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1901-08-01

Senate.

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

ARMY SERVICE TRANSPORT CORPS

Senator Lt Col NEILD

- Last week I asked the representative of the Government a question with reference to some alarming statements in the press as regards the army service transport corps of the New South "Wales Defence force. My honorable and learned friend said that he hoped that' he would have the information ready to supply in the early part of this week, and I desire to ask if it is now available.

Postmaster-General

Senator DRAKE

- The question was -

What number of officers, men, horses, and vehicles constitute or belong to the Army Service Transport Corps of the New South Wales Defence force ?

I am able to supply the answer. The permanent establishment comprises 1 officer, 16 of other ranks, 11 horses, and 42 vehicles. The partly-paid section comprises 10 officers, 172 of other ranks. The total strength is 11 officers, 188 of other ranks, 11 vehicles, 11 horses, 42 vehicles. The horses required by the partly-paid section are supplied by the artillery or under contract.

BICYCLES FOR THE POST-OFFICE

Senator MCGREGOR

- In connexion with an advertisement appearing in the press, is it the intention of the Post and Telegraph department to purchase or hire the bicycles referred to ?

Senator DRAKE

- I received a deputation this morning, and I have decided to extend the time for tendering by one month. Whether the bicycles will be purchased or hired will depend on the tenders that are received.

COST OF PRINTING

Senator PULSFORD

asked the Postmaster-General, upon notice -

Will the Government arrange for a joint meeting of the Printing Committees of the two Houses, with the view to the suggestion of regulations for limiting the cost of printing ?

Senator DRAKE

- The Printing Committees of the two Houses have been appointed by such Houses respectively, and cannot, without resolutions of the respective Houses, confer in the manner indicated. The printing and distribution of Hansard and the distribution of parliamentary papers are under the control of the President and the Speaker. If they desire it, the Government will move that the committees have leave to confer with the view suggested.

Senator PULSFORD

- With the consent of the Senate, I would like to say a word or two on this point.

The PRESIDENT

- The honorable senator can ask a question arising out of the answer to his question, but he must not make a speech.

Senator PULSFORD

- I shall content myself by saying that the question was asked with a sincere desire---

The PRESIDENT

- I do not think the honorable senator is entitled to speak.

Senator PULSFORD

- I shall take further steps to achieve the object in view.

ELECTIONS AND QUALIFICATIONS COMMITTEE

Saunders v. Matheson.

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Senator Lt Col NEILD

- I move -

That it be an instruction to the Elections and Qualifications Committee that they have power, before taking any other action regarding the petition against the return of Senator Matheson, to inquire and report to the Senate as follows : -

Whether, in their opinion, and as affirmed. by resolution of the House of Representatives, election petitions from Western Australia are, subject to the provisions of the Commonwealth Constitution Act, governed by the electoral law of that State ? 2.If, in their opinion, the law of Western Australia does not govern such petitions, what law or practice, in their opinion, does apply to them ?

Whether, when lodging his petition, petitioner Saunders was authoritatively informed that it was the universal parliamentary custom for such, petitions to be presented to Parliament by a member of the House addressed ?

Whether, in terms of a promise made to the petitioner, the Clerk of the Parliaments daily carried the petition into the Senate chamber, having it at all times ready for presentation '?

Whether, at or previous to the time of the lodging of the petition, Senator Ewing was one of the legal advisers of petitioner Saunders, and acquainted with the need for the presentation of the said petition ?

Whether Senator Best was another of the legal advisers of the said petitioner, and well acquainted with the custom of Parliament in regard to election petitions ?

Whether, upon the determination of the committee to report against the. petitioner, his legal representatives applied for a refund, of the deposit accompanying the petition.?

Whether the' petitioner did not sub-. sequently leave Victoria?

Whether the petitioner was consulted by the Vice President of the Executive Council with reference to the action taken to refer his petition back to the Elections and Qualifications Committee ; and whether the motion for the second reference was moved with the petitioner's knowledge and concurrence ?

I think I shall be able to satisfy honorable' senators that the carrying of this motion will serve a distinctly useful purpose. It is certain that the question of the petition and matters concerning it will come before the Senate at a future day. That is absolutely inevitable, as the petition has been referred back to the committee; who will, of. necessity, present a report, and that report will certainly give rise to some discussion. During the lengthy discussion on this matter last week the greater part of the time was occupied in two ways. One way - and that was the more lengthy part of the discussion - in which it was occupied was on the question of what law, if any, what practice, if any, governs such a petition. The other part of the discussion. was very largely addressed to the question that the petitioner was ill informed on parliamentary practice, and certainly , helplessly ignorant as to what his course of action should have been in connexion with this petition-. In this way. there was, if I may venture to say so, an expenditure of time; the repetition of which would be avoided in future if the committee were in a position, such as it is sought to place them in by this motion, to report definitely . on the law and practice governing the petition ; and, secondly, with reference to the facts that surround the petition, the elucidation of which will no-doubt have some material influence on the decision upon which honorable senators arrive eventually. I have very good reason for saying that because- it is well known that in a very few words I deprecated the dealing with the petition, on-, technical grounds. In that respect I thought I was, light ; I still think it- is not desirable to- deal with a petition on technical grounds. But there is a vast difference, I submit, between mere technicalities and such alleged facts as are referred to in- my motion. It would appear to me that there is a possible analogy between such a case as this, and the case of a plaintiff in a court, who,, having taken all the necessary steps- -he has issued his writ, filed his declaration, paid his fees - done almost all that is needful for a plaintiff to do to succeed, "but perhaps has failed somewhere in doing that which- is his duty.

Senator Harney

- Setting it down for trial..

Senator Lt Col NEILD

.- Exactly. If a plaintiff in a court fails to set his case down for trial, although. , he has discharged all the preliminary duties devolving on him, the court has. no mercy on him, though, where a plaintiff who appeared in his own behalf, was without proper knowledge, it might permit the resuscitation of the suit on terms. I venture- to think there may be found - of course I must not argue that, there will be found - an. analogy between such a case as I have indicated occurring in a court, and the case which is before the Senate - because of course it is still, before the Chamber. It would perhaps be more convenient for me - I

shall be briefer- - to refer to the motion paragraph by paragraph.. I first of all. ask that, the committee will advise the Senate- -

Whether, in their opinion, and as affirmed by resolution, of . the House of Representatives, election petitions from Western. Australia are, subject to the provisions of the Commonwealth Constitution Act, governed by the electoral law of that State.

I shall not, I suppose, be in order in quoting Hansard, but at least I am perfectly in order in referring to the report of an Elections and Qualifications Committee in the other Chamber, which plainly sets out with reference to another petition from Western Australia - ,

Your committee find that the petitioner, William Eddrup Adcock, has not . complied with the law of the State of Western Australia relating to parliamentary elections.

It is well known - it is public property - that the adoption of that report was moved by the Prime Minister.

Senator Walker

- He probably regrets it.

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Senator Lt Col NEILD

.- The honorable senator, in , saying that . the Prime Minister probably regrets it, either says, too much or says too, little. . He- says too little, if he has anything to support his assertion. He says too much, if he has nothing to support it.

Senator Sir Josiah Symon

- What is his assertion'?

Senator Lt Col NEILD

- That the Prime Minister probably regrets moving the adoption of. the report of the Committee of Elections and Qualifications in the other House-.

Senator Sir Josiah Symon

- Does the1 Prime Minister admit now that, he was wrong then ?

Senator Lt Col NEILD

- I do not know what Senator Walker means, or whether his. is anything-but a chance' expression..

Senator Drake

- He may home hi* own opinion.

Senator Lt Col NEILD

- Certainly he is entitled to have- his. own opinion.

SenatorClemons. - Occasionally it would he desirable, if he- kept, it to himself.-

Senator Lt Col NEILD

- We need not make any unpleasantness, I fancy,, over this matter ; I desire- to deal -with it in the most innocent way possible. There is the fact - it is publicproperty;it is a record of the Commonwealth, and without referring to Hansard, or in any way transgressing any rule of parliamentary etiquette, we know perfectly well that the Prime Minister did move the adoption of a report from a parliamentary Committee of Elections and Qualifications, which laid it down very clearly and very positively that the law of Western Australia does govern election petitions from that State. Then we find - -and this is why I inserted that particular paragraph - that in this Chamber another Minister of the Crown, also a King's counsel, moved an exactly opposite motion, which says in effect that the law of Western Australia, does not govern, these petitions. When , we have so. remarkable a conflict of authority- in- the Cabinet itself, and1 amongst the ranks of His Majesty's counsel, I think it is well and absolutely needful that there should be some authoritative statement on so- vexed a question, because we may have any number of petitions coming in. I do not know whether Western Australia can supply anymore; it has- shown a prolificacy- of petitions so far, and possesses, the record. But it is not only the question of1 the law of Western Australia which is involved. We want an authoritative statement of the question as to. what . law will govern- any other petitions that may come -in before we have some distinct regulations or standing orders to govern these matters beyond the realm of cavilli

Senator Charleston

- We had better leave it to the- committee to- make a choice.

Senator Harney

- But them the honorable senator objected to- what the committee did.

Senator Lt Col, NEILD

.- In view of this remarkable difference of opinion in the Cabinet itself; among leading lawyers-

Senator Drake

- Which- the honorable senator has not yet proved.

Senator Lt Col NEILD

- Surely my honorable and learned friend will not say that the Prime Minister did not move and carry the adoption of the report of the committee, which showed that the electoral law of Western Australia governs petitions from that State.

Senator Drake

- Was that committing himself to all the opinions contained in that report?

Senator Lt Col NEILD

- I do not suppose that the Prime Minister would move a motion of that kind, which he need not have moved - which could have been moved by the chair-man of the committee, Sir Edward Braddon - unless he believed the truth of the proposition he was submitting to the Chamber. He was under no obligation to take it into his own hands at all, and, therefore, we have a right to assume his agreement with the proposition. In like manner we have a right to assume that the Vice-President of the Executive Council here believes his proposition that the law of Western Australia does not apply. Therefore I move the first section of my motion, with the hope that the committee thrashing out this question of law and practice will be in a position to report in an authoritative manner, so that when we discuss the matter again we may discuss with agreement as to law and practice.

Senator Dobson

- 7Did anybody say that the law did not apply as regards the deposit of £50 ?

Senator Harney

- The law generally.

Senator Sir Josiah Symon

- If it applies with regard to the deposit of £50, it applies in all particulars. -

Senator Major Gould

- It must apply altogether or not at all.

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Senator Lt Col NEILD

- Senator . Dobson -asked- a question which I venture to submit is> only partly pertinent. I am sure he will recognise that if a certain law governs a petition in one respect it must, govern it in all respects. We cannot take a bit of the law governing a petition from one place and another bit from another place, and make a mosaic of the whole. I know that the discussion was most interesting as to the legal aspect of the petition ; but it would be a saving of the time of the Senate if the whole question were thrashed out by the committee, and the conclusion presented to the Senate with some clement of authority. That remark covers paragraph 2 of my motion, namely -

If, in their opinion, the law of Western Australia does not govern such petitions, what law or practice, in their opinion, does apply to them ?

Senator Harney

- It does not cover it, because, while the question is open, it is not clear what is the law.

Senator Lt Col NEILD

.- That is just what paragraph 2 aims at. Senator Harney puts it concisely. If the law of Western Australia does not govern this petition, what law does govern it, and what practice should be followed in dealing with it?

Senator Glassey

- It is not a question of practice, but of law.

Senator Lt Col NEILD

- There is some element of practice in it also. The practice of Parliament is also the law of Parliament. I do not suppose my honorable friend, Senator Glassey, will object to the use of the "practice." Then I come to the alleged facts of the case. I was under the impression, as were also other honorable senators, that the petitioner, if he had erred in any way, or lost his chance in any way, had done so from want of knowledge. The paragraphs that follow refer to alleged facts that I believe will be actually proved in every

instance, because I have been pretty sure of my ground. The first is -

Whether, when lodging his petition, petitioner Saunders was authoritatively informed that it was the universal parliamentary custom for such petitions to be presented to Parliament by a member of the House addressed ?

I do not say that he was officially informed, but it will be found, I venture to state most positively, and from an authoritative source, that petitioner Saunders was told what was the practice of Parliament in dealing with such matters. I might go further. I find from the newspaper to-day - I suppose the Argus is accurate on the point - that petitioner Saunders is a member of the "Upper House of Western Australia, and a parliamentarian himself.

Therefore, we have been wasting our sympathy in reference to his case in the most deplorable manner ; because he knows just as much about it as any of us, and probably thinks he knows more. If petitioner Saunders has been a member of the Legislature for ten years, surely the time of the Senate is being wasted in commiserating with him on his unhappy ignorance. Surely he must know his business, and surely these laches on his part are not to be very lightly overlooked, on the ground of ignorance, when he is not ignorant.

Senator Playford

- He complied "with the Western Australian law, and left the petition with the Clerk, which the Western Australian law says shall be done.

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Senator Lt Col NEILD

.- I do not want to discuss that point, which is not involved in my motion. I only ask for an inquiry into certain facts, not into certain arguments, which perhaps would follow without any instructions to the committee. Then paragraph 4 is as follows : -

Whether, in terms of a promise made to the petitioner, the Clerk of the Parliaments daily carried the petition into the Senate Chamber, having it at all times ready for presentation ?

I venture to say that if this inquiry takes place, it will be found that petitioner Saunders asked for this to be done, and that it was done, and that he was very far from ignorant as to the need, or apparent need - let me put it in that way - for having the petition presented. Paragraph 5 is as follows : -

Whether, at or previous to the time of the lodging of the petition, Senator Ewing was one of the legal advisers of petitioner Saunders, and acquainted with the need for the presentation of the said petition ? Let me say that I have here used Senator Ewing's name, and the name of Senator Best further on, in no light manner, and with no kind of idea of referring to them in the least way that would be injurious to their finest feelings. I have only referred to them to show what really took place. There was no impropriety in Senator Ewing acting as petitioner's legal adviser - none whatever. Nothing under heaven could be less to the discredit of Senator Ewing or Senator Best than their acting in that capacity. But I have introduced their names as showing that the legal advisers the petitioner consulted were gentlemen who were not only learned in the law, but were acquainted with the practice of Parliament and with parliamentary requirements. I made a personal explanation on behalf of Senator Ewing yesterday, in response to a telegram which he sent to me, in which he told me that he retired from the proceedings some two months ago.

Senator Charleston

- He may have done it because he was a member of the court - that is the Senate.

Senator Lt Col NEILD

- I do not want to deal with the question of the court, which is not involved in my motion. I want the matter to be cleared up by the committee, to save the time of the Senate, and have no intention myself of entering into the question of the constitution of the court. It is not before the Senate at the present moment. But it would appear from Senator Swing's telegram to me that he retired from the matter after the lodging of a petition with 'the Clerk. Whether he was present with 'petitioner Saunders at the time the petition was lodged or not I do not know. I have not inquired. But apparently Senator Ewing was legal adviser to Mr. Saunders at the time the petition was lodged with the Clerk of the Parliaments. I think that will be found to be a fact. Therefore Senator Ewing was in a position to advise Senator Saunders as to what was necessary. But I will go further than that. I think I am perfectly justified in stating that there is the best reason to believe and to know that Senator Ewing and petitioner Saunders are closely related by

domestic ties, and that on this ground alone petitioner Saunders is not at all likely to have- been bereft of the best advice that he could have, so that he was advised by a near relative or family connexion, that family connexion being a Member of Parliament - a member of this Senate. My only object is to show that if the facts be as I state them, the petitioner was very well advised throughout, and that if he failed in any way he failed not through want of knowledge. Therefore he is not entitled to all the sympathy that so many of us felt towards him - myself amongst the number, as I am not ashamed to say. I did not know these things at the time. I should not have spoken as I did if I had known the facts. Paragraph 6 of my motion is -

Whether Senator Best was another of the legal advisers of the said petitioner, and well acquainted with the custom of Parliament in regard to election petitions ?

I have looked at the directory to find whether I am right, and I find that Senator Best is a member of the firm of Messrs. Fink, Best, and Hall. The records of the petition show that Mr. Hall communicated with the authorities of the Senate, and also that Mr. Fink appeared as petitioner Saunders' counsel. Therefore we have at any rate Mr. Fink on the one side, and Mr. Hall on the other, advising Mr. Saunders ; and surely the middle member of the firm, Mr. Best, must have had some knowledge, and been in a position, if not to advise Mr. Saunders directly, at any rate to advise him through his partners. Senator Drake

- If Senator Best were able to be here he would probably tell the senator to the contrary. I said yesterday that I had a letter from Senator Best, who gave reasons why his name should be left but of the matter. I thought those reasons were good enough.

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Senator Lt Col NEILD

.- I do not think that the use of Senator Best's name in the motion is in the slightest degree derogatory to the honorable senator - not in the remotest possible sense. If he did not in any shape or way give Mr. Saunders any information, that can be very easily-shown. I think I am doing my friend, Senator Best, no wrong- I am sure he will accept my assurance of my friendship towards him - and have no kind of desire to throw the slightest reflection upon him, either as a member of the legal fraternity, or as a member of the Senate. But he is a gentleman so well acquainted with the procedure of Parliament that it seems to me reasonable to suppose that petitioner Saunders should have, and would have, in seeking the advice of that very well known and highly-esteemed firm, in some form, directly or indirectly, the benefit of the special knowledge of the one member of it who could best advise him in regard to the petition. Paragraph No. 7 of my motion, is as follows -

Whether, upon the determination of the committee to report against the petitioner, his legal representatives applied for a refund of the deposit accompanying the petition.

I think there is no possible doubt about that, any more than about the other alleged facts. Then 1 come to paragraph 8 -

Whether the petitioner did not subsequently leave Victoria.

He went home with the expectation that he was going to get his £50 back. Of course we can readily understand that he was quite willing to save that considerable sum in view of the fact that had he proved his petition, it would probably have cost him ten times as much for witnesses. Even on that ground -alone it would be to his interest when the petition had -been dealt with to drop it.

SenatorSir Josiah Symon. - The honorable senator should say had he tried to prove it.

Senator Lt Col NEILD

- I thank the honorable and learned senator for the correction. Petitions are so often lodged in hot haste, that people are quite willing to reconsider the matter when they see how expensive it is likely to be ; and ' . this petitioner may have -been -pleased to get back his £50 rather than lose £50 -plus £500 in proving his case before the Committee of Elections -and Qualifications.

SenatorCharleston.- If -he rushed the petition in so hastily he -deserved 'to forfeit his £50.

Senator Lt Col NEILD

- I -would not be hard on the petitioner. I think we may make allowance for a -petitioner who is just a little hurt at 'his defeat when he thought he would-be successful. We should make every (possible allowance for ; a- freak of feeling, because the other man is -not -damaged a halfpenny by the return of the money. The money -would not. -go 'into Senator Matheson's pocket in any case. Paragraph (9) of my motion is as

follows : -

Whether the petitioner . was consulted by the Vice-President of the Executive Council with reference to the action taken- to refer his petition back to the Elections and Qualifications Committee ; and whether 'the motion for the second reference was moved with the' petitioner's knowledge and concurrence.

I think it is all important that we should know this. It is absolutely necessary, whether my motion is carried or not, that we should know whether in seeking- to- re-open the matter the petitioner himself has been consulted, or whether action has been taken behind his back. I have reason to believe that it will be found the petitioner Saunders was not consulted. I am sorry the Vice-President of the Executive Council is not -present. I hope that I shall -not be out of order, however, in -making reference to a previous -debate on the subject. I refer honorable senators to Mansard, No. 7, where it will be seen that the Vice-President of the Executive Council stated that he . moved the reference to the committee -solely as a member of the 'Government.

Senator Walker

- As the leader of the House.

Senator Lt Col NEILD

.- Under the circumstances it would be -better for me to read these few lines, from Hansard, page 1670- I have taken, this action solely as representative of the Government in the Senate, charged us it seems to me with the duty of seeing that petitions which are brought before this Senate claiming the redress of any grievance shall be before the Senate in such form that 'they will have consideration.

Senator Charleston

- That is his duty as leader of the Senate.

Senator Lt Col NEILD

- If I may be allowed to finish the matter uninterrupted, I . desire to -point outthat -Senator O'Connor said he took this action solely as representative 'of the 'Government, and when he was speaking , in. the Senate a little -later, as reported in Hansard,- page 3019, he said -

In referring this petition to the House originally -I took -the only course open to me as the leader of the Senate.

Now he differentiates. Senator , O'Connor occupied two positions in this matter. It is of no use any . one arguing that the position of leader of the Senate and Minister are inseparable, because in the one case Senator O'Connor takes the action solely as Minister, and in the other solely -as leader of the Chamber.

Senator Drake

- Is not that hairsplitting?

Senator Lt Col NEILD

- I do not think so. My honorable and learned friend knows that lawyers split hairs quite as finely as this.

Senator Dobson

- Do not drag party politics into the matter.

Senator Lt Col NEILD

- If any one dragged 'party politics into this matter it was the Vice-President of the Executive Council.

Senator Walker

- Certainly not.

Senator Lt Col NEILD

.- Then I shall quote the Vice-President further. " A more indecent attack upon the votes which honorable 'senators . might give was never before made by 'any one charged with a sense of personal,- let alone that of Ministerial, responsibility, than the speech of the Vice-President of the -Executive Council."

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The PRESIDENT

- I have not stopped the honorable senator from referring to former debates so far as was . necessary to illustrate his -argument, -but I do not think he can go further than that.

SenatorLt.-Col. NEILD. - Very good, ; sir. I might, if it were worth -while . to refer to the matter further, do so by way of personal -explanation. You, sir, would be the first to protect my interests in doing so, if it were necessary ; but I let that pass. Surely the question of party politics . need not be brought in. Surely I have uttered no word this afternoon tinged with party politics, and my speech made the other day, in which I announced my intention to vote for the motion submitted by the Vice-President of the Executive

Council, -showed no evidence of party politics. I believe there is only one subject which constitutes any line of demarcation amongst members of this' Senate, and that is the fiscal question, and surely the division list on this motion the. other day showed that.

The PRESIDENT

- Does the honorable senator think it necessary to go into that matter in asking for this inquiry?

Senator Lt Col NEILD

-Col. NEILD. -Well, this was drawn from me in consequence of a request that I would not bring in party politics, and I think upon consideration you will see that I , am . entitled to make a rejoinder to that.

Senator Dobson

- My remark was as to the honorable senator's hair splitting.

Senator Lt Col NEILD

- I say that the division on 'the motion of the Vice-President of the Executive Council, showed that whatever line of demarcation there may -be 'between- senators on the subject of the fiscal question, -there was no evidence of it in dealing -with that motion. I need not go into matters of a personal character,- as to why my name does not appear in 'that division list. I let- -that pass. I move this motion, as I have already pointed out, for the purpose of clearing up these (important facts, that seem to largely influence the decision of this Chamber, and to clear -up, if possible, all 'doubts as to legal procedure. It will also limit the future discussion of this matter, and tend to cause its settlement with very much less waste of time, and very much less heat of speech, and very much more freedom from anything that -partakes of a party character than could be hoped for, if the questions involved were to come before the Chamber a second time surrounded with all the elements of doubt as to law, and -uncertainties as to the accuracy of facts that we saw was the case last week. I' move the motion in the hope that it will be carried, and that it will tend to -simplify our procedure in the future, and to establish some precedent for our future working. It is well known to every member of this Chamber that we have few precedents to guide us in so many cases,--and it is eminently needful 'that we should proceed carefully, as we are making precedents for those who will come after us as well' as for ourselves in the future. It is desirable that each step should be taken on a sure foundation, that we may not be- misled by -false views or distorted ideas of ' fact, or a lack of confidence in facts asserted, 'thatwe may go- on carefully putting together these, precedents that will be of so much (advantage to- us in the future, and, I trust, to those who will later on occupy the seats that we now fill.

Post- ' master-General

Senator DRAKE

. - This seems to be a good deal like fighting a battle over again. There is an air -of staleness about the motion, and, though Senator Neild thinks that it will serve some useful purpose, I cannot for the life of me see 'any useful purpose that it can serve. Further than that, I think it is not a nice proceeding. 'Here is a matter that -is in the nature of a suit between two parties, a petitioner and respondent. It has been referred to the Elections and Qualifications Committee, and now a discussion has been initiated, which, if it has any effect . at all, must have the effect of biassing the -minds of the committee. Would that be considered, in ordinary -circumstances a nice proceeding to be initiated in any House -of Parliament ?I think not ; especially seeing that the members of the tribunal, the 'Elections 'and . Qualifications Committee, -are also members of the Senate, and probably are present. There is 'another matter in connexion with the honorable senator's action which I deprecate 'strongly, and that is that the motion should be (brought forward and discussed in the absence of the Vice-President of the Executive Council.

Senator Lt Col Neild

- I cannot be responsible for his absence -on his own business."

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Senator DRAKE

- -The 'honorable senator can not be responsible for the VicePresident's absence, but I certainly "think that it is not desirable "that a discussion of this kind should proceed in the absence of the (representative of "theGovernmentwho took such a prominent part when- it was previously . discussed. With regard to the statements made by Senator Neild, we have first of all this which I can hardly pass over. He tells us there is a great conflict of opinion between two members of the Cabinet. What is his ground for making that assertion? It is that the Prime Minister moved the adoption of a report in which it was stated, in connexion

with a certain election competition, that the law of Western Australia prevailed. Does the honorable senator mean to say that because the Prime Minister moved the adoption of that report he thereby committed himself to any expression of opinion in it?

Senator Lt Col Neild

- Yes, when he went out of his way to move it.

Senator DRAKE

- I do not want to go into the details, because it is a matter I have not gone into particularly myself ; but, even admitting that, is there any inconsistency between the action taken by the Prime Minister and the motion submitted by the Vice-President of the Executive Council the other day ?

Senator Harney

- The Prime Minister did not consider that he was impelled to dissent from the report of the committee.

Senator DRAKE. - What was the motion moved by the Vice-President of the Executive Council and which the Senate carried a few days ago ?

That, in the opinion of the Senate, the law does not prevent the committee from entertaining the petition.

Senator Clemons

- Perhaps the honorable and learned senator will explain what law ?

Senator DRAKE

- The law governing this particular matter.

Senator Clemons

- Framed by whom, and in what Legislature ?

Senator DRAKE

- What I wish to point out particularly is that the resolution says nothing about the law of Western Australia or any other law. Whether we take our law from precedent or the law that prevails in similar cases in the House of Commons or anywhere else, the affirmation by the Senate on that occasion was, to slightly alter the wording, " that there is nothing in the law to prevent that petition from being considered." I say I can perceive no inconsistency between the action of the Prime Minister in moving the adoption of the report of the Committee of Elections and Qualifications appointed by another place, and the action of the Vice-President of the Executive Council in moving and supporting the motion which was carried by the Senate.

Senator Harney

- Whether right or wrong it is clearly, inconsistent.

Senator DRAKE

- The object which Senator Lt.-Col. Neild has, so he has informed us, is that the Senate shall receive some advice or instructions from the Elections and Qualifications Committee.

Senator Lt Col Neild

- No.

Senator DRAKE

- Yes. We are being asked to give them instructions ; and, taking the first two paragraphs of the honorable senator's resolution, the instruction is that they are to advise us in certain matters. They are to tell us what the law is. I will read those paragraphs, in order that there may be no misunderstanding. The motion reads -

That it be an instruction to the Elections and Qualifications Committee that they have power, before taking any other action regarding the petition against the return of Senator Matheson, to inquire and report to the Senate as follows : -

Whether, in their opinion, and as affirmed by resolution of the House of Representatives, election petitions from Western Australia are, subject to the provisions of the Commonwealth Constitution Act, governed by the electoral law of that State ?

If, in their opinion, the law of Western Australia does not govern such petitions, what law or practice, in their opinion, does apply to them ?

I say it is certainly not the business of »the Elections and Qualifications Committee to instruct us as to what the law is on the subject. If any action of the kind is taken it should be of an absolutely opposite character.

Senator Harney

- Why do we not instruct the committee ?

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Senator DRAKE

- Senator Harney is starting something entirely fresh. The honorable and learned senator asks why we do not instruct the committee ; but we are not now dealing with that. We are dealing with the motion tabled by Senator Neild ; that is the business before the House; and I point out again that the honorable senator, by the action he has taken, is asking the Elections and Qualifications Committee to instruct us what the law is. We talk sometimes of having no precedents, but I think we have no precedent for any such proceeding as that. I would like honorable members of the Senate learned in the law ' to tell me where I can find any precedent whatever for a House of Parliament asking a committee, that it has itself appointed, to instruct it what the law is.

Senator Sir Josiah Symon

- It was done in the Brad laugh case in England, a few years ago.

Senator DRAKE

- The purpose of the Elections and Qualifications Committee, I submit, is to inquire into the facts connected with any matter which may be submitted to them, and to report to the House. I presume that was abundantly thrashed out in a previous discussion. What was done by the Senate by the motion passed the other day was, that after stating that ' in our opinion the law does not prevent the committee from' entertaining the petition, we went on to say -

That the petition be referred back to the committee for further inquiry and report.

That is the present position. I know that Senator Neild is legally and constitutionally within his rights, but, seeing that the petition' has been referred back to the committee for . inquiry and report, ' is the honorable senator justified in making a series of statements and arguments which can have no other effect, if they have any at all, than to prejudice the case in favour of one of the suitors ? With regard .to the alleged facts, the senator first of all put on the notice-paper a series of questions which consisted practically of a number of facts, or alleged facts, prefaced by the expression - "Is the Vice-President of the Executive Council aware." Yesterday, when the time came for the honorable senator to ask his questions, he came 'down -with a telegram from one of the senators whose name is mentioned in one of his alleged facts, and in which that senator denies-

Senator Lt Col Neild

- Nothing of the kind, and the honorable and learned senator knows it. He is forgetting, or he would never say what he is saying.

Senator DRAKE

- I am now referring to the telegram from Senator Ewing.

Senator Lt Col Neild

- In which he said. he had been consulted.

Senator DRAKE

- I would like to know just what he says.

Senator Lt Col Neild

- This is the telegram, dated 37th July. The petition was lodged on the 23rd May, upwards of two months ago, and Senator Ewing telegraphs to me -

BcMatheson- Though originally consulted, re fused act because West Australian senator two months ago. Handed matter More head, solicitor, Perth, and Fink, Melbourne. Was not willing present petition. Please put me right with Senate

The honorable and learned senator is referring now to my statement that apparently, judging by the time Senator Ewing was acting as legal adviser to the petitioner when he was apparently doing so the petition was lodged with the Clerk, and it will be found that that is the case.

Senator DRAKE

- Now, I think Senator Neild should withdraw his remark that I was wrong, and knew I was wrong.

Senator Lt Col Neild

- I did. I put that straight, the honorable and learned senator will admit.

Senator DRAKE

- I must put it straight also. Honorable senators may judge whether Senator Ewing in his telegram

corrected Senator Neild. Here is the question which Senator Neild was going to ask the Vice-President of the Executive Council.

Senator Lt Col Neild

- The Vice-President of the Executive Council" was not here, and I could not ask him the questions. They were not questions within the competency of the Postmaster-General to answer, and I withdrew them. I doubt if the honorable senator is in order in discussing questions that have never been put.

The PRESIDENT

- The honorable senator is in order in referring to anything which appears on the notice-paper.

Senator DRAKE

- I will put myself right, and if Senator Lt.-Col. Neild had given me an opportunity of answering, on behalf of the Vice-President of the Executive Council, the answer would have been " No" to each one of his questions, in which he has gathered a number of statements of fact which I say are, to a certain extent, inaccurate. I wish to deal now with the one in which Senator Ewing's name is mentioned.

Senator Lt Col Neild

- If the honorable and learned senator was instructed to say "No" to them all, he was misinstructed

Senator DRAKE

- That is the answer I would have given, and I was authorized by the Vice-President of the Executive Council before he left for Sydney to make that reply.

Senator Lt Col Neild

- Then there must have been some misunderstanding.

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Senator DRAKE

- The alleged statement of fact with regard to Senator Ewing was -

That Senator Ewing was one of the legal advisers of Petitioner Saunders, and was willing to present the said petition, and that his willingness was well known to the said petitioner.

Am I correct in saying that Senator E wing's telegram directly contradicts that ? I say, clearly, from the alterations which Senator Neild himself has made in the form in which he has placed that alleged statement of fact in the motion submitted to-day, he shows that he accepted the contradiction of Senator Ewing. In the motion we are discussing now that alleged fact appears in this form -

Whether, at or previous to the time of the lodging of the petition, Senator Ewing was one of the legal advisers of petitioner Saunders, and acquainted with the need for the presentation of the said petition?

I think it must be clearly admitted then that Senator Neild was in error - unintentionally in error no doubt - with regard to that alleged fact, and that he was corrected by Senator Ewing, and having been corrected by Senator Ewing, he altered the matter in his second Statement in accordance with the telegram he received. Now with regard to the other senator whose name is mentioned. When Senator Neild made his statement yesterday, I got up and told him I had received a letter from Senator Best to say that he not only had sickness in his family, but was himself prostrated by sickness.

Senator Lt Col Neild

- The honorable and learned senator did not tell me that.

Senator DRAKE

- I mentioned that here, and said that I thought that under all the circumstances Senator Best's name might be omitted. I was very sorry afterwards to find that Senator Best's name still figures in these statements.

Senator Lt Col Neild

- It does not do him any harm.

Senator DRAKE

- That is a matter of opinion, At all events I. know the honorable senator feels strongly about it. My feeling is that,, seeing that Senator Best is unable to take his place here, I am doubtful whether I am justified in speaking on his behalf, and in saying what I think he would say if he were here.

Senator Clemons

- I think the honorable and learned senator had better leave Senator Best to speak for himself.

Senator DRAKE

- Perhaps if he were here he would speak for himself, but Senator Ewing has taken an opportunity of

contradicting one alleged statement of fact, and I think that at the earliest opportunity it should be known ; and I think I am justified in saying, that, although one of the partners of Senator Best has some professional dealings

Senator Lt Col Neild

- The honorable and learned senator should not refine the thing away like that.

Senator DRAKE

- One of Senator Best's partners had some dealings with the petitioner, and when this action was taken Senator Best considered that it was his duty to take no part whatever in the discussion, and, as is well known, he did not vote upon the motion.

Senator Lt Col Neild

- He is perfectly entitled to vote as he wishes.

Senator DRAKE

- I think it is very much to be regretted that his name has been dragged into the matter.

Senator Clemons

- I suggest, in his best interests, that the Minister should let him speak for himself.

Senator DRAKE

- I would sooner ask Senator Best's opinion on the subject than the honorable and learned senator's.

Senator Harney

- Why should Senator Best be ashamed 1

Senator DRAKE

- Of course I do not know whether the other statements of fact are as inaccurate as the ones that I have referred to. But I know that, before the Vice-President of the Executive Council left, he told me that the correct answer to the questions which were to be asked by Senator Lt.-Col. Neild was " No " in every case.

Senator Lt Col Neild

- Oh, that is very good.

Senator DRAKE

- I think there was a great deal of hair-splitting in trying to show that Senator O'Connor had acted in one case as the representative of the Government, and in the other as the leader of the Senate. As the representative of the Government 'in this Chamber he is the leader of the Senate, and the action he took, as he clearly stated, when he found the petition here-

Senator Lt Col Neild

- How did he find it here ?

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Senator DRAKE

- He had means of knowing that it was here, and I suppose it was known to others besides himself.

Knowing that the petition was here, and that, according to the law of Western Australia, it was properly in the hands of the Senate, he considered it was his duty, as leader of the Senate as well as representative of the Government, to see that it was dealt with in a proper way according to law, and that was the action he took. There was no word at that time, nor for a long time afterwards, of any party complexion being given to this matter.

Senator Lt Col Neild

- Senator O'Connor started the party matter himself.

Senator DRAKE

- Distinctly, he did not start it.

Senator Lt Col Neild

- He did.

Senator DRAKE

- He did not. I know very well, and probably all other honorable senators know perfectly well, when the question began to have a party aspect, and when Senator O'Connor made his final speech, he made it perfectly clear that it was not a party matter so far as the Government was concerned. It had not been made a party question by the Government, or by any one on this side of the Chamber.

Senator Lt Col Neild

- I believe the Minister is perfectly sincere, and hopelessly ignorant - of course, on this subject only.

Senator DRAKE

- Perhaps the honorable senator may intend that remark to be complimentary, but I do not think I am ignorant of the facts of this case. I did not speak on the subject; because I considered it was in such very able hands when it was dealt with by my colleague, that it was not necessary for me to speak ; but I did not go about with either my eyes or my ears shut. I knew very well what was going on. I think the charge of hopeless ignorance on this subject can hardly be maintained against me. I do not know that it is necessary to say anything more upon it. I disagree entirely with Senator Lt.-Col. Neild that this discussion can have any useful purpose. I think it is calculated to be highly detrimental. I hope the discussion will not be continued at any length, and I think it is undesirable that it should be continued at all during the absence of the Vice-President of the Executive Council.

Senator WALKER

- I only rise because my name has been brought in by Senator Lt.-Col. Neild: I certainly thought it was very probable that the leader of the House of Representatives may have regretted that he took the action he did on the other petition from Western Australia. My reason for forming that opinion was that probably the Vice-President of the Executive Council had the latest view on the subject. It struck me that the probability is that one member of the Cabinet having given one view on the question in one House, and the

Vice-President of the Executive Council having given a different view here, the later view was the better considered of the two, and that in these circumstances possibly the view expressed in the other House was regretted by the right honorable gentleman who gave it. That is my individual opinion, right or wrong. I want to draw attention to another point within my own knowledge. Senator O'Connor did not of his own volition make the motion which was carried the other day. He did it at the request of Senator Sir Frederick Sargood, who himself told me that he asked-

Senator Clemons

- Fresh light.

Senator WALKER

- Senator Sir Frederick Sargood distinctly told me that he was going to bring forward a motion, but that he thought the leader of the Senate was the proper person to do it.

Senator Sir Josiah Symon

- But who asked Senator Sir Frederick. Sargood ?

Senator WALKER

- I do not know.

Senator Lt Col Neild

- He is not a member of the committee.

Senator WALKER

- He is a member of the Senate.

Senator Clemons

- Who asked him to take this petition in hand ?

Senator WALKER

- I do not know anything about it. I want to defend my friend, Senator O'Connor,, from the supposition that he did something of a party character. I am a free-trader to the backbone. I have nothing to do with party in this matter. I read in the newspapers that this was a party matter.

Senator Lt Col Neild

- I was not allowed to discuss this question as a party matter.

Senator WALKER

- I propose to move that the debate be adjourned until next Wednesday. t

The PRESIDENT

- The honorable senator cannot make a speech, and move the adjournment of the debate.

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Senator WALKER

- In justice to Senators O'Connor and Best it would be very desirable if they were present at the next sitting when this question is discussed. I hope that an honorable senator will move the adjournment of the

debate. I have no personal interest in the matter. I have endeavoured as a member of the court - the committee - to do justice between man and man, and it has annoyed me exceedingly to read in certain newspapers that this is a matter in which the Government and the Opposition take opposite sides. It is well-known that several of us on this side voted with the majority, and that members of the other side voted with the minority, and that- the third party was divided. I fail to see then why the public should think this a party question.

Senator Sir Josiah Symon

- Which of the Government supporters voted on this side?

Senator WALKER

- I paired with Senator Fraser.

Senator Clemons

- But the honorable senator is not a Government supporter. He was asked which of the Government supporters voted on this side.

Senator WALKER

- Senator Fraser.

The PRESIDENT

- I think it would be better to confine the discussion to the matter at issue.

Senator WALKER

- I think the division list will show that it was not settled on a party issue.

The PRESIDENT

- The question before the Senate is whether an inquiry should be made by the Committee of Elections- and Qualifications, and we ought not to fight the whole matter over again.

Debate (on motion by Senator Clemons) adjourned.

Motion (by Senator Lt.-Col. Neild) proposed.

That the resumption of the debate stand an order of the day for Thursday next.

Senator MACFARLANE(Tasmania).The next meeting of the committee is fixed for this day week, and if we put the debate off for another week, it means that we shall not sit again for a fortnight. I therefore move -

That the motion be amended by the omission of the word "Thursday," with a view to insert in lieu thereof the word "Wednesday."

Senator Sir JOSIAH SYMON

- I think Thursday would be a very much more convenient day to fix. It is only fair to Senator O'Connor, who will return on Wednesday, and to others who usually return on that day, to fix the resumption of the debate for Thursday.

Senator Drake

- I expect Senator O'Connor back on Tuesday.

Senator Sir JOSIAH SYMON

- It is customary for others of us to return on Wednesday, and that is not a very convenient day to which to adjourn the consideration of what may be a matter of very serious consequence. The probability is that in any case there will have to be an adjournment of the committee, so that practically no unnecessary delay will occur.

Senator GLASSEY

- I think it would be much more convenient to resume the debate on Thursday. A number of honorable senators come here from the north and south on Wednesday, and it is asking too much to expect them, just after arriving by train, and before they have collected their thoughts, or regulated their papers, to debate this question. No harm can come from postponing the debate until Thursday, even if the committee have to sit a little later.

Amendment negatived ; motion agreed to.

PUBLIC SERVICE BILL

Second Reading

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Postmaster-General

Senator DRAKE

. - I move -

That the Bill be now read a second time.

This is another of the Bills which have been described as machinery Bills, but I think all honorable senators will admit that it is a Bill of first-class importance. So far we have been getting along with the Public Service Acts as they are in the several States, but it must be evident to all that it is desirable at the earliest moment, without, of course, undue haste, that we should have a Public Service Act applicable to the public servants who have been appointed under the Commonwealth Government, or who have been transferred with the great transferred departments'. It will be generally admitted, I think, that the great object to be attained is to get a public service which will consist of men who are competent to perform their duties, and also to make that body so attractive that we may be able to get the services of the best men in' all the States. It is not desirable that we should have a public service consisting of a vast number of persons who are perhaps not qualified for their duties, and are not sufficiently paid. It is much better to have a smaller number of highly efficient and well paid men than to have a larger number of men who are not equal to their duties, and whose remuneration is inferior, because, though in that way, we may be giving, as it were, relief to a number of persons, the result ultimately must be that the service will become less attractive to good men, and the public convenience will not be so well served with such a vast number of civil servants as there will be, including those in the transferred departments ; it will be a very great work, especially considering the vast extent of our territory, to go through all the offices and ascertain the qualifications of the men. We cannot reasonably expect that within a short time any body of persons who may be appointed to discharge that duty will be able to make themselves as acquainted as they should be with the working of all the departments in the six States. But I think all will admit that the most important thing is to secure the right type of man to be at the head of the public service, and to discharge the duties laid down in this Bill. We require a man who will be, not only thoroughly efficient, but superior to all influences political or social. The very great difficulty which has to be faced at the outset is to find a man who will fulfil those qualifications. The Bill proposes that there shall be one commissioner, who will be charged with the duty of administering the Act, and seeing that it is impossible for one man without assistance to do the work which is required, he will be provided with a number of inspectors, not exceeding six. The inspectors will act under his instructions, and assist him in discharging the duties required of him. The Bill is divided into five parts - namely, administration, division of public service and appointments, internal administration, life assurance, and miscellaneous. In the first part we find the provisions dealing with the appointment of the Public Service Commissioner and the inspectors. I would draw attention to the conditions which are required with regard to the commissioner, and the provisions of the Bill in this respect are similar to those in other Bills which have been before the Senate. It is required that the commissioner, who will receive a salary of £1,500 a year, shall not engage in any paid employment outside the duties of his office.

Senator Playford

- He is not so important an officer as the Auditor-General, and yet he is to get £1,500 a year.

Senator DRAKE

- The matter of importance may be relative.

Senator Playford

- He is not more important.

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Senator DRAKE

- Although in one respect the Auditor-General may be regarded as an officer of more importance, the Public Service Commissioner will undoubtedly have very much more work to do. He will not be able to engage in any paid employment outside the duties of his office, and he vacates his office if he becomes insolvent or compounds with his creditors, and also if he absents himself from duty for 14 consecutive days, or for 28 days in any 12 months. The term for which he is appointed is seven years. He cannot be removed except by an address from both Houses of Parliament, but he may be suspended from his office by the Governor-General ; and if he is suspended a statement has to be made to Parliament within seven days, if Parliament is sitting, or, if it is not in session, within seven days after the commencement of the next session. The commissioner is to be restored to his office, unless within 42 days both Houses of Parliament, by resolution, declare that he ought to be removed. But if within those 42 days a resolution is

not passed by both Houses, stating that he ought to be removed, he goes back to his position. With regard to the inspectors, they are to be appointed under similar conditions. They are to receive £800 per annum each. Their term of service is the same - seven years - and they have the same tenure, and are subject to the same conditions. They are to act under the instructions of the commissioner. The duties of the inspectors are described in clause 8 and the following clauses. It is there stated that the duty of each inspector is to -

examine, as far as is practicable, the officers thereof, and ascertain their duties and the value of their services ;

hear and inquire into all matters and things affecting or relating to the working of the departments ; and furnish in writing to the commissioner a full report as to every such inspection, examination, or inquiry, including therein recommendations for the consideration and determination of the commissioner.

Then the commissioner may propose to the Governor-General recommendations with regard to the public service, based upon the reports received from his inspectors. If the Governor-General does not approve of any proposal made by the commissioner, he sends it back for reconsideration, but in every such case, a statement of the reasons for the disapproval must be laid before Parliament. Throughout the Bill it will be found that the plan adopted has been, with regard to appointments, promotions, and all other matters, that the commissioner gets a report from the permanent head, and then makes a recommendation to the Governor-General.

Senator Harney

- Are the inspectors in the nature of travelling deputy commissioners 1

Senator DRAKE

- No, because the inspectors act under the instructions of the commissioner. The inspectors represent the eyes and ears of the commissioner. These inspectors will go about into every department. They are charged with the duty of finding out the work that is done, how many men are employed, what are the duties they fulfil, and, so far as they can, the capabilities of the individuals employed ; and they report to the commissioner. In the case of appointments and transfers, it will be found throughout the Bill, that the permanent head makes a report to the commissioner.

Senator Walker

- Each State has an inspector ?

Senator DRAKE

- Not necessarily. There may not be six inspectors appointed. The limit is six, but there may be a smaller number, and one inspector is not to be assigned to each State, because, it may be desirable to divide the Commonwealth into districts which will not coincide with the States. The inspectors will go about and inquire into matters for the commissioner, and then in making appointments and promotions the permanent head has to make a report to the commissioner, and the commissioner will recommend to the Governor-General, whereupon, if the Governor-General does not approve, the proposal is sent back to the commissioner, for him to make a fresh proposal ; but in every such case a statement of the objections to the proposal is to be made within a certain time to Parliament. It is believed that, in this way, we shall get machinery which will result in obtaining a public service as good as we can get. It will be the best way of getting over the difficulty of having a Minister who might be inclined to be an autocrat and a commissioner who would be inclined to entirely disregard the wishes of a permanent head of a department.

Senator Harney

- What is the relation of the commissioner to the Minister t

Senator DRAKE

- The Minister has not necessarily any relation to the commissioner.

Senator Harney

- Only as a member of the Executive Council 1

Senator DRAKE

- Yes.

Senator Clemons

- I thought the Postmaster-General was going to indicate the conditions of transfer from one division to another.

Senator DRAKE

- I have not come to that yet. I propose to deal rather fully with it when I come to the subject, upon another clause of the Bill.

Senator Playford

- - Has the Minister any idea of what the cost of the commissioner's department will be 1

Senator DRAKE

- If there are six inspectors, the cost will come to about £6,300.

Senator Playford

- Then you will have clerks innumerable. It seems to me to be a fearfully big thing.

Senator DRAKE

- You cannot make omelets without breaking eggs.

Senator PLAYFORD

-ford. - Cannot the Government trust the heads of the departments a little more, without having inspectors sneaking around 1

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Senator DRAKE

- The trouble in the past has been that in the States where there has not been a Public Service Board positions have been filled through political influence, and in many cases the departments have been overmanned. Sometimes two officers have been doing the work- of one man. It is in consequence of abuses of that kind being created that three of the States have taken the opportunity of appointing Public Service Boards. In each case three gentlemen have been appointed to act as a board, but in some instances the system has not worked very well, because although you have three highly-paid men sitting round a table dealing with the public service, and you perhaps get the united wisdom of those men, you have no inspection. You cannot exercise any supervision without inspectors. The principle adopted in this Bill is that we shall -have one commissioner, and then, to assist the one commissioner, there shall be a number of inspectors, whose business it will be to be outside the office. I do not know whether any other system could be adopted as good as this that could be carried out. for a less expenditure. If the commissioner finds that there are two men in any department where one would do, he may transfer the excess number ; or, if that method of relieving the congestion is not open to him, he may stop all appointments and promotions until the expansion of the work of the office has once more become proportionate to the staff. In case of an excess of officers the sixth sub-section of clause 8 comes into operation, but it is not a provision that we should like to see put into force unless it were unavoidable. It is as follows : -

If the services of any officers in excess in any department are not likely to be required in any other department, the Governor-General may call upon such officers to retire from the public service ; and every such officer so called upon to retire shall retire accordingly.

That is to say, if there is congestion it may be relieved by removing the excess of Officers to other departments, but if the work of a department has fallen below the capacity of the number of officers engaged in it, and there is no other way of relieving the excess, there is nothing else to do but to retire some officers.

Senator Clemons

- Who is to move the Governor-General in Council in that case?

Senator DRAKE

- The commissioner in every case. Clause 8 deals entirely with what is to happen on a report of the commissioner.

Senator Clemons

- A report' proceeds from the inspectors vid the commissioner to the Governor-General.

Senator DRAKE

- I would hardly put it in that way, because, as I have said before, the inspectors are the eyes and ears of the commissioner. They have to go about and report to the commissioner, and the commissioner digests the information they furnish to him, and takes any action he chooses under the circumstances. I think that is the better way of putting it. Then there -are powers given to the commissioner to summon witnesses and take evidence on oath, and he is required to furnish -a report at least once a -year -as to the

condition and efficiency of the public service, which report is to be published. With regard to the work of the separate divisions, although this refers to all the departments, it is chiefly important in connexion with the Government transferred departments. My own department, the Post and Telegraph, department, is of course the largest. It is so much larger than any other department that it is a leviathan amongst the minnows, so far as the number of persons employed is concerned. Of the other three departments, the Defence department - excluding the soldiers - is comparatively small, and the number of the officers in the Customs department is likewise comparatively small.

Senator Playford

- Is the Defence department excluded from this Bill?

Senator DRAKE

- Only the soldiers are excluded; the civil officers are dealt with under the Bill. In the Postal department we have, I think, speaking from memory, 8,000 or 9,000 officers, and we have in each of the States a Postal department that has been up to the present time complete in itself. The title given to the officer who is next to the Minister in one of these transferred departments is that of permanent head. He has generally been called undersecretary in the past. He is next to the Minister in the work of administering the department, whether it is a transferred or any other department. That is dealt with in clause 12.

Senator Harney

- Is the commissioner rather higher than the Minister, or is his position solely supervisory? *

Senator DRAKE

- One cannot compare the commissioner with the Minister at all. The Minister is the political head and the commissioner is non-political. We have endeavoured to give him a position which will place him above all political and social influence.

Senator Sir Josiah Symon

- Not above social influences surely? You would not make him a pariah?

Senator DRAKE

- Perhaps it may be possible to get such an individual. I remember that Emerson in one of his essays mentions that a friend of his, speaking of the domestic problem, told him that he had been sent down town by his wife to procure an angel to do plain cooking. To get a man to occupy this high position, who would be entirely free from all social influence we should have to get some one angelic. But at all events we can try to dissociate the officer from political and social influences.

Senator Walker

- Is he above the permanent head?

Senator DRAKE

- He is not on the same plane.

Senator Walker

- He can criticise the permanent head?

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Senator DRAKE

- Assuredly. The chief officer of a department is the person in charge of the department in one of the States. Take the Post-office for example, and the same system will apply to every transferred department. We have had in the past a permanent head under the Minister in each of the States. The permanent heads have been called postmasters-general or deputy postmasters-general or sometimes under-secretaries. Under this Bill, as I have explained, they will become chief officers. It is just as well that honorable senators should carefully impress that point upon their minds when going through the Bill, otherwise errors will be made. The permanent head is the officer who comes next to the Minister as the head of the whole department, embracing the branches of the department in the various States, and the chief officer is the highest officer of a department in any particular State.

Senator Harney

- Here we have a chief officer, who is the head of the department in a State; a permanent head, who is the head of the whole department; a Minister, who is over the permanent head; and then the commissioner. Will the Postmaster-General mark out the various duties that these four officers have to discharge?

Senator DRAKE

- So far as the administration of this Bill is concerned, the Minister rarely comes into it. He is a member of the Executive Council, and, consequently, his influence only comes in where the Governor-General in Council acts. Seeing that the Governor-General in Council acts upon the advice of the Minister, the Minister will merely act as a member of the Executive Council.

Senator Harney

- Without any controlling influence whatever?

Senator DRAKE

- As a member of the Cabinet he will have some controlling influence.

Senator Harney

- Only in the Cabinet.

Senator DRAKE

- I do not think that throughout the Bill there is any reference to the individual Minister.

Senator Harney

- The Minister then is a mere glorified inquiry agent.

Senator DRAKE

- He is very much more than that. I presume from that remark that Senator Harney is very much inclined to think that the Bill does not give enough power to the Minister. Others think that it gives too much power to the Minister. We have hit upon what we consider to be the happy medium, in giving the Minister just sufficient power to enable him to do his duty properly.

Senator Harney

- What I understand is this : Apparently the commissioner, acting with the assistance of six inspectors, discovers everything that is going on in the various departments, and he reports to the Governor General, which is a report to the Executive Council. Upon that report the Governor-General acts. The commissioner has no further power than to make an investigation and to report.

Senator DRAKE

- That is. so. If the commissioner's recommendation is not accepted, the Governor-General sends it back for another recommendation, but in that case a statement of the grounds upon which the recommendation has been rejected is to be laid before Parliament. That is where the Ministerial influence may come in. But where Ministerial influence is exercised against the recommendation of the commissioner Parliament must be informed. That is a check, and will operate against what may be called Ministerial interference with the work of the commissioner.

Senator Harney

- The Bill seems to provide for four heads to do one thing.

Senator DRAKE

- If we substitute one for the four there will be no check. In view of the discussion some time ago, when some members of the Senate were exercised in their minds in regard to the form of an Appropriation Bill, I may point out that this Bill makes it clear what is the position of Parliament in regard to its own officers. The clerical staffs of the Senate and the House of Representatives are to become departments in themselves. The Library and the Parliamentary Reporting Staff are also separate departments. You, sir, occupy the position that would otherwise be occupied by the commissioner. The Speaker and the President are substituted for the commissioner, and the Clerk of the Senate takes the position that would be occupied by the permanent head or chief officer. With regard to the Library and Parliamentary Reporting Staffs, they are placed under the control of the President and Speaker. So that in the case of the Senate it would be the President, as commissioner, who would make a recommendation, after having received a report from the Clerk, as permanent head.

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Senator Sir William Zeal

- Supposing the Government does not accept the nomination of either the President or Speaker, what will be the position ?

Senator DRAKE

- The Bill does not provide for that.

Senator Sir "William Zeal

- The appointment would go by default.

Senator DRAKE

- There is no provision similar to the provision I have referred to just now with regard to the recommendations of the commissioner, and the laying of the papers on the table of the House, because it would almost be a work of supererogation, I think, for the President, where, he has made a recommendation that has not been accepted, to lay the reasons upon the table of his own House.

Senator Sir "William Zeal

- A case of the kind occurred in the State Parliament last session, and I think the Senate should scrutinise that provision carefully.

Senator DRAKE

- Where the recommendation was not accepted ?

Senator Sir William Zeal

- The recommendation was not accepted, and the Government nominated their own man.

Senator DRAKE

- I have been accustomed to a state of affairs in Queensland where the recommendation of the President and Speaker has always been accepted.

Senator Harney

- It was intended under the clause to substitute the President and Speaker for the commissioner in all respects, but the clause does not seem to do it accurately, because it mentions powers and privileges, and that is all.

Senator Sir William Zeal

- It only does it if the Government accept the nomination of the President or Speaker.

Senator DRAKE

- It does' not make provision, so far as I can see, for what would happen if the recommendation is not accepted.

Senator Playford

- The Government would override the nomination of the President or Speaker.

Senator DRAKE

- I think honorable senators now understand pretty thoroughly the modus operandi by which the commissioner carries out his duties. The second part of the Bill deals with the divisions of the public service. The public service is divided into four divisions - the administrative, the professional, the clerical, and the general division. The administrative division includes the permanent heads and chief officers, and any other persons whom the Governor-General, on the recommendation of the commissioner, may direct to be included. I think that is very clear. Practically, it will be the permanent heads and chief officers and a few others who will be in the administrative division. And to go a little bit ahead, I may say at once that their salaries are the salaries to be provided for in the Appropriation Act. The professional division will consist probably of the representatives of two of the professions, the legal profession and civil engineers, who perhaps may be required, and persons belonging to any other of the recognised professions, and their salaries will be on a scale provided for by the regulations. Then we come to the clerical division, and that, perhaps, is the one of the greatest complexity. The clerical division will include all who are not in the administrative, the professional, or the general division. This, I think, is the part of the Bill which Senator Clemons, desired me to enlarge upon somewhat. With regard to the clerical division, the salaries are set out in the third schedule. If honorable senators will turn to it they will see there that in the clerical division there are to be five classes, and in each of the classes there will be six subdivisions. The salaries to be paid are these : A youth goes in at from 16 years to 21 years. He must be not less than 16 years nor more than 21 years of age, and he goes in at £40 a year, and gets automatically two increases of £10 each, at intervals of six months, so that when he has been a year in the service he will be in receipt of £60 a year.

Senator Sir Josiah Symon

- He continues at £60 until the end of the second year.

Senator DRAKE

- Yes, and he may continue longer. Those are automatic increases. For the first six years he is entitled, upon the certificate of the commissioner, to an increase of £20 per annum for each succeeding twelve months until he . gets £160. If a particular officer does well and gets the certificate, he will get up to the

top of the fifth division in six years, and then he will be in receipt of £160. The first two increases are automatic, and then the increases are automatic, but subject to merit.

Senator Clemons

- His chances of promotion after that are what interests me.

Senator Sir Josiah Symon

- On what principle is the salary of a man or a woman fixed at £110?

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Senator DRAKE

- I am going to deal with that. At the end of three years a clerk would be in receipt of £1 00, according to the scale. Then we have this special provision of the fifth sub-clause -

Upon the receipt of such report, and upon obtaining any further information which may be necessary, the commissioner shall determine whether such officer is entitled to the full amount, or any part of the prescribed increase, as a reward for earnest application to duty and meritorious public service, and in the case of a female as being as capable of satisfactorily performing the work as a male.

Then the sixth sub-clause says -

Every such officer shall be entitled, if of the age of 21 years, to a salary of £110 per annum, provided he has been employed for a period of not less than three years in the public service, of which one year has been in such division, and shows by passing the prescribed examination that he is capable of doing the work of an office to which the salary of that amount is attached.

If he gets £110 honorable senators will notice that he is entitled to only £10 additional for the twelve months succeeding that increase.

Senator Harney

- He gets £10 in advance?

Senator DRAKE

- Yes. He has been three years in the ' service and is entitled, under the scale, to £100, but if his case is one of merit, and he is 21 years of age, he gets £110, and in the fourth year he will get an increase of only £10, which will bring him back to the scale again.' This is a special provision under which a man who has been three years in the service, and is 21 years of age, may get what is called a living wage.

Senator Walker

- Is there any limit to a female rising to any rank in the service ?

Senator DRAKE

- There is no limit where she gets the necessary certificate of capacity.

Senator Clemons

- A female has an equal opportunity with a male of getting £110?

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Senator DRAKE

- Yes. Senator Clemons will find the information he desires with regard to further promotion above the fifth class in clauses 22 and 23. Roughly speaking, this is the general rule : An officer must be twelve months in each subdivision, and is only promoted to the next subdivision. There is this difference, however - he may be promoted from a subdivision to another subdivision without any vacancy occurring. That is to say, if he is in a certain subdivision and has been twelve months in it, he is entitled to go to the next subdivision whether there is a vacancy in that subdivision or not, but he can only go from one class to another when there is a vacancy in that class. If he has worked his way up, step by step, from one subdivision to another, until he gets to the top of his class, he cannot be promoted to the next class until there is a vacancy. Shifting from class to class he must wait for a vacancy, but shifting from subdivision to subdivision he need not wait. It has been pointed out to me by some officers that this will tend, as perhaps it may, to a certain amount of congestion in the highest division of each class, but that cannot be helped. I have given the matter a good deal of thought, but at present I cannot see how it can be guarded against. If we do not wait for vacancies in promoting from class to class the tendency will be to have a superabundance of officers in the higher classes. There is one exception, in which more rapid promotion is provided for, and that, is provided by in sub-clause (3) -

Notwithstanding anything contained in this Section, on the recommendation of the commissioner upon a report from the permanent head and with the approval of the Governor-General, an officer may be

promoted from any class to the next higher class, although he has not served at least one year in each subdivision of the class from which he is promoted. A copy of every such recommendation, report, and approval shall, as soon as practicable after the making of any such appointment, be laid before the Parliament.

Of course the object of that is that where promotion is made rapidly in that way we insure that it shall not be through favour but through merit. There is a provision under which, in certain cases, a man may be promoted from- the general to the clerical division, but that must be after a competitive examination. That is provided for in subclause (4), which is as follows : -

The Governor-General may declare the number of vacancies in the fifth class of the clerical division which may be filled by officers who have served for at least two years in the general division. Such vacancies shall be filled by the successful candidates at a competitive examination of the same standard as that for admission to the clerical division. Provided that no officer shall be eligible to compete at such examination unless he has been recommended for transfer- to the clerical division by the commissioner. Such officers shall on such transfer be paid the salaries- they have been receiving up to but not exceeding £110 per annum, and thereafter the other provision of this Act relating to officers of the clerical division shall apply to them. : Then there is a provision that, in certain cases, on the recommendation of the commissioner, the Governor-General may put down into a lower division persons who are found incapable of performing their duties in the higher division. We come next to a very important provision in clause 25, to which I will direct the attention of the Senate particularly. Strange to say, though it comes under the heading of the clerical division it deals entirely with the general division -

Any officer in the general- division who shall have served for three years and shall have attained the age of 21 years shall be paid a salary not less than £110 per annum.

That appears to be a corresponding provision to that contained in sub-clause (6) of clause 21 to which I have just referred, but in the sub-clause of clause 21 a provision is made for the passing of an examination to prove that the officer is capable of doing the work of an office to which a salary of this amount is attached. There is no such qualification in clause 25, and it looks as if we were making it more easy for those in the general division to attain to this minimum wage than for those in the clerical division.

Senator Playford

- That was introduced by amendment in the other. House.

Senator DRAKE

- I know it was ; but I think it can hardly have been intended that it should be more easy for those in the general division to attain the minimum wage than for those in the clerical division to attain it.

Senator Glassey

- They are a different class of persons, labourers, for instance, not requiring so much education as physique.

Senator DRAKE

- This will apply also to females in the service, but the Senate will have to carefully consider whether a provision of this kind will not tend to diminish the amount of employment that can be found for women, because it is an almost universal principle that the wages of men should be somewhat higher than those paid to women. We know that for a long time past women have been endeavouring to get employment in the public service, and in private service as well, and they have been willing and able in many cases to get employment at lower wages than men. Though they may be equal in some respects, they claim certain consideration on account of sex. If we are going to say that, with regard to salaries, sex shall be taken into consideration, and that on account of sex women shall receive special consideration, then in the long run those who do not desire or expect this consideration must be employed to a larger extent than those who do require it.

Senator Staniforth Smith

- The honorable and learned senator does not propose to pay according to the value of services rendered ?

Senator DRAKE

- Yes, I think so. I could never see myself why the sex should make a difference in the salaries. I do not think that is what does make the difference. It is a matter of capacity and working ability . In private employment, women have been working their way, and a number of people requiring clerks are

employing young ladies, but they pay them lower salaries than would probably be paid to men. The young ladies have been very glad to get into the employment, but if we told a merchant that he must pay the same salary to women as to men, he would probably say that he would prefer to employ the men.

Senator Staniforth Smith

- Not as typewriters.

Senator DRAKE

- If the women can do the work as well as the men, no doubt they will be able to command the same salary, but if they cannot do the work, and we make a fixed rule that the same salary must attach whether the operator is a man or a woman, the preference will be given to the man, and I am afraid the women will be crowded out. Of course those that are in the service will be all right ; it is a very good thing for them. There are a great number of females in the service who are getting at this age £50 and £60 a year. It will be a great thing for them to have their salaries at once doubled, but how will it affect the number of young ladies who would like to get into the service ? I think it will have the effect of diminishing the amount of employment for women. I have discharged my duty in drawing attention to the matter, and I hope that in committee it will be thoroughly discussed.

Senator Clemons

- How is it intended to grade existing civil servants? Are the Government going to grade them with regard to the salaries they are receiving in the States ?

Senator DRAKE

- Most assuredly ; the Constitution Act expressly' safeguards them when they are taken over. That I think settles the matter.

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Senator Clemons

- The Minister will find that there is a considerable discrepancy in the salaries paid to civil servants in the various States', who are doing exactly the same work. A civil servant in Victoria who is doing exactly the same work as a civil servant in Tasmania, will find himself immediately placed in the higher subdivision or in a higher class if we take the salary standard. Is that what is intended in the Bill ?

Senator DRAKE

- I really do not see how we can do anything else. That is one of the tasks which the commissioner has before him. It is a task which no one will be inclined to envy him. There is a very great discrepancy in the salaries which have been paid in the various States, and he has to set to work with the provision of the Constitution before him that every officer who has been transferred shall retain all his rights and privileges, and at the same time he has to endeavour to do equal justice to all civil servants throughout the Commonwealth. It is a most difficult problem, and if the honorable and learned senator objects to the principle that is laid down in the Bill, perhaps he can make a suggestion as to how the matter may be dealt with.

Senator Clemons

- I am seeking information and elucidation.

Senator DRAKE

- I can see no other way than that the salary paid will have to rule. I presume, by degrees as the commissioner can do it, he will endeavour to equalize things all round - not, of course, by levelling down, because he cannot do that, but by the process of levelling up.

Senator Clemons

- There is no clause which especially governs the question of grading.

Senator DRAKE

- I do not think it is expressly stated any where in the Bill; I concluded that that was what was meant.

Senator Barrett

- Why does the Bill make a difference between officers in the clerical and the general division 1 In the one case it makes them pass an examination, and prescribes a certain time, and gives them £110. In the other class they pass no examination, but still they get the minimum wage of £110.

Senator DRAKE

- Senator Glassey has suggested by interjection, that the reason is that in the general division the officers consist more particularly of labourers, and that they are not likely to be able to pass an educational test. I

have drawn attention to the fact that; in the general division a man gets his £110 under certain conditions without any examination, whereas in the clerical division he has to pass an examination before he can get it. It appears to me to be an anomaly.

Senator Barrett

- Men who are educating themselves all the time should have more consideration shown to them in regard to salary.

Senator Staniforth Smith

- But they get an increase every year after they get £110.

Senator DRAKE

- In the clerical division they have some advantages.

Senator Barrett

- They have to wait a very long time for promotion sometimes.

Senator DRAKE

- There is no provision in regard to the wages to be paid in the general division, except clause 25.

Senator Glassey

- There are more wages men than others.

Senator Harney

- There is no statutory contract to pay that until they are three years in. the service.

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Senator DRAKE

- That is quite correct. The method of obtaining appointments is dealt with in clause 26. Clause 27 gives power to the Governor-General to make regulations for examinations. Every person who comes into the civil service has to pass a preliminary medical examination to test his health, and also an educational examination. It is very desirable that there should be a medical examination. If we get men into the civil service in weak health they may become unequal to the performance of their duties, and it would be almost impossible to dispense with their services. I do not think it is desirable to take any weaklings into the civil service. It should not be looked upon as a sort of asylum. There are persons who are afflicted from birth with ill-health and who never get strong. I think that public or private charity should look after such persons, and the public service for many reasons should not be used for their relief. I know that in administering departments in Queensland it was most objectionable to get a person who was suffering from some disease like consumption working in an office with a number of civil servants. I cannot imagine anything more unsatisfactory than that. Such persons are better provided for by some benevolent and charitable institution than in the public service. Clause 28 provides for separate examinations to be held to test the efficiency and aptitude of candidates for employment in the different divisions. I have no doubt that on the recommendation of the commissioner the Governor-General will prescribe such examinations as really will disclose the working ability of the candidates. Perhaps in the past too much stress has been laid on purely educational qualifications. The tendency of modern times is to model the examinations in such a way as to find out what the abilities of the candidate are. The commissioner is required from time to time to give public notice of the number of new appointments which it is estimated will have to be made, the division, class, or grade thereof, and the times and places of examination.

Senator Macfarlane

- If letter sorters are taken into the clerical division after being a number of years in the general division, what status will they occupy ?

Senator DRAKE

- They come into the general division at the salary they have been getting, but not higher than £110. Of course, in the clerical division, they will perform different duties.

Senator Macfarlane

- I asked the question, because in our State a letter sorter has been raised to another division, and considerable irritation has been caused thereby.

Senator DRAKE

- I am not acquainted with the particulars of that service, and the rule there may not be the same as the provision here. The general rule is that all appointments are to be made for six months on probation, and the exceptions to the rule are dealt with in clause 31. In effect it provides that - in special cases, where it

appears expedient or desirable in the interests of the public service, persons may be appointed by the Governor-General on the recommendation of the commissioner, and on the report of a permanent head, -without examination or probation, but in every such case a copy of every recommendation, report, and certificate must within seven days after the making of any such appointment be laid before Parliament. When examination and probation are dispensed with, the reasons for the dispensation must be laid before Parliament. The age for admission to the general division - the division in which there is a large number of the - labouring classes - is from 16 to 50, and in the case where special duties are being performed, a man may be taken on until he is 55, and at the other end of the scale messenger boys may be taken on at 13. There are some provisions with regard to transferred State officers and the reappointment of retired officers in clauses 33 and 34. Clauses 35 and 36 deal with the performance of services by federal officers, for the State, and by the State officers . for the Commonwealth. In each case an arrangement may be made between the Governor-General and the Governor in Council of the State as to the rate of remuneration and all other matters which may be required to be arranged in order to enable the service to be performed in that way. I now come to the provisions relating to temporary employment, and the conditions under which persons are to be so employed. They may be employed for any period in a year, not exceeding six months ; and by another clause, under certain circumstances, that period may be extended to nine months ; but after they have been employed for six months or nine months, as the case may be, they are ineligible for employment for another six months. The object of the provision is, ' where we have a large number of applicants, to distribute the temporary employment to a certain extent amongst them. If there is no permanent employment for a man after he has been temporarily employed in the way I have mentioned, then he gives place to somebody else who wants temporary employment. But there is an exception in sub-clause (6) of clause 40 that where a person is engaged on any public work or scheme the Governor-General may permit him to be employed until it is completed. That disposes of all the provisions with regard to salaries and method of appointment. I now come to the provisions relating to alterations of staff, which are rather complicated. The Governor-General, on the recommendation of the commissioner, after obtaining a report from the permanent head, may create a new office, or abolish an office, or raise or lower a qualification, or transfer an officer from one division to' another, subject to certain conditions.

Senator Harney

- What is rather puzzling me throughout this Bill is how, if the Minister has absolutely no power except as a member of the Executive Council, we can call him responsible for the department ? What is he responsible for? Nobody is bound to obey his instructions.

Senator DRAKE

- His permanent head has to make a report to the commissioner.

Senator Harney

- Supposing that the Minister says to the permanent head, do something, and that the reply is " No," he has no power to compel obedience ?

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Senator DRAKE

- No. Of course the Ministerial head cannot interfere with the permanent head in making a report to the commissioner.

Senator Harney

- Nor has the Minister power to go to the commissioner and tell him to report to the permanent head.

Senator DRAKE

- The Bill has been framed on those lines ; it is designed to prevent the political head from interfering in the work of the department, where transfers are concerned up to the time when they come before him as a member of the Executive Council. He has power to dissent from a recommendation, but in every case a statement has to be laid' before Parliament. Suppose a permanent head wants to make an appointment in a department, and the Minister objects to it. The permanent head makes his report" to the commissioner. The commissioner recommends the appointment. It then goes to the Minister as a member of the Executive Council ; the Minister says - " I do not agree with that appointment. That is not the man I want, and I will not have him." The Executive Council sends it back, supposing that the Minister's colleagues are with him in the matter. In that case a statement of the reasons for the objection

have to be laid before Parliament. In some States where the principle of Ministerial control is very strong, the Minister would simply say - " I will not have the appointment made - appoint so and so," and probably no one would know the reason why the person selected had not been appointed. It would be seen perhaps that a man had been passed over, but no one would know why. It would be simply the Minister who would have done it. But, in this case, the permanent head makes his report, the commissioner makes his recommendation, the Governor-General then intervenes, and a statement has to be laid before Parliament, showing that the permanent head made a certain recommendation, and why the Executive Council disapproved of it.

Senator Harney

- It is a* sort of hybrid provision.

Senator Clemons

- It kills political influence.

Senator Glassey

- If the Minister is worth his salt, he will carry out his own ideas.

Senator DRAKE

- Clause 42 is very important indeed. It deals with a matter that has been a cause of difficulty in all the States, and that is the principle upon which promotions are to be made, whether by merit or according to seniority. Generally, when the question is raised, every one says that promotion should' be made according to merit, but when you take a concrete instance, you find a complaint made that some one who is senior has been passed over. There is also the question whether appointments should be made within one department, or from one department to another; and a third question of whether appointments should be confined to the public service, or whether the commissioner should be entitled to go outside the service, if necessary. This Bill deals with these matters, and the principle which has been adopted is that in the first place promotion is to go by merit. But if there are two officers of equal merit, then seniority is to count. I think that is the best way of settling it. The clause reads in this way -

The Governor-General may on the recommendation of the commissioner, subject to the provisions of this Act - . appoint to fill such vacancy an officer of the department in which such vacancy occurs, regard being had to the relative efficiency, or in the event of an equality of efficiency of two or more officers to the relative seniority, of the officers of such depart' ment.

Senator Harney

- You make seniority a factor in efficiency.

Senator DRAKE

- I should hardly say that.

Senator Clemons

- The Bill gives seniority a casting vote.

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Senator DRAKE

- First of all it will be decided who are the efficient officers, and if it is found that there are two officers who are equally efficient, the choice between the two is to be made on the ground of seniority: Or the Governor-General may -

Appoint to fill such vacancy any qualified officer from any other department . whom on the ground of efficiency, or in the event of an equality of efficiency of two or more officers whom on the. ground of seniority, it appears desirable so to appoint, if it appears that such appointment would result in the work of such office being more efficiently performed than by selecting an officer from the department in which such vacancy occurs.

Regard is to be had, first of all, to merit, and then to seniority. The next point is whether we should go further and take an officer: from outside the department to fill a certain vacancy. Can the work be more efficiently performed by selecting an officer from the department concerned, or by going outside the department ? Efficiency is defined to mean - Special qualifications and aptitude for the discharge of the duties of the office to be filled, together with merit, and good and diligent conduct.

I think that is about the best definition that can be hit upon for settling the vexed question of whether promotions should go by merit or seniority. A promotion within a clerical division is not to be made without examination, but examination in that case does not mean a competitive examination. It is only a qualifying

examination. In clause 46 we come to another part of the Bill dealing with the subject of dismissals and removals from the service. I will say a few words as to the way it is proposed to deal with civil servants who are at fault. In the case of offences against good behaviour, such as are described in clause 46, the officer is liable to punishment. Subclause (2) of the clause says -

Any officer (not being an officer included in the administrative division) charged with the commission of an offence -

may in the case of minor offences against discipline be reprimanded or cautioned by the chief officer or by any officer prescribed as having power to suspend officers in the office or place in which the offending officer is employed ; or

for any such offence whatever may be temporarily suspended by the chief officer, or in emergent cases by any officer prescribed as having power to suspend officers in the office or place in which the offending officer is employed, in which event such suspension shall be immediately reported to the chief officer. The suspending officer or the chief officer shall forthwith furnish the offending officer with a copy of the charge on which he is suspended, and require him to forthwith state in writing whether he admits or denies the truth of such charge, and to give any explanation in writing as to such offence for the consideration of the chief officer.

Then the chief officer, having done this, may either remove the suspension, or fine the offending officer any sum not exceeding £10. Or if the nature of the offence is serious, the offending officer may be further suspended, and the charge may be referred to a board of inquiry, which -is to consist of three persons, one of whom is to be a representative of the division to which the officer belongs, and to be elected by the officers of that division. I think that is a provision that will give great satisfaction in the departments, because it makes it sure that an officer who has been suspended will be fairly treated. If this board thinks that the charge is proved, the permanent head may impose a penalty, or may deprive the offender of leave of absence as a punishment ; or the commissioner may reduce the offender to a lower grade - that is to say, if he has not been dealt with by the permanent head ; whilst the Governor-General has power to dismiss him, or to require him to resign.

Senator Harney

- Which of the three authorities is to act on the report ?

Senator DRAKE

- Of course they cannot all three act. If the permanent head deals with the case it is concluded. If the permanent head does not deal with it, the commissioner may ; and if the commissioner does not, the Government may.

Senator Harney

- Who is to determine ?

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Senator DRAKE

- I will read subclause 5 -

If any such charges are admitted or are found by the board of inquiry to be proved, then on the recommendation of the chief officer the permanent head may, subject to the regulations, impose a penalty upon such offending officer, or may deprive him of his leave of absence during a specified period, or the commissioner may according to the nature of the offence reduce such officer to a lower class or grade and salary or wages, or the Governor-General may dismiss such officer from the public service or require him to resign, and in the event of being so dismissed, such officer shall, unless otherwise ordered by the Governor-General, be entitled to no salary or wages during the time of his suspension.

So that the Governor-General may dismiss the officer from the public service, or compel him to resign.

The 47th clause is of a similar character, but whereas clause 46 deals with a charge against an officer of the non-administrative division, clause 47 deals with charges against officers of the administrative division. That would include permanent heads and chief officers. In that case the Minister may suspend and report to the commissioner, and the commissioner may appoint a board. If the officer is found to be guilty, then, on the recommendation of the commissioner, the Governor-General may dismiss him from the service, or reduce him to a lower division, or reduce his salary, or impose such penalty or other punishment as the case may demand. Clause 50 provides for appeals. It is as follows : -

Any officer feeling dissatisfied with any report or recommendation made under this Act affecting such

officer's position in the service, "or his pay, or any promotion or transfer, may appeal to the commissioner in such manner and within such time as may be prescribed.

The next part of the Bill deals with life assurance. That is a very important subject, which has been tackled in a number of the States, in some cases more successfully than in others. I am sorry to say that the Public Service Act of Queensland, passed in 1889, adopted a system of superannuation allowances which has not been successful. Under this system the officers had to contribute to a fund, and deductions were made from their salaries for the purpose. I thought myself, at the time the measure was passed, that some of those provisions were not quite correct. One was that every officer, whether insured already or not, had to submit to these deductions, which seemed to me to be unfair ; and another provision was that the women in the service, who were mostly school teachers, should have deductions made from their salaries to provide pensions at the age of 60. Objection was taken to that power, and after a number of years there was such a strong feeling against it that the system was abandoned, and the money was handed back to the civil Servants. One result is that there is now jio system of superannuation in Queensland except for the police and one or two other brandies. As a consequence of that, there are a number of men in the service who are getting on in years, and have not made any provision for themselves. The Government is naturally disinclined to dispense with the services of men who have not made provi-sion for their old age. That is one of the reasons why I think it is very desirable for every Public Service Act to make provision with regard to the insurance of civil servants. "What we propose to do is this. It is required that every officer who enters the civil service, and who is not already insured, shall insure ' his life with some mutual life company or society, having its head office in Australia, and registered, or carrying on business in Australia.

Senator Clemons

- A bad limitation.

Senator DRAKE

- It has been represented to me that there is no reason why that limitation should be imposed, and why reputable offices, whose centres are in other countries, should not be allowed to do this business.

Senator Staniforth Smith

- There is no reason, why the Government should hot do it.

Senator DRAKE

- That is a matter we may discuss in committee. We require that when officers insure their lives, if they get two months in arrears with their payments, the offices shall notify the Government, who who may deduct the premiums from their ^salary.

Senator Playford

- What is the amount they are to insure for ?

Senator DRAKE

- That depends upon the class of the officer, and the amount is liable to be increased from time to time as the position of the officer in the service improves. Clause 53, which provides for that, is as follows - Such assurance shall be continued by the assured and not allowed to lapse, and the amount thereof shall be increased by the assured from time to time in proportion as nearly as practicable to his salary as may be prescribed. '

That is to say, prescribed by regulation.

Senator Clemons

- Clause 56 makes it the duty of the company or the society to do something. How can they be compelled to do that ?

Senator DRAKE

- That would certainly be one of the Conditions upon which the company would take the business. Certain regulations will be laid down, and if certain companies will not undertake the business of insuring civil servants upon those terms, then the officers will have to go to other companies. This is a substitute for the system of Government insurance. It will be laid down by regulation what conditions must be complied with, and the civil servants themselves must -make arrangement with some company or other. If one company will not comply with the conditions another will. Probably all the best offices will be competing for the business. There is another provision to which I must refer upon this subject. That is that in case of a person being unable to insure his life, or in case the companies load his life for more than five years -

that is to say, in case of a person who cannot very well get insured - we make provision for a deduction from his salary to take the place of insurance.

Senator Staniforth Smith

- The Government take the bad lives and give the companies the good ones.

Senator DRAKE

- The honorable senator should not jump before he comes to the stile. The insurance by the Government simply consists in their deducting a certain sum from a man's salary from month to month, and when he arrives at a certain age, or leaves the service, he is just paid the amount he paid in with interest.

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Senator Staniforth Smith

- It is practically the same as insurance where a man has paid what it is estimated he will pay in premiums with interest ; the principle is the same.

Senator DRAKE

- No ; it is simply compelling him, to save a little money. Insurance is decided upon actuarial calculation, and is a sort of speculation as to whether a man is going to get more or less. In the case of transferred officers, where they have contributed to a superannuation fund, they are required to continue their payments, so that they do not come under the class of persons who are not insured.

Senator Staniforth Smith

- How does a man pass his medical examination if he is unable to insure his life?

Senator DRAKE

- He may be in the service already.

Senator Clemons

- "What is the meaning of " the Treasury," in clause 58 1

Senator DRAKE

- I take it that it means the Treasury of a particular State.

Senator Sir Josiah Symon

- I think it would be better to amend that by saying that he should contribute as heretofore.

Senator DRAKE

- I think that clause will require looking after, and I will make a note of it.

Senator WALKER

- It is not proposed to establish a Commonwealth superannuation fund.

Senator DRAKE

- Only in the way the matter is dealt with by the clauses to which I have just referred, requiring an officer to insure his life in a private office. Clause 60 is, I think, almost a transcript of the section of the Constitution Act reserving the rights of civil servants who are transferred. It is just as well that it should be there. Clauses 61 and 62 also provide for cases where officers have been transferred. Clause 63 deals with the rather vexed question of rent chargeable for quarters. Honorable senators who have had anything to do with administration know how difficult it is to arrange with regard to giving quarters to officers. I think the provision made here is equitable. An officer is sometimes transferred from a position where he has quarters to a position where he has not quarters, and in lieu of quarters he gets an addition to his salary. The next time he gets a change he claims the addition in lieu of quarters as a part of his salary, and will consider he is reduced if it is taken from him. He takes the increased salary with him, which includes the allowance for rent, perhaps, to a place where there are quarters, and he quietly goes into the new quarters with the higher salary, and perhaps also asks for promotion. The Bill provides that in all cases of transfer there shall be a certain estimated value for quarters, and that value is to be deducted, and is to be considered as part of the salary. Clause 63 provides -

If an officer occupies for the purpose of residence the whole or part of a building belonging to or occupied by the Commonwealth, the Governor-General may direct that a fair and reasonable sum as rent therefor be deducted from such officer's salary, and the amount of such sum shall be fixed by the commissioner, or by officers specially or generally appointed for the purpose by the commissioner. In calculating for any purpose the rate of salary of such officer, the amount so deducted as rent shall be deemed and taken to be part of his salary.

That is to say that, if his salary is £500 a year, and he gets quarters valued at £50, he will get a salary of

£450, but his salary will still be considered £500 a year.

Senator Staniforth Smith

- Supposing a man is at present living free, and is transferred to some place where he will have to find quarters, how will such a case be dealt with ?

Senator DRAKE

- I think it can be dealt with very simply. He would be considered as an officer transferred with a certain salary, and having free quarters of a certain value, and his salary would be reckoned at a certain amount, plus the value of the quarters.

Senator Walker

- The clause says that the Governor-General " may direct." That is optional, but in some cases it might be very harsh.

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Senator DRAKE

- No. I think it is mandatory, and it is right that it should be so. The same rule applies all round. We never say that the Governor-General " shall" do a thing. There is a provision that in the case of a man becoming unfit or incapable of discharging his duty the Governor-General may deal with him on the recommendation of the commissioner. If a man is convicted of any crime, or becomes insolvent on account of his own misconduct, power is given to the Governor-General to dismiss him or to punish him by fine or reprimand. The Bill, also lays down the amount of leave of absence that may be given for recreation or . in case of sickness. For purposes of recreation an officer may have eighteen days¹ leave in each year, and. there is a proviso that in remote parts of the Commonwealth the leave may be extended. In case of sickness an officer may be given three months' leave by the Minister, and if he is not right then the Governor-General may extend that leave to twelve months. If the officer after the twelve months is still unable to return to his work he may get six months additional leave without pay. If after that he cannot come to his work, I suppose, the case must be regarded as hopeless, and his services must be dispensed with. Leave of absence may be given under certain circumstances without pay where a man is not sick. The Governor-General, on the recommendation of the commissioner, may grant twelve months' leave without pay. Then there is a provision in clause 70 that if a man has been twenty years in the service, or ten years if he joined at the age of 30, the Governor-General may, on the recommendation of the commissioner, give him twelve months' leave of absence - -six months on full, and six on half -pay. Clause 71 deals with holidays, and clause 72 deals with the retirement of officers. At 60 years of age a man is entitled to retire. Between 60 and 65 he may be called upon to retire at any time by the Governor-General, and when he is 65 years of age he must retire -

Unless he is required to continue to perform his duty in the public service as hereinafter provided, and is able and willing so to do.

The conditions are laid down in this way in clause 74 -

Notwithstanding that an officer has attained the age of 65 years, if the commissioner certifies that in the interests of the public service it is desirable that such officer should continue in the performance of the duties of his office, or of any office in the public service to which he may be appointed, and that such officer is able and willing to do so, the Governor-General may direct such officer to continue in the service for such fixed time, not exceeding twelve months, as the Governor-General in such case directs or during his pleasure.

It is therefore quite indefinite what length of time an officer may remain in the service if he is mentally and physically fit to continue his duties. I think I need ' scarcely refer at length to any of the remaining provisions. There is a provision that, unless with the express permission of the Governor-General, a civil servant is not allowed to perform duties unconnected with his office. There is also the usual power to make regulations to enable effect to be given to the provisions of the Bill. I think that is sufficient for me to say at this stage. I am sure the Bill will receive the utmost attention from the Senate, and I hope it will be fairly and fully criticised. We have had of course the advantage in framing this Bill of the Public Service Acts which exist in some of the other States, and every effort has been made to make this a better Bill than any we have had experience of yet. I think that if the Bill is carried in its present form, and perhaps with some improvement, it will introduce a system of government in the civil service that will be calculated to give us an efficient, a well paid, and a contented public service.

Debate (on motion by Senator Barrett) adjourned.

CHAIRMAN OF COMMITTEES

Motion (by Senator Drake) agreed to -

That in the unavoidable absence of the Chairman of Committees, Senator Dobson do take the chair of committees of the whole for the remainder of the sitting.

AUDIT BILL

In Committee(consideration resumed from 31st July, vide page 3272) :

Postponed clause 4 -

The Auditor-General shall receive an annual salary of One thousand pounds, and such salary shall be a charge upon and paid out of the Consolidated Revenue Fund, which to the necessary extent is hereby, appropriated accordingly.

Upon which Senator Playford had moved as an amendment -

That after the word "thousand," the words "five hundred " be inserted.

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Senator PLAYFORD

- It will be in the recollection of honorable senators that when this clause was previously under consideration, believing as I do that the salary here proposed for the Auditor-General was not sufficient, I proposed that it should be increased from £1,000 to £1,500. At the time I proposed the amendment the constitutional aspect of the question had not occurred to me. I do not regret having moved the amendment because it was the occasion of an exceedingly interesting discussion upon the whole constitutional question and the Senate has perhaps grasped the Constitution a great deal more clearly now than it did previously. There are- two points involved in the matter. The first is as to the power of the Senate to make an amendment in this particular Bill. That was very ably discussed, and I will now only indicate my own opinion after listening with considerable attention to what has been said in all parts of the Chamber.' My contention is that this Bill is one which the Senate can amend, and that it does not come within the category of Bills appropriating revenue or moneys for the ordinary annual services of the Government. But then, according to my idea, it docs come within the next subsection of section 53. The Senate may not amend any proposed law so as to increase any proposed charge or burden on the people.

Even if it did not come within that, I say my amendment could not be put for another reason, and that is, that this is a distinct appropriation of revenue for a certain purpose, and has been introduced very properly in the other House, accompanied by a message from the Governor-General recommending the necessary appropriation. That is the recognised rule of Parliament which applies to either branch of the Legislature, and therefore necessary to us, and we cannot in crease any sum that has been recommended by a message from the Crown'. Take the case of the ordinary Estimates for the annual services. The Estimates are accompanied by a message from the Governor-General recommending the House to grant the moneys therein set forth, and it is not within the power of the House to increase a single item. It is not within our power to increase the amount which has been recommended by the Crown in this case. If we wish, or if the other House should wish, to increase that amount there is one constitutional way to act, and that is to pass a motion for an address to the Governor-General to send down a message recommending such increase, and when 'it comes down we can consider it. Under the circumstances, I ask leave to withdraw my amendment.

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Senator Sir RICHARD BAKER

- Before the amendment is withdrawn I should like to say a few words, because I absolutely and entirely disagree with the remarks made by Senator Playford. He has brought forward two points. First, that it is a recognised rule that no increased appropriation of any revenue can be made except on a recommendation from the Crown. "Where do we get that recognised rule from ? This is a new Constitution ; this is a federation. I entirely object to being bound down by any recognised rule that applies to Constitutions entirely different from our own. We are bound by the Constitution, and if we import into it, without consideration, dogmas and conventions which, belong to other Constitutions formed on different lines and for different purposes, we are not doing our duty to our constituents or to the Constitution. This is what section 56 of the Constitution says -

A vote, resolution, or proposed law for the appropriation of revenue or moneys shall not be passed unless the purpose of the appropriation -

Not the amount, but only the purpose of the appropriation - has in the same session been recommended by message of the Governor-General to the House in which the proposal originated.

I take it for granted that the proceedings of the House of Representatives are correct,, and that, therefore, there was a message from the Governor-General to that House recommending the purpose of the appropriation. If that has been done - and I presume it has* - then I contend that all has been done that is necessary in reference to messages. I am responsible, I think, primarily for section 56. In looking back I find that when it was under consideration it was suggested in the Convention that the latter words, " to the House in which the proposal originated," should be struck out, and the words "the House of Representatives" inserted. I pointed out that messages to the Senate would sometimes be required under the provisions of the second part of section 53, and that, therefore, it would be inconsistent with what had been done if the proposed amendment were made. It was not made. I pointed out that the Senate could initiate a certain class of Bills appropriating revenue or imposing taxation - a limited class I admit, but a certain class - and that therefore messages to the Senate would be necessary. But if our minds are to run in grooves, and if we are unable to appreciate the fact that this is a new Constitution, that we are not bound in any way by the axioms or the conventions of the Constitutions under which we have, been educated, we shall be making a great mistake. That is so far as that point is concerned. Then as to the other point -

The Senate may not amend any proposed law so as to increase any proposed charge or burden on the people.

That I admit is the crux of the whole tiling. Does an appropriation of revenue impose a charge on the people ? How can it be said that the appropriation of money increases the burden on the people who pay the money? If a private individual is living from the rents of his lands, does it increase the burden on his tenants if he spends that money in one way or in another way ? Or take a country which is under tribute to another country. The charge or burden on the people of the country which pays the tribute is not increased in any way by the expenditure of that money by the country which receives the tribute in any particular manner. I deny altogether that the principles and the axioms of the British Constitution apply. But even if they did, what do we find 1 I quote from May, 9th edition, page 665 -

The Committee of Supply controls the public expenditure ; the Committee of Ways and Means provides the national revenue. The one (Supply) authorizes the payment of money, the other (Ways and Means) sanctions the imposition of expenditure.

Then May goes on to say at page 666 -

As it is the province of the Committee of Ways and Means to originate all taxes for the services of the year, it is in that committee that the Chancellor of the Exchequer usually develops his views of the resources of the country, communicates his calculations of the probable income and expenditure, and declares whether the, burdens of the people are to be increased or diminished.

So that clearly, according to the opinion of May, the burdens of the people are the taxes imposed upon them, and it is the Committee of Ways and Means - that is the committee which sanctions the imposition of taxes - that imposes those burdens.

Senator Harney

- What is analagous with us to the Committee of Ways and Means ?

Senator Sir RICHARD BAKER

- There is a Committee of Ways and Means and a Committee of Supply in the other branch of the Legislature, but that is only machinery. Another place need not have a Committee of Ways and Means unless it likes. It has chosen, and perhaps wisely chosen, to adopt the machinery which is in existence in Great Britain and in all these States but after all it is only a matter of machinery, and no procedure of one House can alter the meaning of the Constitution. The crux of the whole thing is what is meant by "increasing any proposed charge or burden on the people "1 I am not going to deal with this question elaborately ; I might speak for a very considerable length of time ; but inasmuch as the amendment is to be withdrawn, I shall not continue my argument. I simply rose to assert that in my opinion the conclusion arrived at by Senator Playford is not correct, so that when it comes up again, and I have no doubt that it will come up again, we may argue it unbound and unfettered by any presumed acquiescence in any

doctrines which have been laid down by any honorable senator.

Postmaster-General

Senator DRAKE

. - Of course I should only differ with Senator Sir Richard Baker with very great reluctance, but I also have considered this matter since last evening, and while I entirely agree that the crux of the question is whether the alteration which is proposed comes within section 53 of the Constitution, as increasing any proposed charge or burden on the people, the conclusion I have come to is that it would have that effect. It is perfectly clear that this is a Bill appropriating a certain sum, but whatever amount is appropriated to the services of the Crown must be made up by taxation. Senator Sir Richard Baker puts it in this way - that there is a certain sum, which has already been raised, and the question is how that is to be expended ; but I think that, according to the theory of the Constitution, the practice is exactly the reverse.

Senator Sir Richard Baker

- The theory of what Constitution t

Senator DRAKE

- The theory of the British Constitution.

Senator Sir Richard Baker

- This is not the British Constitution.

Senator DRAKE

- The theory of the British Constitution, and I think the theory correctly illustrates the process which is carried out. First of all we have the Committee of Supply which decides how much is going to be granted for carrying on the services of the Crown, and then we call in the Committee of Ways and Means to decide how that amount is to be found. First of all we decide how much our expenditure is going to be, and then we turn to find out how we are going to raise that money. If that be so to whatever extent we increase the amount of our grant we must increase the amount of our taxation. If for instance we propose to grant half-a-million we go into Committee of Ways and Means to decide how that money is to be raised. If at some stage that sum has been increased by resolution to £600,000, then the Committee of Ways and Means has to decide how £600,000 is to be raised.

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Senator Sir Richard Baker

- How does the Minister connect all this with our Constitution?

Senator DRAKE

- I connect it with our Constitution. What we are trying to decide is, what is meant by the expression increasing a burden or a charge on the people, and seeing that the language which is used is language which has been used in all British speaking countries, we have a right, I think, to go to the British Constitution to find out what those words mean, and in that way it becomes justifiable to argue from the practice which is carried out under the Constitution. Coming back to my argument, if that additional £100,000 has to be raised by taxation, clearly the resolution of the House, at whatever stage, that £100,000 more should be granted, is the act which has increased the burden or charge on the people.

Senator Harney

- Does the Minister notice the words - so as to increase " any proposed charge" ?

Senator DRAKE

- Yes, and my contention is that whatever increases the amount of a grant, or appropriation, must become an increased burden or charge on the people.

Senator Harney

- But section 53 obviously has reference to some charge which is about to be made.

Senator DRAKE

- Yes ; it must become a burden or charge on the people. The Committee of Ways and Means simply interposes to decide the method by which it shall be raised ; but in whatever way it is raised, the increased amount which has been voted must become a burden or charge upon the people. Therefore when a vote is granted in Supply in the House of Commons any increase must necessarily be an increased burden or charge on the people. All the money which is voted in Supply is necessarily a burden or charge on the people. I do not wish to labour the matter, but perhaps it is just as well that the committee should hear the view taken by Sir John Quick and Mr. Garran in their annotated "Constitution

of the Australian Commonwealth." At page 671 on this section, and under the head "Increase any charge or burden on the people," the learned writers say : -

The Senate may not amend any proposed law so as to increase any proposed charge or burden on the people. This provision may be described as a limitation on the reserved power of the Senate to amend Money Bills, other than tax Bills and annual Appropriation Bills. Seeing that the Senate cannot amend a Bill imposing taxation, it may be naturally asked - How can the

Senate possibly amend a proposed law so as to increase any proposed charge or burden on the people? The answer is that the Senate is only forbidden to amend tax Bills and the annual Appropriation Bill ; it may amend two kinds of expenditure Bills, viz., those for permanent and extraordinary appropriations. If the Senate could propose an increase in the amount of money to be spent in a public work Bill - say from one million sterling to two millions sterling - this amendment would necessitate increased taxation in order to give effect to it, and consequently an addition to the burdens and charges on the people. The Senate may amend such Money Bills so as to reduce the total amount of expenditure, or to change the method, object, and destination - of the expenditure, but not to increase the total expenditure originated in the House of Representatives.

I think that illustration of increasing the amount to be expended on the public work from £1,000,000 to £2,000,000 is very strong. Clearly, by whatever amount that sum is increased, it must mean to that extent an increased burden or charge on the people. .

Senator Sir JOSIAH SYMON

- As Senator Playford has intimated his intention of withdrawing the amendment, we are really engaged upon an extremely academical discussion which can have no possible result.

The ACTING CHAIRMAN. - Any honorable senator can object when I put the question that Senator Playford have leave to withdraw his amendment. I have not put that question yet.

Senator Sir JOSIAH SYMON

- I mean that so far as settling this constitutional question is concerned we are engaged in the pleasant but profitless occupation of beating the air. But there is one advantage which Senator Playford will have when this matter - arises, as it may arise in the future, that Sir Richard Baker, as senator, declares that my honorable Mend's conclusions are not correct, when it may be in the future that Sir Richard Baker, as President, may have - to listen to arguments and decide this matter judicially as to the powers of the Senate.

Senator Sir Richard Baker

- No, it is not within my province to decide it.

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Senator Sir JOSIAH SYMON

- That, I take leave to say, is one of the anomalies of the Federal Constitution. Another of these anomalies, which has been inserted for a very good cause, is the provision, which I begin to think is not absolutely as good as we thought it in the Convention, providing that the President shall have a deliberative vote. This is unlike the procedure which exists in the other Chamber or in the House of Commons in the case of its Speaker, who never has any but a casting vote. I say that because, whilst the speech delivered by Senator Sir Richard Baker was a very instructive speech, it was at the same time a highly controversial speech.

Senator Sir Richard Baker

- No doubt.

Senator Sir JOSIAH SYMON

- I disagree with a very great deal of that speech, and particularly in this respect. Senator Sir Richard Baker said we were to do away with all the dogmas and conventions arising under the British Constitution. Whilst we have a written Constitution by the strict letter of which in every matter to which it applies we are to be guided, I entirely deny that we are not to have recourse for instruction and guidance to the usage of the British Constitution wherever it is not overridden by our own Constitution. We know quite well that one of the strongest contentions by one party of federalists - Senator Sir William Zeal will recollect this - was that we should endeavour to engraft on our Federal Constitution the principle of responsible government. Another section of federalists, with equal strength and equal confidence in their own judgment, said that we could not engraft responsible government upon a Federal Constitution. But

we did engraft responsible government on a Federal Constitution, and we are now engaged in the task of working that out

Senator Charleston

- We do not know how it will work out yet.

Senator Sir JOSIAH SYMON

- It has worked out fairly well hitherto, during the short experience we have had of it ; and just as we have engrafted responsible government on our Federal Constitution, so we must necessarily have recourse - because our written Constitution is not exhaustive - to the well-established rules and procedure of the British Constitution in relation to all matters that are not strictly provided for under our own Constitution. If we are not to do so we shall be like a barque launched upon a new political sea, with equipment derived from a country of which we have had long and historical experience, but in the management of which barque we are not to have recourse to that equipment. We have to look to the President of the Senate to determine the rights of this Chamber, and the relations between the two Houses. In this regard I hope - and I am sure - that he will listen to arguments from both sides before arriving at a final decision, which may be important as upholding the rights of the Senate in regard to the power of initiation and all provisions of this kind. I hope the President will not allow those rights to be whittled away by any attempt on the part of the other Chamber - although it may be unconscious - to limit our powers. There is one other matter to which I would refer, and that is with regard to the provision of the Constitution which uses the expression " charge or burden." It appears to me that the words " charge or burden," as used there, mean those taxes imposed by the Parliament which are directly placed upon the people. They mean money directly taken out of the pockets of the people.

Senator Drake

- It would be a tax Bill, would it not ?

Senator Sir JOSIAH SYMON

- A tax Bill. The phrase does not mean - and I do not know any constitutional authority who says so - expenditure out of the money which has already been voted by Parliament. On the one hand a burden is laid on the people in order to raise revenue. That is the only charge or burden of which they are cognisant. Then the money is disbursed in paying salaries and meeting the expenses connected with the Government, and so on. But it is the former which is a " charge or burden " on the people. I do not think this proposed salary of £1,000 a year is a charge on the people, for instance. The charge on the people would be the tax by which the revenue was raised out of which that particular salary is to be paid.

Senator Drake

- We cannot amend a tax Bill.

Senator Playford

- We create a charge by paying this officer £1,000 per annum.

Senator Sir JOSIAH SYMON

- I rather take the other view. I am not going to say that my honorable friend Senator Playford is not correct in his view ; but if this is a burden on the people, then the Senate is in this position - that this is a Bill which the Senate cannot amend. At any rate, I should shrink from taking that view, and would rather exert the authority of the Senate in the direction of making the amendment, holding the view that our power of amendment cannot be interfered with, and leaving the other Chamber to take exception to our doing it.

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Senator Drake

- The second paragraph of section 53 says -

The Senate may not amend proposed laws imposing taxation.

If Senator Sir Josiah Symon says the third paragraph refers only to a taxation Bill, what is the use of it ?

Senator Sir Richard Baker

- That refers to Bills the primary object of which is to impose taxation.

Senator Drake

- Paragraph 2 says - The Senate may not amend any law imposing taxation. Then what is the use of the third paragraph, which says -

The Senate may not amend any proposed law so as to increase any proposed charge or burden on the

people.

Senator Sir JOSIAH SYMON

- Paragraph 2 refers to Bills which are not strictly, or primarily, for the imposition of taxation,, or dealing directly or primarily with the appropriation of revenue or money for the ordinary annual services of the Government. That is the 'ordinary Appropriation Bill.

Senator SirRichard Baker

- Both Mr. Barton and Senator O'Connor said that in the Convention.

Senator Sir JOSIAH SYMON

- No doubt. We are arriving at no conclusion, however ; and whilst it is useful to have our minds instructed on the subject, I hope the question will be distinctly raised, and that we shall then get an authoritative ruling upon it. Because, on this matter, we can only be guided by an authoritative ruling from the Chair when the question is directly raised. The constitutional way is to raise the point, and ask for a ruling from the Chairman of Committees, and then let the House resume, discuss the whole matter, argue it out, and have it settled by a ruling which will become, until it is altered, the law and practice of the Senate upon the subject.

Senator Lt Col NEILD

- I wish to read a few lines from May, which seem to me to be singularly pertinent.

Senator Walker

- We are working under a new Constitution.

Senator Lt Col NEILD

- The Constitution under which we are assembled makes the most distinct, direct, and positive reference to the constitutional practice of the Imperial Parliament.

Senator Sir Richard Baker

- Where?

Senator Lt Col NEILD

.- Section 49 of our Constitution says : -

The powers, privileges, and immunities of the Senate and of the House of Representatives and of the members and the committees of each House shall be such as are declared by the Parliament and until declared shall be those of the Commons

House of Parliament of the United Kingdom and of its members and committees at the establishment of the Commonwealth.

I do not say that that is any positive direction to us in dealing with this matter, but as we have established no other procedure and the most direct reference is made in that section to the powers of the House of Commons, I think I am well justified in seeking from the practice of the Imperial Parliament a direction as to the ordinary transaction of our business. Surely we are not so enamoured of our own importance that we are prepared to throw aside the constitutional practice of the Imperial Parliament, and, to use a well-known phrase, " go on our own, 'I' determined to make out own procedure from start to finish.

Senator McGregor

- This is how the honorable senator was captured.

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Senator Lt Col NEILD

- I was never captured. At page 580 of the 10th edition of May, I find this -

The constitutional principle which vests in the Crown the sole responsibility for national expenditure and which forbids the Commons to increase the sums demanded by the Crown for the services of the State is strongly enforced in committees of Supply and of Ways and Means.

So that both these committees are forbidden according to Imperial procedure to increase the sums asked for by the Crown. In this case the Crown was asked for £1,000, distinctly and positively asked for it; because the Bill introduced into the House of Representatives was conveyed by a message asking Parliament to make provision. That provision was made by the insertion of the clause with regard to the £1,000. According to this plain, emphatic reading, it would not be within the competency of the Imperial Parliament to make any increase. I will skip a few lines of an example given by May, and go on :

No amendments can therefore be proposed whether by a Minister of the Crown or by any other member to increase the amount of a grant beyond the sum specified in the estimate.

Here we have an estimate for £1,000 plainly. Therefore, according to May, it is not competent even for a Minister of the Crown, let alone a private member, to propose an increase.

If such increase be necessary -

There is a course to be taken. > the original estimate must be withdrawn, and a revised estimate presented specifying the number of men required and the sum to be demanded or additional estimates must be represented.

We have here an estimate of £1,000. It is not competent, according to May, for the Commons to propose any increase upon that sum. I am old-fashioned enough to be content, in this particular instance at least, to be guided by the practice which has grown up through many years of experience in the transaction of public business, and 'to which every Britisher in every part of the world looks with respect and with some degree of the reverence that naturally attaches to practices of long usage and proved value. Therefore I hold, with great respect, that the sum in question is not an amount which it is competent for us to increase.

Senator McGregor

- It was the honorable senator's adhesion to fossilized ideas that allowed Wilks to take him prisoner.

Senator Lt Col NEILD

.- I hope the honorable senator "will not introduce here a matter which can only have emanated from the brain of a person who had entered into co-partnership with the father of lies. If the amendment now before the Chamber is withdrawn, I shall move the omission of the appropriating words from the clause, as they are wholly needless.

Senator Charleston

- Does the honorable senator intend to move the omission of the clause ?

Senator Lt Col NEILD

-No; the other Chamber has said there is to be a salary of £1,000 per annum paid to the Auditor-General, and the words that follow include the word "appropriated." Those following words are wholly needless, and I doubt whether they can be found in any other Act. In the Commonwealth Act they do not appear. There is a provision for the payment of a given sum to the different Ministers, for the payment of a sum to the Governor-General, and for the payment of sums to members of the Legislature. Those are statutory obligations which have to be fulfilled. The money is not voted year by year ; it is paid without discussion, without cavil. It is not voted at all, strictly speaking, because it is a statutory charge that must be complied with unless the law is altered. There- is no need for the particular words of which I have spoken, specifying that the amount is " appropriated accordingly." It is sufficient for us to have a statutory obligation to pay the amount, and I shall therefore, at the earliest moment, move the omission of these appropriating words so as to let the clause terminate with the word "fund." That is to say, I shall move, to strike out the words -

Which to the necessary extent is hereby appropriated accordingly.

If those words are omitted there will be no question of this being an Appropriation Bill, and the Senate will be free to deal with it.

Senator HARNEY

- I am sure that, whether we are beating the air or not, there has seldom been a debate here that has proved so useful. In the early stages of our constitutional working, it is essential that we should come to a definite understanding of the machinery under which we work. I think Senator Sir Josiah Symon was not quite accurate when he pointed out the possible difficulty that would arise from the President of the Senate discussing this question as an ordinary senator. The point made by Senator Sir Josiah Symon was that subsequently Senator Sir Richard Baker would, as President, have to determine this very point upon which he has expressed so definite an opinion. I understand that the President has absolutely no authority whatsoever to determine a constitutional point here. He is complete master of the standing orders and the procedure of the House, but these constitutional questions must be decided on their merits by the Senate as a whole as well as we can. Our decision is to be reviewed by the High Court.

Senator Playford

- What is that ? Our decision to be reviewed by the High Court ?

Senator Sir Josiah Symon

- The Federal High Court will not settle disputes between the two Houses.

Senator Sir William Zeal

- - -The honorable and learned senator altered his opinion twice in twenty minutes last' night.

Senator HARNEY

- Senator Sir William Zeal is either very entertaining to himself in his peculiar outbursts of nonsense or-
Senator Sir William Zeal

- The honorable and learned senator is never entertaining.

Senator HARNEY

- With all respect I submit to the Senate, but not to Sir William Zeal, whose mind is not receptive of opinions which are not minute enough to agree with those which he is capable of forming--

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Senator Sir William Zeal

- I am not capable of understanding the honorable and 1 learned senator.

Senator HARNEY

- I respectfully submit to the Senate that the position of the Federal High Court will be analogous to that of the Federal High Court of America. Unquestionably, if the Parliament there passes an Act which is beyond its constitutional powers, it is within the competence of the High Court to declare that Act null and void.

Senator Playford

- But it cannot interfere in a dispute between the two Houses.

Senator HARNEY

- Tins is not a dispute between the two Houses. What I am saying is that when a constitutional question arises it is not for the President to determine it. How then is it to be determined ? Is the Senate itself, which may be egregiously wrong, to lay down definitely an interpretation of the Constitution ?

Senator Sir Josiah Symon

- Supposing that Senator Playford had gone on with his amendment, who would have decided whether it was in order ?

Senator HARNEY

- In some form or other if that ever came before the High Court for review-

Senator Playford

- But it could not.

Senator HARNEY

- The honorable senator is asking me to draw up a new Constitution. I am absolute clear myself that some one must determine the interpretation of the Constitution. I. am quite clear that the President is not to do so, and I am equally clear that the haphazard determination which is given to it in a general debate, without any judicial authority whatsoever, is not the final and true determination. If the Senate and the President are not to do it there is no other authority but the High Court to deal with the question.

Senator Clemons

- Why not Parliament ?

Senator HARNEY

- Parliament might make a new Constitution ; but how is Parliament going to meet and say that this shall be so-and-so? I was only led into this matter by my attempting to show that it was not for the President to determine constitutional points.

Senator Sir Josiah Symon

- It depends upon what they are.

Senator Sir William Zeal

- The honorable and learned senator is on the wrong track altogether.

Senator HARNEY

- If it is not for the President to determine constitutional points, therefore it must be either for the Senate or for Parliament or the High Court to deal with them. It is absurd to say that the ' Senate is to decide them, or that Parliament, which is a legislative body, is to become a judicial body and deal with them. In the absence of these bodies then, by a process of exhaustion, we come to the High Court.

Senator Sir Josiah Symon

- Surely the Senate might ask the President for his ruling.

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Senator HARNEY

- I have not taken up this matter aggressively. I think it would be rather hard for any honorable senator sitting in the chair to be called upon to decide a difficult constitutional point with only the loose class of argument which we hear in this Chamber to guide him. I think it would be a preposterous thing to argue that you must leave this matter to the rules and procedure of the Senate when the Senate is not competent to deal with it. Although the argument put forward by Senator Drake creates a considerable difficulty, I think it can be answered. The honorable and learned gentleman was perfectly right in saying that in the absence of any other means of getting at the meaning of the words "charge or burden," we were entitled to look to the British Constitution, where those identical words are used, in order to see with what significance they are used. It appears, however, that Senator Drake agrees with the President that, in the House of Commons, the Committee of Ways and Means have to do with the getting in of the money from the public, and that the Committee of Supply have to do with the granting of that money. There could be no question, if under parliamentary usage the same order was pursued as with private individuals, that the view put forward by the President is the correct one. The point raised by Senator Drake is, however, that the positions are reversed in Parliament. He says that we arrange for our expenditure first, and then we get in our money to meet our arrangement. Is the fact that they so reverse the order of tilings in the House of Commons a sufficient answer to the point put forward by the President? I think it is not. The mere fact that you arrange what you are going to spend before you place that charge or burden on the people, which is necessary in order to get the money, does not make that act by which you approach the people less answerable to the description of a "charge or burden." You make a "charge or burden" after you have ascertained what is needed, but still the Committee of "Ways and Means do make the "charge or burden."

Senator Drake

- That is what the honorable and learned senator says.

Senator HARNEY

- Yes. Senator Drake's point is, that since the arrangement for expenditure comes first, that every additional item we put on to that arrangement means of necessity increasing the burden.

Senator Drake

- But the committee is the Committee of "Ways and Means.

Senator HARNEY

- Very good. If the section read this way -

The Senate may not amend any proposed law, so as to increase any charge or burden on the people I think there would be a great deal of force in the honorable and learned gentleman's argument.

Senator Sir John Downer

- But that was not the intention.

Senator HARNEY

- If the section read in that way, then it might be said - "How are you to increase this £1,000 a year to £1,500 a year without of necessity increasing the charge or burden on the people which flows from it, and accordingly it falls within the description"1? We cannot give this additional £500, because we would be increasing the burden of the people. But those are not the words. The word "proposed." is there. The Senate may not amend any proposed law so as to increase what 1. Not the charge on the people, but any "proposed" charge or burden on the people.

Senator Sir John Downer

- The honorable and learned senator entirely misapprehends the position.

Senator HARNEY

- The section clearly contemplates that the law dealt with is a law imposing a charge or burden on the people ; that is a law which cannot be increased. Now, the charge or burden is that which is imposed by the Committee of Ways and Means. It is not dealt with by the Committee of Supply.

Senator Drake

- I do not admit that.

Senator HARNEY

- In putting that argument the difficulty is that which Senator Drake pointed out in reply to Senator Sir Josiah Symon. If you make a proposed charge or burden it is very little else than imposing taxation, and, therefore, that clause becomes unnecessary owing to the absence of procedure. We are using English words, they have a definite application, and "burden or charge" there refers to the approaching of the people.

Senator Drake

- Where does the honorable and learned senator find that? He keeps on saying that the "burden or charge" is imposed by the Committee of Ways and Means. My contention is that it is imposed by the Committee of Supply.

Senator HARNEY

- I think Senator Drake will agree that if the Committee of Ways and Means - who do undoubtedly approach the people - get in the money from the public, and then the Committee of Supply proceed to allocate the money, there can be no question as to the view taken by the President. What Senator Drake says, however, is that, because in point of fact in England they arrange for the allocation of their expenditure before they approach the people, therefore it is quite impossible to add any item to our expenditure which inferentially is increasing the burden of the people. The section goes out of its way to refer to any proposed law so as to increase any "proposed" charge or burden on the people. It does not say that the Senate may (not amend any proposed law so as to increase the charge or burden on the people. If it did we would at once see the force of Senator Drake's argument, because although the proposed law is only a reference to the allocation, still you cannot increase the amount allocated, as by doing so you would increase the burden.

Senator Sir John Downer

- The honorable senator has forgotten the word "originated."

Senator HARNEY

- I have not. We may not amend any proposed law so as to increase any proposed charge or burden on the people. Now, we have in England an actual definition of what is meant by a charge or burden, and it is that mode of obtaining money whereby the Committee of Ways and Means approaches the public. The section therefore says that we shall have no power to amend a law whose purpose is to increase a burden or charge by which we are going to approach the people. It clearly has only reference to a law for getting in money from the public.

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Senator Keating

- Would the honorable and learned senator say that this particular clause proposes to place a charge or burden on the people, seeing that the money is to be provided out of the consolidated revenue fund, provision for which has been made by other measures.

Senator HARNEY

- It was pointed out yesterday that it was quite possible to increase a salary without increasing a burden on the people at all, on the assumption that you have already got the money in from the people. If the money we are to get in is determined by the amount we are going to spend-

Senator Keating

-. - Is that the practice?

Senator Sir Richard Baker

- It is the theory, but not the practice.

Senator HARNEY

- I am giving Senator Drake, for the sake of argument, the full benefit of this, be it theory or practice, or rule of law. I am merely saying now that if his interpretation of this section is right it would be perfectly unnecessary for the Constitution to say more than that we shall not amend any proposed law, so as to increase the charge or burden on the people. But something more is said. The Senate may not amend any proposed law so as to increase any "proposed" charge or burden on the people. Therefore we are dealing with something that is proposed in the other House. What is that something? It is a charge or burden.

Senator Sir John Downer

- That is where the honorable and learned senator makes the mistake.

Senator HARNEY

- The question here is undoubtedly one of considerable difficulty. If I ' could read " proposed charge or burden " merely as meaning additional taxation upon the people, I think I would be unable to answer Senator Drake's argument, but these words "charge" and "burden" have an historical technical meaning, and they clearly refer to the dealing by a special committee, the Committee of Ways and Means, in order to obtain the money for the public service. Therefore, notwithstanding the fact that unquestionably we cannot increase the salary of an officer without compelling the Committee of Ways and Means to correspondingly increase the .burden upon the people--

Senator Glassey

- That will not hold good. I am a layman, but I challenge that statement straight away.

Senator HARNEY

- I am putting Senator Drake's argument. Senator Drake, if he will allow me to say so, put what was a clever and ingenious argument, more clever than ingenious, because he did not trust to subtleties to bring it home. What the honorable and learned senator says is that we are all right if what happens in Parliament is the same as what happens with private individuals - that Parliament has its moneys first, and then proceeds to distribute that money to the different officers. It might then be possible to raise the salary of one man by lowering the salary of another.

Senator Glassey

- It would be simply a question of distribution.

Senator HARNEY

- The fact of increasing a salary would not "of necessity be putting an additional burden upon the people. We get an effective answer to that from Senator Drake. What he says is that in point of fact in parliamentary matters the very reverse course is adopted to that adopted by a private individual, and Parliament says - we are going to spend so much money, and makes up its mind what it is.

Senator Drake

- Yes ; during next year.

Senator HARNEY

- It then proceeds to get in that money, and therefore, under the parliamentary practice, whether it is right or not, we cannot increase the salary of an officer without adding to the bulk sum that must be got from the public subsequently.

Senator Glassey

- That will not hold good even from the point of view of practice.

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Senator HARNEY

- I am not saying that I quite agree with Senator Drake, but if he is right the position is this - suppose Parliament makes up our expenditure to £5,000,000, and suppose this House says we will add £5,000 to the amount which a certain officer is to get. Of necessity then Parliament must get £5,005,000 from the public. Senator Drake says that where the Senate adds that £5,000 it means that the Senate is imposing an additional charge or burden, since unquestionably £5,000 more must be required from the people. I must confess that I could not see an answer to that argument if it was not for the fact that the word " proposed " is used twice in this section, and the reason that gives me an answer is this, if the sub-section read in this way -

The Senate may not amend any proposed law so as to incidentally increase any proposed charge or burden on the people.

I believe Senator Drake would be right in saying that the proposed increase of the salary of the Auditor-General would come within the section. Unfortunately, in my opinion, for the force of Senator Drake's argument - and for this reason I entirely agree with Senator Sir Richard Baker - the sub-section reads -

The Senate may not amend any proposed law so as to increase any proposed charge or burden on the people.

Now what is the thing to be increased t It is a proposed charge or burden, and we have now to see what is meant by " charge or burden." They are technical terms, and taken from the English Constitution, and have an historical meaning. What are the circumstances 1 The circumstances are these : We approach

the public to get the money to carry on our State by a Committee of Ways and Means, and the committee approach the public by placing a burden or charge upon them. Therefore " a proposed burden or charge " must mean what would be similar to a resolution of a Committee of Ways and Means to get money from the public - <»'0, we can amend any law which would answer the description of a law whereby a Committee of Ways and Means in England, would get money from the public. The difference between the argument of Senator Sir Richard Baker and of Senator Drake is that, as the former puts it, it makes no difference whether we arrange the expenditure before we get the money, and, as the latter puts it, it makes all the difference in the world. In my opinion it does not make any difference, because in considering the making of an amendment so .as to increase any charge or burden, we must understand what is meant by a proposed "charge or burden" in this section, and I say it answers to the descriptions of the means- historically had recourse to for obtaining money from the public. Unfortunately that conclusion, which is such a solace in dealing with this subsection, is at once a source of discomfort when we look to the preceding subsection because that conclusion makes us say that any proposed charge or burden in that case is unquestionably the same as imposing taxation, and the previous subsection, which says that the Senate may not amend any law imposing taxation, would therefore be redundant. It will be the greatest pleasure and instruction to me if Senator Sir Richard Baker will explain to us how a law can impose taxation, and still not be a "charge or burden" on the people. If that could be answered, all the difficulty would be gone. That not being answered, I have come to the conclusion that I do - namely, to agree with Senator

Sir RichardBaker, but still with the cloud in my mind raised by a comparison of these two sub-sections.
Senator WALKER

- After all the interesting debate we have had upon the Constitution, I beg to suggest to the Government through the Postmaster-General the wisdom, as the business of the Commonwealth will be increasing, of introducing after, say a few years, another Bill to increase the salary of the Auditor-General. As the business does increase, we shall find that the salary here proposed is altogether inadequate for the position. Perhaps, now that we have heard all the arguments pro and con on the constitutional question, we may proceed to business.

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Senator Sir JOHN DOWNER

- We have here a very important question to consider in regard to the Constitution, which I do not think has been properly appreciated up to the present time. Section 53 of the Constitution is a negating section. It relates to the laws which we may not introduce. Laws appropriating revenue or moneys, or imposing taxation, shall not originate in the Senate. That is the only qualification. With the exception of laws appropriating revenue or moneys, or imposing taxation, we can originate any laws, and if we quibble with that we travel away from the foundation, of the Constitution which the Convention endeavoured to frame on the soundest lines. The whole question then comes to this - and I ask honorable senators to follow me in this connexion, because it has not been put yet - Could we have introduced this Bill? There we get at the root of the thing. If we could have introduced the Bill, away goes all the argument that has been used about the rights of the Senate. There is the crucial test, and I am standing here by the Constitution and fighting for the rights of the Senate. If we introduced a Bill dealing simply with appropriating revenue or moneys, or imposing taxation pure and simple, we would be offending against the very purview of section 53. Would we not ? Possibly, if these words stood alone -

Proposed laws appropriating revenue or moneys or imposing taxation shall not originate in the Senate- and were not qualified by what comes afterwards, and we introduced a Bill which related to other matters, but which incidentally appropriated revenue which means general revenue, and not particular revenue for the particular purpose of machinery for imposing taxation, there might be some difficulty'. But we do not stop there at all, and we who made the Constitution did not stop there. We who knew what we were doing, and explained what we were doing, which everybody understood at the time, went on to say - But a proposed law shall not be taken to appropriate revenue or moneys Or to impose taxation by reason only of its containing provisions for the imposition or appropriation of fines or other pecuniary penalties, or for the demand or payment or appropriation of fees for licences, or fees for services under the proposed law.

First of all, we have to approach section 53 as a limitation of our powers of what we can tlo and what we

cannot do.

Proposed laws appropriating revenue or moneys or imposing taxation shall not originate in the Senate. Barring that limitation we have as much power of originating as the other House has, and we were intended to have it. Unless the primary object of a Bill is to appropriate revenue or moneys or impose taxation we have a distinct power of originating without the exceptions which are subsequently put in, which confirms the contention I am making at the present time. But if we had any doubt about the insufficiency of those words we have it confirmed when we come to what was well discussed by honorable senators who have been good enough to follow the debates in the Convention and who know how the Constitution was framed. We have got the understanding that was meant, and the limitation on these -words, which still ' would not impose a limitation on the power we are seeking to exercise at the present time, because the section says -

But a proposed law shall not be taken to appropriate revenue or moneys or to impose taxation by reason only of its containing provisions for the imposition or appropriation of fees for services under the proposed law.

Now it is sought to have our Constitution frittered away by it being said that fees for services would not cover salaries. Do we quibble over the word "fee," a lawyer's term 1 Do fees for services mean remuneration for services which can or cannot be recovered ? We cannot have bigger words than the words we put in advisedly for the express purpose of saving the rights of the Senate - for- the express purpose of seeing that although we had no right to deal with the ordinary Appropriation Bill of the year, we had a right to introduce Bills which imposed duties and required fees, to use the objectionable word - or which required money to be paid for them, to use the more colloquial term - which imposed duties and the necessary remuneration for the performance of them, and that we should be limited to that, and should not be tied down to the narrow precedents - which some of us never get over - of the House of Assembly and the Legislative Council. We were embarking on a new scheme in which one House was not to represent one class and the other the other, but in which one was to represent all the people and the other all the States. I am simply shocked when I see honorable senators who I think ought always to bear in their mind the downright cardinal principle which underlies this Constitution, wavering for a second about its great underlying principles, which, if we sacrifice in this initial Parliament, we sacrifice for ever. That is really what we have to consider at the present time. We have, at the beginning of our Constitution, to remember that, as the Christian religion is not only made up of the 39 articles, but is made up of a great many things which are superadded to them ; that as the American Constitution does not consist simply of its articles, but is also made up of a good many very wise and clever understandings that have been well added to them ; so our Constitution will prove within its four comers absolutely inefficient unless we add to them conventions which will become greater than the articles themselves, which will be embedded therein by the good understanding of all of us, and of the people at the back of us, and become as sincere parts of it, as the words which we have inefficiently written and adopted. We have to recognise that, underlying this question, which crops out as a side issue, we have a very big constitutional principle. I would ask Senators Harney and Clemons - very clever men whom I respect very much - to apply this test to the question : Is this not a Bill winch we could have introduced here ?

Senator Clemons

- That is what I want to know - is it 1

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Senator Sir JOHN DOWNER

- Why could, we not have introduced it? The section says that a proposed law shall not be taken to appropriate revenue or moneys by reason only of its containing provisions for the imposition or appropriation of fees for services under the proposed law. Then- we could have introduced this Bill, and that was the intention.

Senator Clemons

- Yes, if this is a fee.

Senator Sir JOHN DOWNER

- What is a fee ? My honorable and learned friend who has retired from the legal profession, I understand in consequence of subsequent advantages, has never got over the word fee. Will he before this debate is concluded retire to some secluded apartment and get a Webster and half-a-dozen other dictionaries and

find out what fee means.

Fees for services under the proposed law.

Will my honorable and learned friends who are so quibbling about the word fees tell me what those words do mean. They tell me what they do not mean. They say they do not mean salaries. What do they mean 1
Senator Lt Col Neild

- They mean fees of office, fees for services! I read an extract from May last night.

Senator Playford

- Fees do not mean salaries

Senator Sir JOHN DOWNER

- It is what the framers of the Constitution meant. You may distort it by ingenious quibbles as much as you like, but it is what they meant. What did they have in their mind, and what did the Convention have in their mind in passing the Constitution Act ? We were struggling, I was notably, for getting the highest possible powers for the Senate for the protection of the smaller States. We could not get co-equal rights, and in the end we agreed that it would be inconvenient that the ordinary Appropriation Bill should be interfered with, and so as to that we gave in. But at the same time we provided that there should be no tacking ; that every Bill dealing with the expenditure of money should deal with that and nothing else, so that we should not be prevented from amending it, and also that the only limitation on the power of the Senate to introduce Bills should be in respect to Bills which came within the exclusive originating powers of the lower House. If this Bill is a Money . Bill in the sense in which Senator Playford is inclined to think it is, and which others are inclined to think it is, we have no right to amend a single, word.

Senator Playford

- I say we can amend the Bill, but I do not say it is a Money Bill.

Senator Sir JOHN DOWNER

- If it is a Money Bill in the ordinary sense of the term, one of the class of Bills which we cannot amend and cannot introduce, we cannot alter a single word of it. We have to adopt it through and through, and every possible alteration we desire has to come by way of suggestion. To my mind there can be two views about that. But, standing by the lights of the Senate and standing by the Constitution which I think we have safely established, I submit that this is a Bill which we could have introduced ourselves. We could have introduced a Bill providing for the audit of accounts. We could provide a salary.

Senator Clemons

- Because that is the same thing as a fee.

Senator Sir JOHN DOWNER

- Certainly. I do not want to go into matters that are too technical.

Senator Clemons

- A fee has an isolated feeling about it, whereas a salary is something fixed.

Senator Sir JOHN DOWNER

- My honorable and learned friend is taking rather a professional view of it. I simply say that, by the concession which was made - because it was not a grant, but a concession - for there were some who wanted to prevent the two Houses being in the same position as the Senate and the House of Representatives in America - were we not to interfere with Appropriation Bills and Bills imposing taxation. But at the same time we reserved to the Senate the power of amending any other Bill, although in its incidence it imposed penalties or prescribed fees. Say a Bill imposes penalties. We have a perfect right to introduce a Bill into this Senate dealing with public matters, imposing huge responsibilities on persons who offend against it, punishing them by fine and imprisonment. There can be no question about that. Are my honorable friends opposite, who want to weaken the Constitution, going to say that, whilst we can impose huge penalties of fine and imprisonment, we cannot pay the salaries of officers who are to prevent the necessity of either of those responsibilities of fine and imprisonment being incurred at all, so as to make prevention better than cure ? If the powers on the one side with regard to imposing penalties are big enough, are not the powers on the other side in regard to the payment of fees for services big enough ?

Senator Clemons

- That would cover all salaries for civil servants and Judges.

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Senator Sir JOHN DOWNER

- The ordinary Appropriation Bill would include the ordinary services of the year, which, as a matter of course, include all judicial and other ordinary departmental salaries.

Senator Playford

- The judicial salaries are under a special Act.

Senator Sir JOHN DOWNER

- What special Act? There is no Act which we have to deal with at present except the Commonwealth Act itself. The Act fixes the position of the Judges and decides everything. We have power to legislate, and those powers come from that Act and nowhere else. Therefore we have to consider everything simply and solely in the atmosphere and under the enactments of the Commonwealth Act. I venture to say distinctly that if on this occasion we decide that we have no power to amend this Bill, we shall be denying rights we have fought for and have obtained under the Commonwealth Act. A great deal of trouble was taken about this point in the Convention, and if we are going to allow the House of Representatives to ride roughshod over us by saying that we are not entitled to introduce Bills of this kind - because that is what it comes to - we are giving them a great deal more than the framers of the Constitution intended to give them. I say unhesitatingly that we could have introduced this Bill in the Senate, and as it could have been, introduced here, we can amend it.

Senator Charleston

- If the Bill were introduced in the Senate, would it not be necessary to bring up a Supply Bill with it to provide for the payment of the salary ?

Senator Sir JOHN DOWNER

- We might have required a Governor-General's message, because we do not want to go beyond the letter of the Constitution. The Senate is not, by the accident of where the Bill was introduced, to be prevented from asserting the initial rights that we should have had if the Bill had been introduced in this Chamber. It will be a great pity if we make a mistake in this matter. It will be particularly a most regrettable mistake at this time when we are practically arranging what the Constitution means. There appears to me to be a misunderstanding arising out of the supposition that this is a Bill that we could not have introduced ourselves. The root of the matter is - could the Bill have been introduced in the Senate ? That question goes root and branch to the whole question of whether we can amend the Bill or not.

Senator Clemons

- If we can originate we can amend.

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Senator Sir JOHN DOWNER

- Certainly; I put 'it at that, and I say that we could have originated this Bill.

Senator Sir RICHARDBAKER (South Australia). - As I said previously, I do not want to argue this question ; and I do not consider that I have argued it. I simply made a speech in order that it should not go forth to the world that the Senate had agreed that it could not make the amendment that "was moved by Senator Playford. . I rise only again in consequence of the remarks made by Senator Sir Josiah Symon. I am very glad he has made those remarks, because for some considerable time past I have desired to put before the Senate what I consider to be the position which I ought to occupy in reference to giving decisions concerning the interpretation of the Constitution Act. As a matter of fact, I have had a paper in my desk for a long time containing some few remarks which I should like to make as to that point. It does not seem to me that I should, from the Chair, undertake the responsibility of interpreting all the provisions of the Constitution. The Constitution itself has provided for a tribunal, the High Court, which, after argument and consideration such as would be impossible and undesirable in this Senate, is empowered to finally determine its meaning in most of the cases which will arise. It is my duty to interpret and determine the standing orders, and to regulate the procedure of the Senate ; and, perhaps, to interpret the Constitution so far as the conduct of the business of the Senate is concerned. But the difference is great between the two cases. The Senate is the final and sole judge of the meaning of its own standing orders, whilst a law made in derogation of the provisions of the Constitution may in some cases be declared invalid at the instance of any citizen. I have a deliberative vote, and the right to vote seems to me, to include the right to take part in a debate - not from the Chair, but as a senator. This right I propose to exercise when occasion requires, thus giving to the Senate the benefit of any opinion I may have

formed, in such a manner as will not place senators in the position of having to either override a ruling from the Chair, or to agree to such ruling on some constitutional question of great importance and far-reaching results which they" may believe to be erroneous. Now, of course, I place myself in the hands of the

Senate, and will take any position the Senate thinks I ought to take. That, however, is my opinion as to the position I ought to be in, and which I think the Senate ought to place me in. Therefore I have taken part in this discussion, and have given an opinion on the question, because from my point of view I can see that I ought not to give a ruling from the Chair upon it. This is a pure question of law - a pure question of the interpretation of the Constitution ; and I think the Senate itself should take the responsibility of deciding it, and should not ask me to give a ruling. If I had thought that J. should at some future date be placed in the position of having to give from the Chair an authoritative opinion as to this point, I certainly should have taken no part in the discussion. But that is not the position I think I ought to occupy. I hope that before long the Senate will take this matter into its consideration, and arrive at some conclusion. By that conclusion I shall be bound, but until it is otherwise determined I intend to occupy the attitude which I have stated. In reference to the point at issue, I think, although I do not want to argue the question, that I may call attention to one or two matters which suggest themselves to me. Senator Harney seems to have some difficulty in reconciling paragraphs 2 and 3 of section 53 of the Constitution Act, because paragraph 2 provides that the Senate may not amend proposed laws imposing taxation, while paragraph 3 provides that the Senate may not amend any proposed law so as to increase any proposed charge or burden on the people. Senator Harney asks whether there is not a redundancy there if paragraph 3 refers to taxation. I think the answer to that question can be found by looking at the words of section 55. That section defines the meaning of the words " laws imposing taxation." I do not say that it does so in express words, but in substance it defines the meaning, because it provides that -

Laws imposing taxation shall deal only with the' imposition of taxation.

If we read these two sections together, we find that paragraph 2 of section 53 relates to laws which deal only with the imposition of taxation. That is the meaning of the words " laws imposing taxation." Therefore any law' introduced, which comes under the definition of paragraph 2 of section 53 is a law the main object of which is to impose taxation ; it is a law which deals only with the imposition of taxation. If that is so, then paragraph 3 deals with something else. It deals with some other class of laws.

Senator Harney

- Where the imposition of taxation is not the main object.

Senator Sir RICHARD BAKER

- It deals with a different class of laws from that which is referred to in paragraph 2 of section 53 and section 55. Therefore these two sections are consistent with each other, and there is no redundancy. Perhaps at some future time I may desire to argue this question out, and give the reasons at length why I believe the Senate has full power to make any amendment such as Senator Playford has suggested. However, inasmuch as I think it is the universal desire of the committee not to arrive at any conclusion now, I shall say no more at present.

Senator DRAKE

- I want to say a word or two more on this particular point, because I do not think it is quite clear yet. I understood that Senator Harney, when he referred to the redundancy of these sections, was following up an argument which was used by Senator Sir Josiah Symon, when he suggested that a Bill that would increase a charge or burden on the people would be a taxation Bill. The subject of laws imposing taxation is dealt with in paragraph 1. Clearly this is not a Bill imposing taxation. If it were a Bill imposing taxation under section 55, then it could not contain any other matter. Not being a Bill imposing taxation, it does not come under the second paragraph, of section 53 at all. My contention is that this is not a taxation Bill, but that it is a Bill which, by reason of the clause in dispute, is an appropriation measure. In that appropriation clause it contains a charge or burden on the people. I bring it under the third paragraph of section 53. My contention is that it is a proposed law within the meaning of that paragraph.

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Senator Harney

- The answer that has been given to the honorable and learned gentleman's argument which created the difficulty, in my mind is that paragraph 2 deals with laws the main object of which is the imposition of

taxation. According to the construction that Sir Josiah Symon and the President and myself were giving to paragraph 3, the existence of paragraph 2 rendered it redundant.

Senator DRAKE

- Yes, if that contention were right.

Senator Harney

- Yes. The President has answered by saying that paragraph 2 deals with laws, the main object of which is the imposition of taxation. Is Senator Drake's point that this is really a distinction without a difference, because whether it is the main or subsidiary object, they nevertheless both refer to taxation ?

Senator DRAKE

- Under this Bill as originally brought in, the clause in dispute cannot be a taxation clause. This cannot be a taxation Bill, because if it were, all the other matters contained in it would be out of place. Section 55 of the Constitution Act, says that laws imposing taxation shall deal only with the imposition of taxation, and shall not contain any other matter. Therefore this is not a Bill imposing taxation. The second paragraph of section 53 has nothing to do with this measure. This Bill comes under paragraph 3, because it is a proposed law, and contains a proposed charge or burden on the people in the provision as to the salary of £1, 000 a year.

Senator Charleston

- How is the burden to be raised ?

Senator DRAKE

- The House of Representatives will appoint a Committee of Ways and Means, and their duty will be to find the ways and means by which that burden or charge shall be imposed on the people.

Senator Sir JOSIAH SYMON (South Australia). - There is no doubt that this discussion will be of great value to all of us, in directing our minds with precision to a very important constitutional question, although at present there is no issue by which we can determine this matter, even in the judgment of the Senate itself, which is its own court so far as certain subjects and the consequences of any conflict with either branch of the Legislature are concerned. At the same time it may be well, at the risk of occupying the attention of the committee for a minute or two longer, to point out what I think will convince the Postmaster-General and Senator Playford that the interpretation which they seek to put upon paragraph 3 of section 53 of the Constitution Act is really a mistaken one. If their contention is correct, then we are undoubtedly in a most extraordinary position. With all the care that has been taken to enlarge and magnify the powers of this Senate and its functions in relation to financial matters, we have failed most miserably in accomplishing that end, and we have landed ourselves-

Senator Keating

- In a worse position than that of any Legislative Council.

Senator Sir JOSIAH SYMON

-- The honorable and learned senator has put it more strongly, but not less properly, than I would have put it myself. Certainly we would be in no better position. If paragraph 3, which says that - The Senate may not amend any proposed law so as to increase any proposed charge or burden on the people, fits the case of the Bill before us, and section 54, then we can neither originate such a Bill as this in the Senate, nor can we alter either the particular clause to which reference has been made or any other line in the measure.

Senator Drake

- We could amend it, but not so as to increase the burden.

Senator Sir JOSIAH SYMON

- My honorable and learned friend must accept the consequences of his own argument. The whole law is affected by the vice, so far as the power of the Senate is concerned, that is introduced into it by the fact that it contains a charge or burden on the people which we cannot increase.

Senator Drake

- But we could amend it by reducing the amount.

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Senator Sir JOSIAH SYMON

- I do not want to deal with that point now. I want to state the construction which, I venture to suggest with great humility, is applicable to paragraph 3. The first paragraph of section 53 contains a primary principle

which governs the whole thing. It provides that proposed laws, appropriating revenue or money or imposing taxation, shall not originate in the Senate. Then there is a limitation, but we need not trouble ourselves about that. Paragraph 2 goes one step further, and deals with the power to amend. The Senate may not amend such a law. I do not attach particular importance to the last words "for the ordinary annual services of the Government." The earlier words of the paragraph are substantially, if not actually, identical with the first words of section 53. Obviously the intention of that paragraph and of the Convention I may say, was to deal with the power of the Senate to amend. First of all the Senate cannot originate ; then the section says it cannot amend these measures. Passing paragraph 3 we come to the next subject and find that the Senate may at any stage return to the House of Representatives any proposed law which the Senate may not amend, requesting, by message, the omission or amendment of any items or provisions therein. That is to say they may amend *nubmodo*. Then the thing is complete. The Senate may not originate, and it may not amend, but it may by means of an amendment in a particular way accomplish the same end.

Senator Sir John Downer

- Where we cannot originate, we cannot amend.

Senator Sir JOSIAH SYMON

-My honorable and learned friend is quite right.

Senator Drake

- We may amend certain Bills in one direction, but not in another.

Senator Sir JOSIAH SYMON

- This is a discussion with a view of clearing our intellects and of enabling us at a later period to deal with the matter conclusively and finally when the question arises. Paragraph 3 provides that we may not amend any proposed law so as to increase any proposed charge or burden on the people. That, I venture to submit, fits in as a limitation upon sub-sections (2) and (4). Paragraph 2 says that we may not amend, and sub-section (4) says that we may amend in a particular way. Paragraph 4 says that we may amend in a particular way, and it is merely a matter of method ; but paragraph 3 says that we cannot even do that. We cannot even make a suggestion which will have the effect of increasing a charge or burden on the people.

Senator Drake

- I do not admit that, because this is a law we may amend, but only in one direction.

Senator Sir JOSIAH SYMON

- I am not inviting my honorable friend Senator Drake to agree with the view I venture to submit, but it is a view which I think he will concede is of very great force, and it is a view which makes the whole of these four sub-sections absolutely consistent with each other, and absolute consistent with constitutional law, practice, and authority, from none of which will you get any precedent for saying that a salary paid out of the consolidated fund is a charge or burden on the people. There is no instance of it that I am aware of.' Of course I am speaking now without having ransacked all the archives of constitutional law and parliamentary procedure, but so far as I am aware there is no authority differing from what I have pointed out.

Senator Sir Richard Baker and Senator Neild have shown by references to May that a charge or burden on the people . is always something in the nature of a tax. That is. the only thing with which we are familiar as a charge or burden. In one sense, of course,, every salary paid is a charge or burden on the people, because it has to be paid out of the revenue which is provided by the people by taxation, but it is not a charge or burden in the constitutional sense. It may be owing to some incapacity of appreciating the argument used, but I fail to understand how the distribution or disbursement of the moneys obtained for the purposes of the State by charges or burdens on the people can itself be regarded as a charge or burden. The words " charge Or burden have a constitutional meaning we have known for hundreds of years, and when we talk, in Parliament or elsewhere, of imposing charges or burdens on the people, every one understands that what is meant is taxation in some form or another. That is why, in the remarks I made before, I said we must not, in interpreting this Constitution, disregard the experience we have had during the whole life-time pf the British Constitution, and we must accept the acknowledged interpretation of words common to our Constitution and to the British Constitution. *Prima facie*, a charge or burden on the people means a tax. Is there anything here which would suggest that it is anything but a tax?' I can

find nothing of the kind, and the interpretation which I suggest makes the paragraph of section 5'3 consistent. Paragraph 4 says we can make amendments, but paragraph 3 says we cannot amend even by suggestion.

Senator Drake

- We may amend by decreasing an amount, but we may not amend by increasing.

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Senator Sir JOSIAH SYMON

- The whole governing words are contained in paragraphs 2 and 4. First of all it is said we may not amend certain proposed laws at all, and then comes paragraph 4, which says we may amend* in a particular fashion. ' > If we put paragraph 3 after paragraph 4, the thing seems as clear as possible. If the paragraphs had been arranged in that way, there could not have been a doubt, because paragraph 3 would then have been read as. a proviso. ' In dealing with the Constitution we must remember that after all the Convention agreed that this Constitution was more or less like the American Constitution, a frame-work upon which we have to build up. It appears to me quite clear that if paragraph 3 were made a mere proviso of paragraph 4, my honorable friend Senator Drake will admit that my submission was a forcible one.

Senator Drake

- It is quite clear to me as it is. I cannot see any inconsistency in the sub-sections as they stand.

Senator Sir JOSIAH SYMON

- There is this inconsistency so far as regards the position of the Senate : If we have a clause like this in a Bill, and it is to be treated as a charge or burden upon the people, we cannot amend it except by reduction, even although - as has been plainly pointed out in what, from my point of view, was a forcible part of the argument addressed to the committee by Senator Sir Richard Baker upon this subject - we take up the position that fixing the salary at a certain amount may actually relieve the people from a burden, and yet that proposal is to be treated, it seems, as if it were a charge or burden upon them. It is, at any rate, a good popular argument that this £1,500 a year may be the means of relieving the people from untold liability.

Senator Drake

- Make it £1,000,000 for public works, and increase it by £500,000.

Senator Sir JOSIAH SYMON

- It is not a question of a charge or burden upon the people, and my friend will not find any authority to say that a payment of a salary to one of the Judges, for instance, out of the consolidated fund is a charge upon the people in the constitutional sense, in which it means some imposition or some load placed upon them which they can get discharged only by taxation in some shape or other. The view I venture to submit to my honorable friend Senator Drake is that the third sub-section may be read as a proviso to the fourth' sub-section, and proposes a limitation of powers of amendment even by suggestion.

Senator PLAYFORD(SouthAustralia). - I think I am even more confused than ever after this explanation. I had a clear idea in my own mind upon the subject, and all these arguments of learned senators only tend to confuse the issue. I would ask Senator Sir Josiah Symon why on earth this sub-section (3) was ever put in here?

Senator Sir Josiah Symon

- Clearly enough to prevent the Senate increasing an item in an Appropriation Bill.

Senator PLAYFORD

- Sub-section (2) tells us what the Senate may not do. We may not amend proposed laws imposing taxation. Then sub-section (3) says the Senate may not amend any proposed law so as to increase any proposed charge or burden on the people, and it is as plain as a pike-staff to me that, with this small limitation, it is clear that we can amend certain laws. I contend that the Bill we have before us now is one of the special measures which we can amend, and which was in the minds of the framers of the Constitution when they put in sub-section (3). Unless that is so sub-section (3) is nonsense, because it would otherwise be absolutely covered by sub-section (2).

Senator Sir Josiah Symon

- No.

Senator PLAYFORD

- It would be covered in every way. Sub-section (2) says what we may not amend, and then the section goes on to say, in sub-section (3), that there are some laws that we may amend, so long as we do not increase the charges or burdens upon the people. The implication is as plain as possible. The Senate may not amend any proposed laws so as to increase any proposed charge or burden upon the people, and the implication is clear that they may amend such laws except in those particulars. I think the framers of the Constitution in dealing with sub-section (3) had in their minds a class of Bill precisely like this Audit Bill, because there is only one clause dealing in the slightest way with the appropriation of revenue, and all the rest is , pure machinery for the purpose of giving effect to the Bill. There may be in such a Bill as that a proposal for a salary to some officer to carry out the provisions of the Bill, and the Constitution says that the Senate shall not amend that in such a way as to increase that salary.

Senator Sir John Downer

- That is exactly what it does not mean.

Senator PLAYFORD

- It means that we may amend the Bill in any other particular as we like, and we may even amend the salary proposed, so far as a reduction of it is concerned.

Senator Sir Josiah Symon

-Read sub-' section (4).

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Senator PLAYFORD

- I have read the sub-section, and I contend that it does not deal with the matter at all. This third sub-section is clearly intended to deal with such Bills as this. We have another Bill before us, relating to the public service, that is in precisely the same position,' and it provides for the payment of salaries out of the consolidated revenue in precisely the same way. I contend that we may amend that Bill in any particular but one, and that is that we may not increase the salaries proposed to be paid under it. To argue that, because this does not impose taxation, to increase the amount will not increase the charge or burdens upon' the people is absolutely futile. We can increase the charges and burdens on the people very materially by increasing our expenditure, and it is only a question of degree* when we come to examine it. If, for instance, we have a proposal for the construction of an outer harbor at Port Adelaide, at an expenditure of £500,000, and the Senate chose to put on another £50,000 to the amount, would not that be increasing the burdens upon the people 1

Senator Sir Bich abd Baker

- Not if the amount be taken off something else.

Senator PLAYFORD

- It would be increasing the burdens upon the people. If somebody makes me pay £50 or £60 more than I am entitled to pay, they will increase the burden upon me, and applying that to the community as a whole, if they are to meet increased expenditure, we increase the burdens upon them, and there is no use splitting straws over a matter of this sort. If there is a clause of this sort in the Bill, a Governor-General's message must come down with it, recommending the necessary appropriation, and I entirely support Senator Drake in this matter. t

Senator HARNEY(Western Australia). - I do not rise to renew the argument, because, although Senator Playford has said that it is as plain as a pike-staff, fortunately for him I think all the lawyers in the Chamber - Senator Sir William Downer, Senator Sir Richard Baker, and the others are of opinion that it is not ; but, if there is any plainness at all in it, it is in the aspect that it is quite opposed to the view which he has taken. My only reason for rising is to reply to the one point to which I think we are narrowed down between Senator Drake and Senator Sir Josiah Symon, Senator Sir Richard Baker, and myself as to the apparent redundancy in paragraph 2 of section 53 of the Constitution. I confess that if it was not for the apparent redundancy, I would have no hesitation in coming to the conclusion that we could amend the Bill, and until I heard Senator Sir Richard

Baker speak. I did find it very hard to explain it. He has given to my mind an absolutely clear answer, and the attempt made by Senator Drake to deprive the answer of its force has altogether failed. What Senator Sir Richard Baker pointed out was that paragraph 2 deals with proposed laws that impose taxation in a manner which makes them fit in with section 55, that is, that they shall not deal with any other subject. What Senator Drake says is this - " If you construe burden or charge in the manner in which we would

wish to construe it, we would have to read paragraph 3 as if we substituted imposing taxation for burden or charge, and therefore that is quite redundant, since you have a previous part dealing with laws imposing taxation." The answer given by Senator Sir Richard Baker, and not destroyed by the reply of Senator Drake, is that laws imposing taxation in paragraph 2 deal with taxation laws as such ; not laws that incidentally increase taxation, but laws that directly, and in their main character, are taxation laws.

Senator Drake

- How does the honorable and learned senator get over section 55, that a law imposing taxation cannot include other matter ?

Senator HARNEY

- A law imposing taxation ought to do nothing else ; paragraph 2 has reference to laws that fall in with that requirement and impose taxation, and do nothing else. If the thing stopped at paragraph 2 we would have had no part of the section dealing at all with laws that incidentally impose taxation.

Senator Drake

- How can we have that in the face of section 55 ?

Senator HARNEY

- They can impose taxation incidentally without being laws imposing taxation. The result of giving effect to the laws may be that taxation will follow.

Senator Sir Richard Baker

- The Post and Telegraph Bill imposes taxation.

Senator HARNEY

- The Post and Telegraph Bill imposes taxation, since the very carrying out of its provisions means that taxation incidentally arises.

Senator Drake

- That is not taxation ; it is payment for services rendered.

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Senator HARNEY

- As it occurs to me the second paragraph has reference to laws which in their main character directly impose taxation. The next paragraph deals with a class of laws which are excluded from the operation of paragraph 2, namely, laws which do not directly impose taxation, but which incidentally and indirectly impose taxation, by reason of its being necessary to impose fresh charges or burdens on the people to carry out an appropriation. Therefore there is really no collision whatever between them, because the only collision arose from our directly substituting imposing taxation for burden and charges, when what we should have substituted was this - that the Senate may not amend any proposed law so as to increase not any proposed tax but any proposal which incidentally taxes the people. There is absolutely in my mind no collision between the two paragraphs. If I were as experienced in matters of State as I am in the analysis of sentences I might be able to give many illustrations. It is perfectly clear to me, in reading this now, that the difficulty which Senator Drake created is really not a genuine one. The section deals with three powers - the power of origination, the power of amendment, and the power of suggestion.

Origination of all Appropriation Bills is to start in the Lower House. Of those Bills which come to us, some we can deal with by amendment, others we can deal with by suggestion. What Bills can we deal with by suggestion ? Those which deal with the ordinary expenditure, or those that impose an incidental tax upon the people, not those that merely require an additional salary to be paid. If they do not do these things we can amend them.

Senator Sir John Downer

- If we can originate, we can amend.

Senator HARNEY

- The only difficulty which occurred to me in that argument was that I had to admit for the purpose of it that a charge or burden was equivalent in the long run to imposing taxation, and therefore I thought it did collide with the previous section, but I now find that the taxation which it imposes is not the main purpose of the Bill as contemplated in the section, but an indirect incidental thing arising out of it.

Senator Clemons

- The honorable and learned senator has not touched on the words appropriating revenue or moneys.

Senator HARNEY

- That really does enter into the point I am discussing.

Senator Clemons

- There is a good deal of question involved in those remaining words of the second paragraph, which the honorable and learned senator has left unanswered.

Senator HARNEY

- All I have been doing now was to answer an argument which arose during the absence of my honorable and learned friend from the Chamber.

Senator Glassey

- Could we not have introduced this Bill ?

Senator HARNEY

- We could not. in my opinion.

Senator Lt.-Col.NEILD (New South Wales). - There is one point which I think requires clearing up. It has been laid down in the most authoritative manner that the term " charge " relates solely to the imposition of duties or taxation. It is as plain as a pike-staff, to quote Senator Playford, that in the standing order of the House of Commons the word charge is applied to votes of money, and that is precisely what I laid down yesterday.

Senator Sir John Downer

- What has the House of Commons to do with us ?

Senator Clemons

- A good deal ; this word is derived from the procedure of the House of Commons. .

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Senator Lt Col NEILD

.- It is laid down in the standing orders of the House of Commons that the word charge applies just as strictly to votes of public money for specific purposes as in any other way, and so that there may be no mistake about it, I shall quote two short standing orders. Standing Order 57 is in these words -

That this House will receive no petition For any sum relating to public service, or proceed upon any motion, for a grant or charge upon the public revenue, whether payable out of the consolidated fund or out of moneys to be provided by Parliament unless recommended from theCrown.

The next standing order is even more brief.

That this House will not proceed upon any petition, motion, or Bill for granting any money, or for releasing or compounding any sum of money owing to the Crown, but in committee of the whole House.

In May, at page 527, we find these standing orders specifically referred to. The heading is " regulations adopted by the Commons to enforce the Royal control over public expenditure and revenue," and the side note is procedure on money charges, so that the word " charge " is fully taken to apply to charges in the form of votes of money as well as charges in connexion with the collection of revenue.

The Commons have faithfully maintained the duty and responsibility of the Sovereign and their own regarding the custody of public money by standing orders framed specially for that purpose.

Two of them I have quoted and the third is to like effect, it goes on -

Under the practice thus established every motion which in any way creates a charge upon the public revenue or upon the revenue of India, must receive the recommendation of the Crown.

I go on to another place and I find this -

Procedure on legislation creating a public charge -

This is described as a charge on the people -

In pursuance of the standing orders which regulate the financial procedure of the House, committees of the whole House are appointed to sanction by their resolutions grants of public money or the imposition of a charge upon the people.

Then we come to this passage -

Bills creating a charge. - When the main object of a Bill is the creation of a public charge, resort must be had to this procedure before the Bill is introduced, and upon the report of the resolution of the committee of the whole House thereon, the Bill is ordered to be brought in.

The next words are singularly applicable to the very Bill under discussion -

If the charge created by a Bill is a subsidiary feature therein resulting from the provisions it contains, the Royal recommendation and preliminary committee are not needed in the first instance, and the Bill is

brought in on motion.

That is precisely what has happened here -

But before the clauses and provisions for the creation of incidental charges can be considered by a committee on the Bill, those clauses and provisions must be sanctioned by the resolution of a committee appointed on the recommendation of the Crown, and agreed to by the House.

There are numerous other references. In the next paragraph, for instance, there is a further reference made to a charge, showing that over and over again the word "charge" is, as said by Senator Drake, applicable to grants of money, and, therefore, that the use of the word "charge" in the Constitution Act may be read quite as accurately to refer to charges upon the revenue as charges upon the people. I quite agree with Senator Drake's exposition of this particular point.

Motion (by Senator McGregor) agreed to-

That the committee do now divide.

Senator Clemons

- As a point of order, I submit that there is no question to divide upon. I believe that Senator Playford's amendment has been withdrawn.

The ACTING CHAIRMAN . - Leave to withdraw the amendment was not given.

Senator Clemons

- I submit that some time ago Senator Playford withdrew his amendment.

The ACTING CHAIRMAN.- I did not put it because I thought it was not right to stop the debate on this important point.

Senator Clemons

- Then what is the question before the Chair ?

The ACTING CHAIRMAN.- The question is that Senator Playford have leave to withdraw the amendment.

Question - That the amendment be, by leave, withdrawn - agreed to.

Senator CLEMONS

-I want to say a very few words expressive of my admiration of the lucid argument of Senator Playford upon the matter which has just been discussed. I have listened throughout to this long and elaborate debate upon a very intricate and technical subject, and, speaking, so to say, in a judicial capacity, I am fully convinced that the most lucid argument we have heard on the subject was delivered by Senator Playford.

Senator Sir JOHNDOWNER (South Australia). - This clause raises a clear constitutional 'question, and I do not think we should evade it by the withdrawal of Senator Playford's amendment, or in any other way. I entirely disagree with the view Senator Playford takes on the matter. He has always had the idea in some way or another that the Senate and the House of Representatives should bear something like the relations which are borne by the two Houses of Legislature to which he has been accustomed. It is . rather a pity after we have had this long discussion - conducted in very good spirit - that we should not have arrived at some conclusion that would have informed the other branch of the Legislature and informed ourselves also as to our relative positions, and as to exactly how we are to be guided. We do not want the arguments repeated ad infinitum and do not want to be always discussing more or less abstract propositions. The question has been very carefully discussed. Now, however, by the action of Senator Playford, who provoked the discussion, the whole debate is to be wasted. I intend to move a further amendment in order that the committee may come to some determination on the point. I move - That after the word "thousand" the words " one hundred " be inserted.

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Senator DRAKE

- I shall have formally to ask the Acting Chairman for his ruling as -to whether it is competent for this amendment to be put. I take that objection as a point of order. I think the amendment ought not to be put for the reasons I have already given.

The ACTING CHAIRMAN.- There is nothing in the standing orders to prevent my putting the amendment, or to prevent it being moved. I do not think I am in a position to interpret the Constitution, and do not propose to do so.

Senator CHARLESTON

- After all the discussion we have heard, and all the arguments that have been so ably put by so many

lawyers, I fail to see why the committee are practically to withdraw from the contest. AVe might just as well realize our true position with respect to this subject. Senator Sir Josiah Symon, ;Senator Harney, and others ought now, to be consistent with their own arguments, to -agree to this amendment being inserted, so as to test the true position in which the Senate -stands in its relations with another place.

Amendment negatived.

Senator Lt Col NEILD

-Col. NEILD (New South Wales). - In order to test this matter in a very simple way, 1 move - That the words " which to the necessary extent is hereby appropriated accordingly," lines 4 and 5, be omitted.

Ry this amendment we shall still leave in the Bill the salary of £1,008 a year, and we shall still make it a charge upon the consolidated revenue j but we omit the words actually appropriating the money. In my opinion those words are wholly redundant, and absolutely needless. They should not be there. They are not to be found in other Bills of the kind. Under the Constitution Act several salaries are provided for, but no such words as those are used.

Senator DRAKE

- We have discussed this matter for a long time, and, on the whole, seriously. I think the clause might now .be allowed to go. I would ask Senator Neild not to press his amendment, if on no other ground than that upon his own assertion the words which he proposes to omit are absolutely redundant and needless. I take it that he means that they can do neither good nor harm. In what way could they possibly do any harm ? This is an appropriation out of the consolidated revenue. The clause says that money to the necessary extent shall be appropriated for the payment of this salary.

What good object could be served by striking out these words 1 What effect could it have except to send back this Bill to the other House with an amendment connected with the relation of the Senate to the other Chamber, after we have had this long discussion on a constitutional question. We have had an amendment moved which raised very important constitutional points. The amendment was withdrawn and another which would have raised the same point has been negatived. Why should we now make an amendment which can have no good effect?

Senator Clemons

- It will have an extremely bad effect. This is the appropriation of a salary for a very special purpose ; it coincides with the purpose for which the salaries of our Judges are appropriated. These words, in my opinion, are absolutely necessary in connexion with an office of this kind. They are by no means redundant as Senator Drake would have us believe.

Senator DRAKE

- I said distinctly at the outset that I was simply taking up the argument raised by Senator Neild, It was that honorable senator who said that the words were redundant. That is the position I had arrived at when Senator Clemons understood me to say that it did not matter whether the words were struck out or not. I take up an. entirely different position. It is desirable that they should remain in the Bill so as to make it clear that this salary is not to appear in the annual appropriation and to be voted again and again. The salary will be the same as those of the Judges. Under this Bill it will not be subject to a discussion on the Estimates year after year in Parliament. That is the reason why it is very desirable indeed that these words should be retained.

Senator Clemons

- That is till I pointed out.

Senator DRAKE

- Yes, but the honorable and learned senator was proceeding on the assumption that I was using as an argument of my own what had been stated by Senator Neild. I was repudiating that honorable senator's suggestion at the time.

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Senator Clemons

- I apologize to the Postmaster-General with all profusion.

Senator Sir JOHNDOWNER (South Australia). - I simply wish to say that, through the action of Senator Playford, we are placed in a most painful and unfortunate position. We had a great constitutional question raised through his instrumentality,

He brought the question before us by an amendment which, I think, lie might fairly have stood by. However, that is nothing. We had a most learned discussion on this great constitutional point. We all brought our best thoughts to bear upon it. We arrived, practically unanimously, at the conclusion that the amendment should be supported on principle without reference to de tails, and now in the end the amendment is withdrawn, and we are left as if we had abandoned our constitutional position to the Government.

Senator Drake

- There is no constitutional point.

Senator Sir JOHN DOWNER

- We have abandoned our constitutional position and our right to alter clauses of this description. We have submitted to the action of the other House in sending this Bill to us and saying that we have to accept it. I wish to protest against the unfair position in which we have been placed by the action of the honorable senator who led us' on, and then refused to allow us to follow him. The honorable senator started the amendment and abandoned the principle. As the amendment and the principle were so inextricably mixed that they could not be separated, both motion and principle were abandoned in the same act. I only rise to say, however, that I have not abandoned the principle in the slightest degree ; that in spite of the dissent of the various honorable senators who spoke on my side and voted on the other-

Senator Clemons

- That is the common practice in the Senate.

Senator Sir JOHN DOWNER

- Yes ; it is according to common parliamentary practice. When the principle came to be put to the test they voted the other way. Although that might seem to amount to a general disavowal of the parliamentary principle which governs us, I wish it to be distinctly understood that I abandon no particle of the principles I have contended for to-day. I say we have' a perfect right to amend this clause, and that the deduction ought not to be made, because of the disaffection of any portion of the committee from the views which they originally advocated, that we are sacrificing the principle. It has been shown that we can amend--

Senator Clemons

- So as to increase.

Senator Sir JOHN DOWNER

- Yes. As we could . have originated, so we could have amended. There is the whole point. I agree that the two questions are absolutely the same. If we could have originated we could have amended. If we could, not originate then we could only suggest. I say we could have originated this Bill., and amended it, and the fact that we have* not amended it is not to be taken as an abnegation of our right to deal with any similar Bill which may be brought forward.

Amendment negatived.

Clause agreed to.

Postponed clause 54 -

The Auditor-General may in such yearly report,, or in any special report which he may at any time think fit to make, recommend any plans and suggestions for the better collection and payment of the public moneys, and the more effectually and economically auditing and examining the public accounts and stores, and any improvement in the mode of keeping such accounts, and generally report upon all matters relating to the public accounts, public moneys, and stores, and such, plans and suggestions shall be considered and dealt with by the Governor-General.

Senator DRAKE

- This clause was postponed because it was suggested that it did not state clearly to whom the special report was to be made, and I undertook to look into the matter, and to see whether it was necessary to alter it, in order to show distinctly to whom the report would be sent. I do not think that any alteration is necessary. If we turn back to clause 12 we find that it provides that the Auditor-General shall communicate with the Treasurer on all matters arising under this Act. Therefore, this special report > will be forwarded to the Treasurer.

Senator Major Gould

- Then it will not be laid before both Houses of Parliament.

Senator DRAKE

- This only refers to a special report which will not be laid before Parliament. It comes under matters that are to be communicated by the Auditor-General to the Treasurer, and the suggestions which are contained in it are to be considered and dealt with by the Governor-General. It differs considerably from the important annual report dealing with the statement of accounts. In this special report the Auditor-General recommends any plans and suggestions for the better collection and payment of public moneys, and these are matters which are of great interest to the Treasurer. The Treasurer is necessarily the officer who would be charged with carrying out those suggestions.

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Senator Major GOULD

- This clause goes a great deal further than the Postmaster-General suggests. The Auditor-General, if he saw fit, could send two reports, and one would simply be a bare report as required under clause 51.

Senator Drake

- A very full report is required under that clause.

Senator Major GOULD

- Well, say, a full report. The Auditor-General, however, might leave out of his general report a large number of suggestions and submit them in a special report, which would only go to the Treasurer. It would not go to both Houses of Parliament. If it is well that the Auditor-General should forward his general report to Parliament, is it not equally desirable that he should send his special report to each House of Parliament? I submit that the reason given for providing that the one report shall go before Parliament applies equally to the other. The Auditor-General might make his suggestions in the annual report, and then they would come before Parliament. He might say that instead of making his suggestion in the annual report he will make it in a special report, and Parliament will not be entitled to see that unless the Treasurer sees fit. That surely was never the intention. Again, clause 12 says -

The Auditor-General shall communicate with the Treasurer upon all matters arising under this Act or the regulations relating to the collection, receipt, issue, and expenditure of public moneys.

Surely the honorable senator would not contend that this was to apply to everything except the one annual report, in which the important suggestions might never be made at all. 'A report might be made to the Treasurer, and he might say, "We will do nothing with this. Parliament is not aware of the suggestions made, because they are made in a special report, and it is not laid before Parliament." Why should Parliament be placed in that position? Why should not Parliament have an opportunity of saying to the Treasurer, "The Auditor-General has recommended certain things in a special report; why do you not carry them out?" If the honorable senator will give the matter some consideration he will see that it is really quite as important that that should come before Parliament as that the general report itself should come before Parliament. My contention is that this clause 12 does not apply to special reports, but merely to reports of matters arising under the Act in connexion with its administration. The Auditor-General may call for persons and papers, and he might report to the Treasurer with regard to that, or in the way in which moneys were being improperly collected or looked after, but when we come to these matters upon which a special report is made, it is of great importance to say that those reports should be submitted to Parliament itself.

Senator DRAKE

- I think with regard to the first part of clause 54 it is really all included under clause 12, which covers a tremendous lot of ground. What is really indicated under clause 54 is that any suggestions which may be made by the Auditor-General with regard to the better collection or payment of public money may refer to any of those things contained in the annual report or special report, and shall be considered and dealt with by the Governor-General. That I take to be the enacting part of the clause. If it were (as the honorable and learned senator suggests, clause 53 would contradict clause 12, which we have already passed. It would mean then that every special report that the Auditor-General made, and any communication he desired to make with regard to these matters, should all be laid before Parliament. The subjects referred to under clause 12 pretty well cover all the subjects, referred to under clause 54. Clause 12 says that the Auditor-General may communicate upon certain matters with the Treasurer, and it is now suggested that we should enlarge that, and provide that every report that is made by the Auditor-General to the Treasurer shall also be laid upon the table. Of course if there is any important matter, there is no doubt

whatever that it will be embodied in the annual report to Parliament, but the Auditor-General might be allowed to communicate with the Treasurer and make suggestions to him from time to time as to a better method of collection, or it might be with regard to some particular improvements he desires to suggest in the collection or payment of money in some obscure part of the Commonwealth.

Senator Pulsford

- Could such a small matter be referred to as a special report 1

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Senator DRAKE

- I do not know where the honorable senator would draw the line. Clause 1.2 says the Auditor-General may communicate with the Treasurer at anytime, and I presume his communications would be special reports ; and then there is the annual report that deals with the whole of the finances of the Commonwealth, and that must be submitted to Parliament. I think, for purposes of the kind I have indicated, it would be sufficient to allow the Auditor-General to communicate as proposed in the Bill with the Treasurer. This clause 54 provides that any plans or suggestions he makes with regard to these matters must be considered by the Governor-General, which of course means that any suggestions he makes to the Treasurer come before the Cabinet for consideration.

Senator PEARCE

- I am inclined to support the Postmaster-General's contention. I do not think the Treasurer could defeat the purpose of the Auditor-General on any important point, because if the Auditor-General had any important recommendation to make, he would take care to include it in his annual report to Parliament. This clause would not give the Treasurer power to defeat the purpose of the Auditor-General, and at the same time I can quite understand that it might be necessary many times during the course of the year for the Auditor-General to make some suggestion or recommendation to the Treasurer.

Clause agreed to.

Postponed clause 56 -

AH interest (other than interest on loans taken over by the Commonwealth from the States or any renewal or conversion thereof) payable on account of the public debt of the Commonwealth on the first day of any quarter of the financial year shall be charged and included as a payment in the preceding quarter of such year.

Senator DRAKE

- This clause was postponed at the request of Senator Walker, who thinks it desirable that we should omit the words -

Other than interest on loans taken over by the Commonwealth from the States, or any renewal or conversion thereof.

Since we last met I have had a conversation with the Treasurer on the subject, and he disapproves of the proposed amendment on exactly the same ground that I urged yesterday, that it would probably have a disturbing effect upon the finances of the States more especially if the Commonwealth were to go in for any large conversion project. If we were to propose to convert the loans of the States to any large extent, and these words were not in the clause, it would become necessary for us to insist at once upon what we all are agreed is the more correct system of bookkeeping, that the interest hitherto charged by some of the States to the succeeding quarter or half of the year should be charged to the quarter or half of the year during which such interest accrues. The Treasurer assures me that if the whole of the loans of the States were converted it would mean an enormous disturbance of the finances in some of the States. Seeing that at the present time the finances of some of the States are not in as flourishing a condition as we should desire, it is not desirable that we should do anything which would put them in a worse position. Above all it is desirable that we should not in any way. endeavour to force upon any of the States a system of bookkeeping which we may consider superior. It is better to leave the clause as it is, with the exception provided for, so that the better system of bookkeeping may not be forced upon the States. We should allow them in their own good time to adopt the system which we consider the better one.

Senator WALKER(New South Wales). - I was very glad to hear the Postmaster-General upon this clause, but I am bound to say that I cannot follow his arguments. If the words to which I object are removed from the clause it will read in this way -

All interest payable on account of the public debt of the Commonwealth on the first day of any quarter of

the financial year shall be charged and included as payment in the preceding quarter of such year. What have the States got to do with it when we pay the interest, because the debt will then be our debt ?
Senator Drake

- I think the same system would have to be adopted in their accounts. We keep accounts for them.
Senator WALKER

- Only for five years. We take so much of the debt, and we pay the interest ourselves upon the debt we take over. The States will have nothing to do with" it at all. There is evidently some confusion in the minds of some persons about this. If honorable senators will look over the clause carefully they will see that if we take over the State debt it will be for the Commonwealth to pay interest, and we will charge it to the portion of the financial year to which it belongs. Otherwise we shall have two systems of paying the interest in the Common wealth.

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Senator DRAKE

- If the honorable senator will allow me I will explain the matter. Under our system of audit we shall then insist upon debiting the State with the interest due for the particular quarter or half of the year during which it has accrued. If we alter our Audit Act in the way proposed we should not ask the States ! what period they would like the interest to be | charged to. We are keeping the accounts 1 of the States to a certain extent, and we should debit to the States the ; interest during the quarter in which it Accrued, and not in the succeeding quarter. We are keeping a debit and credit account of each State. Supposing we take over a : debt of £1,000,000 from one of the States representing an interest charge of £ 30,000 a year, or £15,000 for the half year. The State has been in the bad habit of debit , ing that £15,000 to the half-year succeeding the period in which the interest became ' lue. If this Audit Bill is amended in the 1 way Senator Walker proposes we shall I debit that £15,000 to that particular State 1 or the half-year during which the interest j accrues, and for the first half -year that State , will have first of all to pay the £15,000 : which it is behind, and it will then be debited | with £15,000 by the Commonwealth.

Senator WALKER

- If we take over a debt j it will become a debt of the Common- 1 wealth, and we will pay the interest.

Senator DRAKE

- That is, supposing we have got value for it, but we are speaking i now of a conversion scheme. If we take 1 over a debt of £1,000,000 under a conver- i sion scheme, we can borrow the money cheaper than the States, but we will debit the States with the interest on that i £1,000,000. Under the proposal made by 1 Senator Walker, we would, in the case I have mentioned, debit the State with the £15,000 interest during the half-year in which it has accrued.

Senator WALKER(New South Wales). - The clause speaks of all interest payable on account of the public debt of the Commonwealth, and if we are the custodians of the Commonwealth finances, surely we have a right to say that each half-year shall bear its own interest, and if the State finances are inconvenienced it will only be for one half-year.

Senator Drake

- It is just that half-year that will be so very inconvenient.

Senator WALKER

- -This is also to apply on "any renewal or conversion thereof." Apparently we are to continue this pernicious system for all time. Does the Minister think we ought to assist the States to finance on unsound principles?

Senator Drake

- I think it is better to let them go on on unsound principles than to force sounder principles on them.

Senator WALKER

- It is only for one half-year.

Senator Drake

- On £1,000,000 it will make a difference of £15,000.

Senator WALKER

- I move -

That the clause be amended by the omission of the words "other than interest on loans taken over by the Commonwealth from the States on any renewal or conversion thereof."

In this case we have a principle at stake, and we ought to stand by it.

Senator PULSFORD

- I rise to support the omission of these words, and I do so on behalf of sound and honest finance. It is not at all a reasonable thing that a debt belonging to one quarter or half-year should be carried over to the next quarter or half-year. It is a system which would not be allowed or thought of in any private business, in any bank, or large institution. And it is calculated to give an entirely wrong impression of the position of the State. Moreover, some difficulty, it will be seen, arises from the fact that the practice in the States is not uniform. There are States in which the practice only concerns a quarter, and others in which it concerns a half-year. I 'am not quite sure whether the practice is current in the whole of the States.

Senator DRAKE

- In Western Queensland it is not.

Senator Playford

- Nor in South Australia.

Senator PULSFORD

- Then a difficulty is created. In any State where the interest is paid within a quarter it is here proposed that it shall be carried on.

Senator Drake

- I do not read it so -

Other than interest on loans taken over by the Commonwealth from the States.

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Senator PULSFORD

- If it were not it I would be an improvement in the clause, but as I read it it compels the whole of the items which are charged on the first of the current quarter to be carried on instead of being charged back to the quarter or period when they actually matured. Supposing that £10,000,000 *' be taken over, the interest on that sua* for a quarter comes to £75,000, or for six. months to £150,000. All that is necessary is for the State, instead of taking over simply £10,000,000, to take over £10,150,000, and that will at once put the finances of the State and of the Commonwealth on a. fair, sound, and proper basis. There will be no deception. Everybody will see exactly how the account stands.

Senator Drake

- How would taking over so much more of the loan assist the revenue ?

Senator PULSFORD

- Their revenue does not need assisting. All we want to do is to put the accounts in a fair position, and to let all the world know how they really do stand. If at the end of a second period a certain sum is due, let all the world know it is due. Do not let the accounts of the period close and it be understood that the State has paid its indebtedness in that quarter when a large sum is handed over to the next quarter. It is very bad finance, and the finance of many of the States is not conducted in the manner in which it ought to be, and it would be very desirable, I think, for us to try to lead all the States aright in this matter. There will be no difficulty with the States, because the matter is easily arranged in the way I have spoken of.

Senator DRAKE

- I could not quite follow Senator Pulsford about taking over £150,000 more of the debt for this reason, that the debt is some form of stock - money owing. The taking over of £150,000 more of the debt would not assist in relieving the revenue at all.

Senator Pulsford

- No : the Commonwealth would pay the £150, 000.

Senator DRAKE

- I do not see how it could do that. Does the honorable senator mean to say that it would take over £150,000 of the debt and give cash?

Senator Pulsford

- And increase the capital.

Senator DRAKE

- I do not know whether the Commonwealth would have power to do that. In fact I am not quite sure whether it is within its power to purchase the stock in that way- by taking it up and giving, cash for it. I want to show how it may embarrass the State. Supposing that £10,000,000 were taken over at 3 percent.,

the interest will be £75,000 for a quarter. The accounts of that State will already be debited with £75,000 for that quarter, for the interest that accrued due in the previous quarter. When the loan is taken over the Commonwealth Government, following the line of its own Audit Act, debits the same quarter with another £75,000 for the interest accrued due during that quarter, which will mean that the interest, instead of being charged with the £75,000 during that quarter as previously, will be charged with £150,000.

Senator Walker

- That is the punishment for their own stupidity.

Senator DRAKE

- I am glad that Senator Walker has used that expression ; although, perhaps, to a certain extent, I ought to deplore that it escaped his lips ; still, it is rather useful to me for the purpose of this argument. Is it desirable for us to take up that position with the States ? Having in the past adopted a system of bookkeeping, which we consider is imperfect or wrong, are we right now in taking up the position that we, by suddenly forcing on them a better system of bookkeeping, will punish them for their errors ?

Senator Walker

- I did not mean it in that sense.

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Senator DRAKE

- Let it be borne in mind that those States who have financed so as to put off their quarter's or half-year's interest to the next period, have very often gone through times of great difficulty and trial. They must have had great difficulty in financing, and they have been led to adopt this particular method of making their finances a little better than they would have been otherwise. We in the Commonwealth have had no trials of that sort. We are starting with a clean sheet. With revenue in excess of expenditure, but under no temptation to finance in that way, have we a right to take up this position - " AVe- shall keep our books all right from the start. AVe shall adopt a proper system of finance, and charge to each quarter and each half year the interest which becomes due during that time, and we shall force the States to do the same thing." I think it will be better, especially at this stage, for us not to take that step. Let us say that we hope that the States will see their way to adopt the system of bookkeeping which we propose to start with, but in the meantime we leave it to their own good sense and judgment to make the change as soon as they conveniently can.

Senator WALKER.(New South Wales) - I did not mean that interjection in an offensive sense. I mean that it is desirable that the States should get on to some sound system of finance. They are trying to pull the Commonwealth into their own stupid system. The Minister speaks as if this big transaction will come off all at once, but I think it will come about so slowly that they will gradually get into a 'correct system. There is no immediate intention, I take it, to introduce a consolidation scheme. My opinion is that it will come about when we take over some assets such as the railways. It says in the clause " the debt of the Commonwealth-" ; it does not speak of the debts of the States.

Senator Drake

- I have explained that if we pay the interest as we should during the period, we must debit it during that period to the States.

Senator WALKER

- Supposing that the Treasurer of a State has to bring forward his statement, and he says - "We commenced the year with a surplus of £200,000, and we ended the year with a deficit of 000, but that was owing to our getting into a correct system of bookkeeping." The States will benefit by the alteration I propose.

Senator PULSFORD(New South Wales). - What we propose would simply be to make public that which is now hidden. It would not increase the actual financial difficulties of the States, for they are finding the money as it falls due. If the money now charged to the next quarter be put to the quarter to which it properly belongs, the only difference will be that the surplus, if there is one, will be lessened, or the deficit, if there is one, will be made to Appear larger ; but really the deficit, if there is one, will not be actually larger, but will only be admitted at its true dimensions - that is the deficit of the time being and the sum which is now put to the next quarter, but which really belongs to the present quarter, has hidden a deficit. It is on this ground I appear somewhat persistent that we have no right to hide a deficit, and that this sum ought to be arranged for in the quarter to which it properly belongs.

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

9

AYES

7

NOES

Majority 2

AYES

NOES

Question so resolved in the affirmative.

Clause agreed to. Title agreed to.

Bill reported without amendment.

Senator Lt Col NEILD

The Bill will have to be recommitted to rectify a blunder in clause 53. As it stands the report is only to be laid on the table of Parliament "within fourteen days after the next session." It means "after the commencement of the next Session," but it does not say so.

Senator Drake

- That is only a verbal error.

Report adopted.

CUSTOMS BILL

Bill received from the House of Representatives, and read a first time;

PAPER

Senator DRAKE laid on the table the following paper -

Report and appendices. Federal Military Committee assembled at Sydney, New South Wales, 20th March, 1901.

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22:24:00

Senate adjourned at 10.4 p.m.