opinion on this subject in the Commonwealth Parliament that opinion would find expression in the Bill and not in the regulations." We want them to understand that there is a consensus of opinion upon it, and consequently, we want some provision of the character referred to inserted in the Bill itself. I hope I shall have an opportunity of voting for the amendment in its original form, which puts the issue of a. white and coloured Australia clearly before us. The later form of amendment confuses the issue, puts a stigma upon a highly respectable class in our midst, is a superfluity, and consequently has no right here.

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Mr G B EDWARDS

-I should not like to remain silent on a matter of such importance. The position of the Government seems to be altogether inexplicable. Either they should support this amendment or oppose it. The attitude taken up by the Attorney-General in shadowing forth how the Government intend to deal with this matter was one of which, I am sure, the honorable gentleman himself was not very proud. To obtain a certain end, which he knows very well has the indorsement of the great mass of the people of the Commonwealth, he will lower the Commonwealth to the extent of adopting a subterfuge. I hope the day will never come when this Parliament will adopt any scheme of subterfuge in order to assert what it believes to be its undeniable rights. Whatever may have been the case in the past, now that we have a united Australia and can' speak with one voice upon great questions of national policy, the circumstances of our relations with the Imperial Government have entirely changed. Therefore it is right for us if we feel so inclined to tackle this question in the way proposed by the honorable member for West Sydney, and to see that the matter is dealt with at once if possible. One honorable member who represents the State of Victoria has argued that, as this is a machinery Bill, we have no right to introduce such principles into a discussion of its clauses. It is too late to argue as to what we shall or shall not introduce into this machinery Bill- This measure has already trenched in every conceivable direction upon every matter of policy that can possibly engage the attention of the Government. We have already dealt in it with questions involving moral and intellectual principles, contracts, &fcc, and if it is the opinion of Australia that we should take some steps in the direction of limiting the employment of coloured labour upon our mail boats, we have a right to act under this Bill. We have no justification for accepting any assurance from the Government that the matter will be dealt with in any other way. If it is to be dealt with at all, the only way I can understand of dealing with it is straight out from the shoulder. Though this matter has been discussed by several honorable members with a view of restricting the debate to the bare question of how we are going to carry our mails, I feel that we cannot approach its consideration after the way it has been dealt with by the Attorney-General without trespassing on the greater question which will shortly . engage the attention of this House. The question

of the restriction of coloured immigration must necessarily enter into the consideration of this matter after the arguments used by the Attorney-General, who suggested that the course proposed by the Government was one which sought by a subterfuge to get rid of the black labour difficulty in this problem. If we can get rid of that difficulty by this roundabout subterfuge we can adopt the same sort of subterfuge in what have been termed the hypocritical clauses of the Immigration Restriction Bill. I believe that this Parliament should on the very first opportunity lay down the broad principles of what it believes to be its constitutional privileges and functions. I believe it should assert its right to control its own destiny so long as that course does not infringe upon the responsibilities of the mother country. I hail with satisfaction the fact that in this discussion we have trespassed to a very large extent on the greater question of the restriction of coloured immigration. I am not altogether in favour of the amendment, because I think there are some objections to it. I should have preferred to see it deal only with coloured labour upon our mail steamers. It is rather a weakness to make it apply to British white sailors only. Perhaps it is well that we are dealing with the matter in this way, because we have a better chance of getting the Bill through without the trouble so unnecessarily presupposed by the Attorney-General. I do not think that the Governor-General or the Crown will veto the passage of this Bill. It would be a matter for regret if such a step were taken. I do not anticipate that such an extraordinary step will be taken, because I believe that the great mass of the public of Great Britain are in favour of restricting the crews of our mercantile marine to white seamen. Over and over again we have read accounts of terrible marine disasters to ships which were chiefly manned by coloured sailors. On such occasions the behaviour of these seamen has given a great deal of trouble and has intensified the disasters. I have repeatedly read articles in the English magazines and reviews affirming that the idea of limiting the employment of sailors in our mercantile marine to British seamen is fast gaining ground in the mother country. I believe that a large section of people in the old country will hail with considerable satisfaction any decision by this House in favour of giving its mail subsidies only to such steamers as are manned by white labour. It has been argued by the honorable members for Wentworth and Mernda that the Commonwealth will incur some risk by adopting this amendment by reason of the fact that we shall have to pay higher sums for the conveyance of our mails than we pay at present. Not only do I believe that such will not be the case, but I think that the time is within measurable distance when we shall be able to carry our mails without the payment of any subsidy whatever. A number of mails are now carried as ordinary cargo, and the competition amongst our large steamers for the passenger traffic is so great that we can depend upon that and that alone for giving us fast and regular communication. I think that we can boldly grasp this nettle and agree to take our chance as to what we shall pay for the conveyance of our mails in the future, so long as we insist upon the boats being manned by white labour. I regret that the honorable member for West Sydney has thought fit to make his amendment go so far as to provide that this white labour shall be limited to British seamen. I think it is a retrograde movement for the British race to attempt to exclude other European nations. But we shall accomplish so much good by passing the Bill with this proviso, that such action will assist us very considerably when we come to deal with another measure about which much more difficulty is apprehended. Although I do not quite concur with the amendment on all points, I will give it my support.

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Mr POYNTON

- We have been asked why we should discuss such a proposal now ; but I do not know of any time that is more opportune than the present to discuss the proposal before the committee. It is not a question of a " white Australia " in the broadest sense. We are not discussing the question of the immigration of aliens, but we are discussing the question of contracts under which we have to pay a certain amount of subsidy ; and it seems to me that this is the most opportune time to discuss the question as to what class of labour is to be employed in connexion with those contracts. In my political experience I have found that, whenever we come to a knotty question, it is generally said that the present is not the time to deal with it - that this is not the place or not the clause. That seems to be the attitude of the Government, and the attitude of those who are opposed to the proposal to-night.

Mr Higgins

- A machinery Bill presents the proper opportunity to draft machinery provisions.

Mr POYNTON

- I take the stand that when we are dealing with the question of contracts is the proper time to say what conditions shall apply to those contracts. It is idle, in my opinion, to ask the committee to postpone this proposal for the purpose of bringing in some regulations. To make such a proposal is to ask us to shunt our responsibilities on to somebody else. There is the straight issue before us tonight : Are we to subsidize ships which carry our mails and which employ coloured labour ? If we are not prepared to take up the cudgels on that question-

Sir John Forrest

- That is not the issue.

Mr POYNTON

- The proposal is broader than that. What I say is, that was the issue at any rate when the Government came down with their proposals. That was the issue raised by the notice of amendment. The fresh issue introduced was that we were to postpone this question, and provide for regulations dealing with the labour employed. But I am not ' prepared to delegate to anybody else what I ought to do myself. I do not know how long I may be in this Parliament, but I know I was returned pledged absolutely against the introduction of coloured labour, and more particularly against the introduction of labour of this character which is subsidized. It is all very well for the Government to try and postpone the evil day; but how does the Government know they will be on the Treasury benches when this question is next dealt with ? It is a simple method for the Government to postpone the responsibility ; but there is a majority in the House, if they are true to the pledges they gave on the hustings; in favour of prohibiting this kind of labour on subsidized mail steamers. It has been said that we may jeopardize the passing of this Bill by the insertion of this particular clause. That was the argument used in another place by the Government representative, and it has been used to-night by way of innuendo. But we are not here to consider that position. If there is any thing in which we have a right to dictate terms, or, at any rate, to have some say, it is in regard to contracts under which we pay money. It seems to me that there is a very plain and clear-cut issue, and that there ought to be no quibbling - no dragging \_ of the herring across the trail in the way of amendments which delegate the responsibility probably to some future Government. Let the Government take the responsibility to-night. If it is right to deal with this matter by regulation, why is it not right to place some pro-

I vision in the Bill 1 Is it right in the interests of economy - in the interests of saving time - to discuss on the regulations every question of contract ? Is it understood that every contract that is to be let is to be discussed in detail on the question as to what the regulations shall be. I am not one who believes in putting too much legislation into regulations. It ought to be set forth within the four corners of the Bill that where we subsidize a mail steamer we shall say what class of labour is to be used on board; and, therefore, I support the proposition of the honorable member for West Sydney.

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Mr TUDOR

- It is not my intention to speak at length on this question to-night. It has been argued that this is not the proper "place to introduce an amendment of- the sort, but that the proposal should be left over till another time. To postpone the evil day as far as possible is evidently the idea of some honorable members. For myself, I believe this is the proper place in which to introduce the provision. The honorable member for South Sydney has said that in this Bill we have legislated for every- conceivable sort of tiling that could possibly be introduced, and I believe that we should put in the measure the decision of the committee on this question. 1" should have liked to see the Government remain true to the pledge given by the Prime Minister, and themselves have brought forward a proposal of the kind. The honorable member for Wentworth said that this restriction would be detrimental to the British Navy; but I hold that one of the best ways to build up the navy would, be to provide that only British white subjects should form the crews on moil boats which receive a. subsidy from the Commonwealth. At the present time, ' only one line of steamers calling at Melbourne employs black firemen. I speak of the P. and O. line ; but their example has been followed by the Orient Company, and this gives rise to a peculiar position. I am given to understand that the boats which the Orient Company own themselves are going to employ lascars to do the firing, but that on the boats they charter from another company they are compelled to employ white firemen. It pays them to charter boats and pay for white firemen, but, in order to make more money, they are agreeable to employ black firemen on other steamers. An honorable member has said that iti



travelling on the Red Sea he has seen firemen brought up exhausted and revived with buckets of water. But I have travelled in July, which is the hottest month of the year- on the Red Sea, and I never saw a fireman brought up from below in such a condition, and I have no doubt that if honorable members spoke the truth they would say that they had seen black men suffering in a similar way. The work in the stoke-hole can be done by white men as well as by black men . The honorable member for Mernda wanted to make out that the heat experienced on the boats was greater in travelling across the Indian Ocean than elsewhere, but it is admitted that it is no warmer from Perth or Albany to Colombo, and thence to Aden, than travelling off the west coast of Africa. There is no difference in the average temperature, and it is only the two or three days in the Red Sea which make the difference. In regard to British subjects, I hope the honorable member for West Sydney will stick to his amendment ; and I believe that so far as the British Government is concerned, the measure will be passed in that form probably more easily than in any other form. I regret that the Attorney-General should have said the proposal would have a better chance of getting through in the form of regulations. If they get an inkling in Downing-street that we are likely to back down, and are afraid that the Bill is not likely to pass, directly the proposal goes home in the shape of regulations it will be rejected-, and we shall not have the same chance of resubmitting the question.

Mr MAUGER

- As I understand the position, the Government have submitted a scheme for arriving at what the honorable member for West Sydney has in view. The Government are quite prepared to accept the responsibility of making contracts on the lines set out in the proposal, but they think their way is a better one. 13 o 2

Mr Deakin

- And the safer.

Mr MAUGER

- I am sorry to have to differ from the Government. While giving them credit for sincerity and honesty, it seems to me to be the bounden duty of all those who have pledged themselves in this matter--

Mr Piesse

- What matter t

Mr MAUGER

- The matter of getting the ships as far as possible ' manned by white British labour. Whether this was a direct issue in the constituency of the honorable member for Tasmania, Mr. Piesse, I do not know, but it was a direct issue with me and those whom I was sent here to represent. I quite agree with the honorable member for Mernda that this is not a question of a " white Australia." But it is a question of a. white-man policy, and a question whether this Parliament is going to take the very first opportunity of declaring itself in regard to a very vital principle. The honorable member for Wentworth has stated that he does not think the time opportune ; but I do not know of any reform containing a vital principle in connexion with which I have not heard the same argument used. Factory legislation of every description from its first introduction in the early part of last century had the same argument advanced against it. It was said that it was not the time - that the industries were in such a critical condition that it was better to keep the women and children in slavery until a more opportune time.

Sir William McMillan

- The honorable member is finding out now that his factory legislation is not opportune, and that very bitterly, too.

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Mr MAUGER

- We are not finding that out. I can assure the honorable member that there is nothing of any importance in the cry that has been raised against the present factory legislation. I am quite convinced that to say the time is not opportune is not a statesmanlike way in which to meet a matter of this kind. If the time is not opportune, when will it be opportune 1 It seems to me that we have a clear and straightforward duty to perform. In regard to the British-subject point of view, I am told by men who have been to South Africa, and have been fighting in China - men of our own military and naval, forces - that other nations of the world guard their own mercantile marine. We do not find a Britisher on German vessels or French vessels ; these nations stand loyally by their own people. We talk a great deal about loyalty, but

we are not loyal to our own countrymen, and if we can get coloured or cheaper labour, it does not matter where it comes from, we put our own countrymen aside to give the cheaper labour an opportunity.

Mr Mahon

- What about the " brotherhood of man " ?

Mr MAUGER

- The "brotherhood of man" is a pure dream, whereas nationhood is a reality. I hope the Government will see their way clear to maintain the position indicated by the Attorney-General, but that the committee will follow the course indicated by the honorable member for West Sydney. Sooner or later Downing-street will have to be faced, and we might as well meet the Imperial authorities now in connexion with this machinery Bill as at any other time.

Mr SAWERS

- The question appears to me to be a very simple one. In the midst of the consideration of this Postal Bill, which is largely a machinery measure for the organization and regulation of postal affairs, we are suddenly brought face to face with the amendment of the honorable member for West Sydney, which deals with the question of coloured labour in a most drastic manner. I gather that the Government are in sympathy with the honorable member for West Sydney, only they wish to achieve the same object in another way. If, however, it is the opinion of the Government and the opinion of the vast majority of honorable members that the proposal as submitted by the honorable member for West Sydney should be carried into effect, I should prefer the direct rather than the indirect manner of doing it. We are all perfectly aware of the reason which actuates the Government in taking the course they are doing ; but is it to be said that this Parliament of United Australia will not embody a provision in a Bill because they fear that it will not receive the Royal assent, but that they will insert such a provision in regulations which will have all the force of law, and which will readily receive the Governor-General's assent? To follow such a course would be to attempt to achieve our purposes by indirect - I do not want to say unworthy - methods. The Imperial authorities would not question the right of this Parliament to pass an Act regulating our own expenditure, or the right of the Commonwealth Government to enter into a mail contract with a stipulation that no coloured labour shall be employed. The Imperial authorities cannot possibly imagine that they have any right to say that we shall not attach any conditions we please to the payments we make in regard to the mail contracts, or anything else. Still, at the same time, I do not see how the amendment can be passed in its present form. It is proposed that no contract shall be entered into with any company employing any but British white subjects on the ships used for carrying mails. It is perfectly well known by those who read current literature, that it is with the greatest possible difficulty that the British mercantile marine can be manned at the present time, and it is equally well known that half the men employed are not British subjects, but are to a very large extent Scandinavians, who are perhaps the best sailors in the world. This amendment would exclude from the ships carrying our mails all Europeans other than white British subjects ; but there is no doubt that the motion is aimed mainly at coloured labour.

Sir William McMillan

- There is a proposal to provide that the mail steamers shall carry a majority of British white subjects.

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Mr SAWERS

- Apart from that, it becomes a question whether it would be prudent or expedient to carry a resolution of this kind at the present time. Although I may run the risk of being misunderstood by my constituents, I do not hesitate to say that to the best of my judgment it is inexpedient to hamper this Bill with a provision such as that put forward. The Government, knowing the temper of this House and of the country, will take all sorts of care to carry out the wishes of Parliament, and I do not think it will be a fair thing to tie the hands of the Executive in this manner. It might be necessary to enter into a contract for the conveyance of mails between Australia and America, and we could not very well control these steamers as to the kind of labour that they should employ. Then, again, all the boats trading to Chinese and other eastern ports carry a large proportion of coloured labour, and it may be difficult to arrange with any other boats to maintain a proper service. Although I am in full sympathy with any reasonable measures that may be taken for the employment of people of our own race, I am not prepared to go so far as to tie the Government down in the way now proposed. I am as eager for the preservation of a white Australia as any man, but it seems to me that it is now proposed to aim at having a white ocean as well as a white

Australia. Although the Government are not able to speak out freely in this matter, we must be conscious of the fact that while we are a Commonwealth we are also part of an empire to which we must be loyal, and we should not do anything that would be calculated to embarrass the Imperial authorities in their relations with other powers. Great Britain has relations with such powers as Japan and Others, and whilst the Government may understand that it is the wish of this country that we should, if possible, give our mail contracts only to those companies who employ white people, it would be imprudent and impolitic to do more than indicate that at this stage, because many important considerations affecting the relations of the Empire with foreign powers have to be taken into account.

Mr. BATCHELOR(South Australia).The honorable member for West Sydney must be delighted with the large amount of sympathy with which he has met. Nearly all those honorable members who have spoken are in full sympathy with his object, but a number of honorable members do not think that they will vote with him, because this is not the proper place or the proper time or some reason of that sort. It is rather refreshing to hear a speech such as that of the honorable member for South Sydney, who said that he was favorable to the proposal, and intended to vote for it. One gets somewhat tired of those politicians who are always in sympathy with a certain object, but who never actually vote in the direction in which their sympathies lie. We shall probably have some trouble in enforcing our views in regard to a white Australia, but there will be no advantage at all in delaying a possible conflict with the Imperial authorities. I am not going to say that I think the home Government will attempt to thwart the express wish of the people of this Commonwealth, which, as shown by the speeches of honorable members prior to coming into this House, is that we should have a white Australia at all costs. There is equally no doubt as to the wish of the people regarding the employment of white labour on mail steamers trading to Australia. I think the Government would be well advised if they agreed to the proposal of the honorable member for West Sydney, because if they attempt to achieve the same object by means of regulations they will be adopting what may appear to be an underhand way of carrying out their purpose. I do not anticipate any delay in the passage of this Bill as the result of our adopting the proposal of the honorable member for West Sydney. In my view, the words "white British subjects" constitute one of the best features of the amendment. I quite agree that Scandinavians and Germans and other foreigners do very good service as seamen, but as these mail steamers are specially subsidized with Commonwealth money, I think that we have a perfect right to say that our revenue shall be spent in trying to build up the British Navy as far as possible by affording employment to British seamen. There is nothing in this condition that reflects at all upon the seamen of foreign nations ; it simply means that we shall be adopting measures which are in thorough keeping with the terms under which these vessels are held at the disposal of the Imperial authorities for service as transports or as auxiliary cruisers. It is of the very first importance that for such work they shall be manned by British subjects, and whatever other reasons there may be in favour of this amendment, that to me is a strong one. Let us have the nucleus of the British Navy in the mercantile marine, or at all events in that portion of it which carries the mails.

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Mr CROUCH

- I move-

That the amendment be amended by the insertion of the words " persons, the majority of whom shall be," after the word "white."

I understand that this amendment will be accepted by the honorable member for West Sydney. It also meets the views of a large number of honorable members who desire that the men employed on subsidized ships shall be white, but at the same time do not want to exclude other white men who do not happen to be British subjects. So far as the question of a white Australia is concerned, we are told that we should leave this matter over until the whole question of a white Australia is voted upon. If we waited until then, the first objection that would be taken to such a proposal as this would be that we have not jurisdiction to legislate in regard to

British ships outside the Commonwealth. Therefore now is the time to bring the matter up. I should not have felt that this question was so important if it had not been for the remarks made by the Attorney-General in regard to the British veto. I must say, when we have the people of the Commonwealth, the majority of honorable members of the committee, the Government itself, and the acting leader of the Opposition, in favour of the principle contained in the amendment, that to find a

Minister threatening honorable members with the veto of another Government which has no responsibility to us-

Mr Deakin

- Who did that ?

Mr CROUCH

- The Attorney-General.

Mr Deakin

- The honorable and learned member does me a great injustice, and ought to have better judgment.

Mr CROUCH

- That is the position which I understood the Attorney-General to take up ; that this committee should not do what it thinks to be right, but that it should consider the possible veto of the British Government, and the delay which would be thereby caused.

Mr Higgins

- The Attorney-General was very guarded in his statement.

Mr Chapman

- The honorable and learned member ought to withdraw his remark.

Mr CROUCH

- I am going to vote for the amendment, and I hope it will be carried, because I consider that in -addition to the advantage which the amendment possesses over the original proposal, it will possibly bring us face to face at once with the question of the British veto.

Mr Barton

- How will it bring that up now?

Mr CROUCH

- The question of veto will have to be faced. The House of Lords and the House of Commons fought it many years ago, with the result that there is now no veto of the British Parliament. It is obsolete ; it has not been exercised since the time of Queen Anne. Are we a free people and an independent' Parliament ? If we have to fight the British veto, if we have to say that we shall not submit to a Colonial Secretary vetoing our Acts, we cannot have a better -or more popular cry upon which to act than this very proposal which is being put before the committee by the honorable member for West Sydney. We are quite willing to have it vetoed by the Governor-General, who knows our own conditions. He represents the King, and if the King personally elected to veto this measure I do not suppose there would' be very much objection, because we could cure that veto in very much the same way as the British Parliament cured the veto of their measures, by refusing to grant supplies. If we did not pay the Governor-General's salary we should soon find that there would be no Governor-General. It is only until Parliament otherwise provides that there is to be a salary of £10,000 a year for the Governor-General. I do not propose, however, that such powers shall be used, because I do not think that they will be necessary. Nevertheless we shall have to fight this question of veto at some, time or other, and unless we do so now, we may not have such a popular position to take up hereafter. Already we find the ship-owners' conference in Sydney and the shipping federation going behind the Government responsible to this Parliament, and appealing to the Colonial Secretary to veto the Inter-State Commission Bill.

Mr Barton

- Not to veto the Bill, but to prevent it passing this Parliament.

Mr CROUCH

- That is one thing. A little while ago we had the Colonial Secretary stating distinctly that it was not the King who vetoed the Queensland Bill referred to by the honorable member for Kennedy, but that it was the Imperial Government. That really means that it was the Colonial Secretary. Therefore, we have a Colonial Secretary who is responsible not to this Parliament, but to people living under different conditions, and to a Parliament elected under different conditions, dictating to this House what legislation we are to pass.

Sir William McMillan

- Cannot the honorable and learned member wait until he is hurt ?

Mr O'Malley

- No ; now is the time to hit.

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Mr CROUCH

- I certainly thought the argument put forward by the Attorney-General was that the veto would cause delay, and that that was a reason why we should not adopt the amendment by the honorable member for West Sydney. If I have misunderstood the honorable gentleman - and judging by his indignation I have done so - I withdraw my statement on that point. I feel, however, that it is just as well to pass this amendment, not merely because a number of honorable members believe in it, but in order that we may face at once the action of the Colonial Secretary in trying to override our rights as a free people. As long as the power of veto exists while we are dealing with our own money and our own rights under our own Constitution it must be a public danger, and we cannot regard ourselves as a free democracy or a people who have any personal or parliamentary rights. I hope the amendment will be carried.

Mr PAGE

- In rising to speak to the amendment, nothing gives me greater pleasure than to stand in this chamber and advocate a white Australia. Some honorable members have said that this Bill does not affect the question of a white Australia. I fail to see how that argument applies. On the hustings, when I was seeking election, I pledged myself to do all in my power on the floor of this chamber to abolish the black man; and whenever I get a chance of hitting him, whether it is in the stomach or the head, or of giving him a kick on the shins, I intend to have a go at him ! This is the first chance we have had. The Prime Minister, in his Maitland speech, gave us to understand that he was in favour of a white Australia. Why does he not come out manfully now, and give us the opportunity. Now is the accepted time ! We have a chance of putting in a sprig for a white Australia, and to-night we are going to do it. I feel as confident that v/e are going to make a move in the direction of a white Australia to-night as I am that I am standing here. Whether the Prime Minister likes it or not in the way in which it is proposed, we are going to have it. The committee, not the Prime Minister, are going to take the responsibility. I was very sorry to hear the honorable and learned member for Corio accusing the Attorney-General of uttering something that he never said. The honorable and learned gentleman made no mention of the word " veto." If this proposal is good enough to go into the regulations let us have it in the Bill. We are not always going to have the present Government to administer the act. I hope, however, that they will be a long time in office ; so far as I am concerned they will stop there for ever. I am certain they are going to give us a white Australia, and I should like to see the Prime Minister, if he cannot meet us all the way, comedown from his pedestal and meet us half-way. We are returned here, and especially honorable members who represent Queensland, to obtain a white Australia, and nothing else. It is idle for any one to say he is a protectionist, or a free-trader, or a revenue tariffist, or a fiscal atheist, or anything else of that kind. We are sent here to secure a white Australia. We have had to battle for that, and for that alone. If I had declared myself as a follower of the Prime Minister and a protectionist I should have been returned here just the same. The honorable member for West Sydney only wants us to have the right of disposing of our money as we think fit, and I am sure the Prime Minister, having heard from honorable members what they mean by a " white Australia," is going to give it to us. Of course this is only a preliminary to the big encounter.

Sir William McMillan

-It is a skirmish.

Mr PAGE

- Yes. I am sorry to see the honorable member outside the skirmishing line. I have always taken my stand as a free-trader, regarding the term as synonymous with liberalism, but I am sorry to see that the leading free-traders here are chock full of conservatism. More than that-

Mr McCay

- The honorable member is advocating a protective policy.

Mr PAGE

- I am not particular what policy it is as long as we get a white Australia. The honorable member for Mernda has flung it back again in my teeth that we shall want a white Queensland. Honorable members representing Victoria should not forget that there is in this State a greater curse than we have in Queensland. I thank God we have not got in Queensland the cancer that exists in Melbourne. People who live in glass houses should not throw stones.

Mr Mauger

- What is the cancer?

Mr PAGE

- Go down little Bourke street and see.

Mr Mauger

- But there is far worse in Townsville.

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Mr PAGE

- There we bring it out into the open street, but in Melbourne it is hidden away in the slums. What I wish to see and what every labour man and democrat throughout Queensland wants to see is the insertion in the Commonwealth Postal Bill of exactly the same little clause as we have in our Queensland Act. If a kanaka Government could give us a provision in the Queensland Postal Act that we shall have white sailors on board vessels carrying the mails, surely this great Parliament can give us the same. Queensland has shown us the way, and are we going back on her ? When we go a little further, the honorable member for New England wishes to be a game supporter of the Government. I remember reading one of his speeches in which he declared himself strongly in favour of a white Australia. In fact, he was one of the strongest men in New South Wales upon that question. When the honorable member gets before his constituents again, he will hear of his changed attitude, even if it be five years hence. When some honorable members have a chance of voting for a white Australia they exclaim, " This is not the time. It is not opportune. Let us wait." My answer is that we have been waiting for years, and we are still waiting. I hope that if the Prime Minister cannot go all the way with us he will meet us half-way.

Mr Barton

- Whereabouts ?

Mr PAGE

- By carrying our mails upon steamers manned only by white labour. We do not wish to lay it down that they shall be British subjects. I am satisfied with white labour, and white labour only. In Sydney at Commonwealth time I saw the honorable member for Wentworth waving his hat when the British tars were marching in the procession. One little thing which he said at that time was - " Those are the boys, the handy men of the Empire.", Yet upon the first chance which he gets to give the handy men a show he shoves them down. He wants them to fight for him, to be handy men when there is trouble about; but when it comes to giving them an opportunity of earning a living wage, he denies them that opportunity. I have never been through the Suez Canal, like the honorable member for Mernda, and I have never seen men brought up out of the stoke-holds to have water thrown over them and to be fanned back to life. They do not do that sort of thing generally with men in the service. In the service, if a man falls he has to get up again or else to lie there. But I have been on board the Cunard liners, and the ships of Donald Currie's line, which run out to the Cape through the tropics, and I have never seen any man brought up from the stoke-hold in the manner described by the honorable member for Mernda. What about the men on our British warships, which go up through Torres Straits and the Gulf of Carpentaria? What about the men upon the A.U.S.N. Co.'s, and Howard Smith's steamers, who trade there year after year ? If these white men can stand the heat in the stoke - holds, surely others can be found to stand it ! The argument of the honorable member is too thin. It is just like the excuse offered by the Government, who, when they want to get out of a difficulty, say, - "This is the bookkeeping clause." There is no bookkeeping clause in this matter.

Mr Barton

- That is the Braddon clause which the honorable member's friend the free-trader invented.

Mr PAGE

- With all their knowledge, none of the other members of the Convention could put down the right honorable member for Tasmania, Sir Edward Braddon, or suggest anything better than the scheme put forward by him. Of course I had not the honour to be present, otherwise I might have suggested something. I have heard since I came to Melbourne that the clause in question was not the clause of the right honorable member for Tasmania, Sir Edward Braddon, but that he fathered it. It was Mr. Holder's clause. We do not want a Braddon blot upon the employment of white labour upon boats. It is of no use beating about the bush. The question is, "Is it going to be white or black ? " My vote is for white.

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Mr O'MALLEY

-I propose to support the democratic side. There has been a great deal of talk here to-night about a white and a black Australia, and much discussion in regard to the inability to get ships manned by white labour, and especially by Britishers. But the reason why various companies are unable to secure Britishers to man their ships whilst they are lying idle in Liverpool, Glasgow, and London, is because they offer them a starvation wage and a hell of a hold to sleep in. If they were compelled by law, as they are in America under regulations, when building their ships, to think of the men who have to man them, and to provide proper sleeping and resting accommodation for them, there would be no danger of the British sailor abandoning our British ships. How is it that the Britisher leaves Britain, goes to the United States, and follows the sea there? Because he is paid, and treated like a man ! He is made a man, and raises up his head even with his Creator, knowing that He is a God Man. That is what we want in a British country. I wish to touch upon another little point in connexion with this matter. I confess that I agree with a deal of what the honorable and learned member for Corio said. It is quite right that the Attorney-General did not say there was danger in Europe, but he hinted at it, and I tremble for fear that the Colonial Secretary should hear of it. I want to say straight out that if this Commonwealth is only a vassalage, if it has no powers without consulting some other power, the best thing to do is to turn it into a territory, and have our delegates sitting at the bar as they do in Washington. Then when it is " thumbs up " the delegates will tell us whether Mr. Joseph Chamberlain will pass the thing or not. Before we waste the time of the Commonwealth here night after night, and before we spend thousands of pounds keeping up this Parliament, let us ask these delegates if their boss in Europe will accept our proposals, and let us not bring in any Bills which their boss will not accept. Have we jury right to make laws for ourselves ? Are we sent here to know whether certain Bills will be accepted in Europe, 12,000 miles away, when the authorities there do not know the circumstances which force us to make those laws ? I for one may tell my friends that I will not stand it. If I have to stump the whole country alone I will do as I did in Tasmania, and rouse the people from their lethargy by making them recognise that they are a living power. We are entering upon a new life. We are standing upon the threshold of a new era, rich with unfulfilled prophecies, and richer still with the rights of democrats to further liberty and freedom. I am going to vote with my honorable friend, but not for a white Australia purely British. I would rather have it purely British because this is my home. I get good health here and I am going to be "planted" here. I would rather that it were purely British, but we cannot have our boats manned entirely by Britishers until the steam-ship companies interested are prepared to give them decent pay. If we make those companies pay a decent wage and provide decent accommodation there will be no difficulty experienced whatever. But the white sailors will not get a chance so long as we are prepared to be frightened at every corner by something that is to be done in Europe. We are a different country and under different conditions. We must make laws for ourselves according to our conditions. In England few know whether Melbourne is in Queensland, or Western Australia, or Tasmania. The same remark applies to America. What we want to do is to get down to first principles. The crux of the whole question is, "Are we going to have the right to expend our money in the way we want?" Opponents of the amendment say that the time is inopportune. When President Lincoln issued his proclamation of emancipation half the newspapers of the United States said it was inopportune. When the British in 1833 freed 800,000 niggers in the West Indies, it was urged that the action was inopportune. Every advance made by the people in the history of the world has been faced by conservative fossildom embedded in rocks with the cry that it was inopportune. We can never expect to bring forward any measure for the advancement of the people, and to raise them from thralldom, oppression, and tyranny without the objection being urged that it is inopportune. Everything we do here is inopportune. The right of the women to vote is inopportune, and I say that the present is the time and that the hour has come, when we ought to try and restrict the employment of coloured aliens upon our mail steamers.

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Minister for External Affairs

Mr BARTON

. - I am not wholly impressed by the argument that everything is always opportune, which is what the speech to which we have just listened amounts to. Nor shall I follow my friend who has just sat down into the poetry of the situation. We must deal with the fair and reasonable aspect of it. I think there are

difficulties in this matter. I pointed them out on a previous occasion, when a motion for adjournment was under discussion. Those difficulties would perhaps have been better met by the proposal suggested by the Attorney-General. No proposal was actually made, but there was a suggestion, and upon that it was thought it might be better to take further time for the consideration of this matter. However, I am quite content that a decision should be arrived at now. The honorable member for Maranoa always puts one in such a good humour that one feels rather a pleasure in saying that he is going to do something to meet him half-way. The honorable member for Wentworth made a very good and reasonable speech, if I may venture with all respect to say so, and advanced arguments in that fair manner which always characterizes him. In point of fact he nearly convinced me in one part of his speech that this is not a question of a white Australia. But he has also gone far to convince me that a Bill containing such a provision as this is not one which we may anticipate will fail to receive the assent of the Crown. Notwithstanding that there may be difficulties founded on the distinction we have spoken of, I think that on the whole the difficulty in this proposal does not amount to one which is on the same footing with those we are trying to avoid in another Bill. I think that the question whether we shall allow, under certain circumstances, certain persons to land, is not the same question as whether we shall spend our money on one class of labour or another. The debate, however, and the speech of the honorable member for Wentworth, have gone far to make me think that we are not in such danger of a refusal of the assent to the Bill as I at one time thought we were. The honorable member for Wentworth asked why, if the Government did not approve of this amendment, they did not honestly dissent from it. But the Government showed in a prior discussion, to which I have referred, that they approved altogether of the principle of the amendment, and they say that now.

Sir William McMillan

- I meant the introduction of such a provision into this Bill.

Mr BARTON

- Into a machinery Bill ? I understood the honorable member to mean that we were against the principle of the provision, so far as regarded the class of employment under the contract.

Sir William McMillan

- No; I said that the Government were against the introduction of this provision in the Bill, although the Government were willing to take the view of the House in practically dealing with it.

Mr BARTON

- I showed on another occasion that the chief reasons advanced against the introduction of this principle, was the danger called " Downing-street " : but I want to say that that danger is not so large as I at one time thought. I also desire to say at once that I do not concur in the comments on what is called " Downing-street," when those comments imply that there is any hostility to the aspirations of this country in that quarter, or attempts of any kind to place obstacles in the way of our adopting any policy we choose, so long as we do not interfere with Imperial obligations, or make more difficult the responsibilities of those at the seat of government of the Empire.

Sir William McMillan

- That has been stated by Mr. Chamberlain himself.

Mr Wilks

- Then why deal with this matter by regulation ?

Mr BARTON

- The regulations ' proposed by the Attorney-General would have made the matter more easy ; but, thinking that that obstacle is not so great as it was taken to be at first, I propose, under certain conditions, to assent to the direct course. In doing so, I want to say that I do not accept the argument that this matter stands on anything like the same footing as the Immigration Restriction Bill, which is wholly within the arguments used in Mr. Chamberlain's despatch, while the present proposal may, I think, reasonably be held to be outside those arguments. Let nothing, therefore, I do, in taking this course to-night, be held to prejudice the position I assume in regard to the Bill on the noticepaper.

Mr Hughes

- That is entirely different.

Mr BARTON

- It is entirely different, and I do not think this is a " white Australia " matter. It does not relate primarily to



the employment of Australians at all, because these crews are not shipped here. It is rarely a sailor comes on to a ship's articles in Australia, because the men are shipped in England, as any one who has travelled knows. There is employed on these vessels a class of labour which we, from our point of view, consider is not one on which we should spend our money. That, I think, is the sum and substance of the whole matter. Are we to spend any money on the employment of that class of labour ? I have given an opinion in this House before, and I certainly think we ought to make strenuous efforts to avoid spending money on this labour. But let honorable members understand that there is one responsibility which the House and the Government must share. It may be more difficult and more expensive to conclude the contracts.

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Mr V L SOLOMON

- Does the Prime Minister not think it would absolutely be more expensive ?

Mr BARTON

- I think, perhaps, it would be, though I am not sure. I know that there are mail steamers crossing the Pacific to Vancouver and San Francisco which do not employ this class of labour.

Mr Watson

- And the Orient Company do not.

Sir Malcolm McEacharn

- They do on the San Francisco steamers.

Mr BARTON

- The Orient Company did not employ this class of labour until a resolution was passed the other day. So far as the Pacific companies are concerned, they have been much more lightly endowed with subsidies, and I do not take it as absolutely certain, although it is probable, that the cost will be enhanced. We all know that the subsidies, at least for some time past, have been very much less considered in ocean carriage than they were fifteen or twenty years ago, and no doubt the competition which has led to great results without subsidies of late years on the Atlantic Ocean, will lead to similar results on the steamers between Australia and England. Therefore, this danger about greater financial responsibility, while it is not nonexistent, is not an enormous one. It may have to be faced, and I want the committee to understand that in taking this course we may have to meet a considerable responsibility, but not, I think, for very long.

Mr.G. B. Edwards. - It is a diminishing factor.

Mr BARTON

- It is a diminishing factor, and that is what I have been trying to illustrate. There is another thing I want to guard myself against. The Commonwealth will have to undertake vast responsibilities in the future. It will have to undertake the government of places not within its boundaries at the present time, and places largely inhabited by the class of people to which objection is raised. Let me be understood not to assent in any way to any proposal that these inhabitants are not to be allowed to earn their living in their own country. That is a matter I want to separate from that now before the committee. If I saw any danger of their confusion, I would go to a division in order that that confusion might not arise. But I do not see any danger, if I say quite clearly that in any future responsibilities we undertake it must be understood that we are not to deprive the denizens of those countries, who have been there from the beginning of our history and for ages before, of the opportunity of earning their living in those countries. The honorable member for Maranoa has referred to my West Maitland speech. I declared there, in terms which many remember, in favour of the proposal for a " white Australia," but I said nothing in regard to matters of the kind now before the committee. These did not arise on that occasion, and I wish my action now to be quite dissociated from any promise I made at West Maitland, because that action has been determined on since, upon a consideration of the whole circumstances of the case. I want to say one thing more about the matter. I am not in favour of the proposal of the honorable and learned member for Corio, because I think it would be rather a piebald proposal to speak of crews the majority of which shall be British subjects. I think a fair and reasonable proposal, and one that most removes the difficulty, of which we all have some conception, is to speak of " white labour " and " white persons."

Mr Crouch

- My proposal was that it should be all white labour, but that the majority of those employed should be British.

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Mr BARTON

-I think the proposal of the honorable and learned member for Corio would lead to more confusion than benefit ; and, with regard to any anticipated difficulty we may have to face, the danger will not. be so large if we use the words "white labour" as it would be by any differentiation between subjects of the Empire and those of- foreign civilized white nations. Having made this explanation and on this understanding, I am prepared to accept the amendment. I shall endeavour, if the amendment is carried, to secure that the Bill shall receive the Royal assent, and I want it to be clearly understood that if it does not, the difficulties in the way, whatever they may be, will have been pointed out, because I shall be anxious to remove them, and shall strive to do so.

Mr. HUGHES(West Sydney). - The statement of the Prime Minister, so far as it affects the principle of the amendment, is so satisfactory that I am quite prepared to accept an alteration of its verbiage. In my opinion, the Prime Minister has in no way departed from the attitude which he assumed the other evening, when it was fairly and fully stated by him. The question was so important that he thought that the clauses should be postponed for the purpose of bringing down a proposal which would meet the case. Furthermore, there is no reason for the statement that the Attorney-General this evening did more than put forward an alternate proposal which had very much to recommend it, and only this to its detriment, that it did in a roundabout way what the committee considered should be directly accomplished.

Mr Deakin

- If the honorable member for West Sydney does not object, I should like to redraft his amendment.

Mr HUGHES

-I have no objection to that. What I want is to enforce the principle ; the verbiage is a matter of indifference to me.

Mr Crouch

- I regret that I was unjust enough to say just now that the Attorney-General had threatened the committee with the veto of the home authorities. I made that statement under a misapprehension, and I apologize to the honorable member.

Mr Deakin

- I feel sure that the error was unintentional, and I am obliged to the honorable member for his handsome apology.

Progress reported.

ADJOURNMENT

Order of Business

Mr BARTON

- I move-

That this House do now adjourn.

We shall take the Post and Telegraph Bill first to-morrow. After that, if certain amendments are drafted, the Distillation Bill will be considered, but if not, we shall go on with the debate on the Immigration Restriction Bill.

Question resolved in the affirmative.

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23:00:00

House adjourned at 11 pm.