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1901-11-07
House of Representatives.
Mr. Speakertook the chair at 2.30 pm., and read prayers.
PAPER
Mr. BARTONlaid on the table
Correspondence with reference to the conference on the subject of the proposed new Imperial Appeal Court.
AMENDMENT OF THE TARIFF
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Mr POYNTON
- I understand that the Government are inviting suggestions in connexion with the Tariff, and I purpose bringing under their notice certain facts in connexion with some items, which I hope will lead them to reconsider their present proposals.
Minister for External Affairs
Mr BARTON
- I would suggest that the honorable member should forward his suggestions to the Minister for Trade and Customs.
Mr POYNTON
- Probably the Prime Minister would prefer that course to be adopted, but 1 desire to ask a question on the subject now. I wish to direct attention to certain lines in the Tariff, and to ask whether the Minister for Trade and Customs will amend the Tariff in this particular direction 1
Mr SPEAKER
- The better course for the honorable member to follow would be to bring the matter under the notice of the Minister for Trade and Customs, and to take only such action as he now proposes in the event of failing to attain his object by other means.
Mr POYNTON
- If I were to ask the Minister for Trade and Customs to consider a case in which the invoice price is £95, and the result of the composite duties is to require the unfortunate importer to pay £53 in the form of duty, as against £12 under the old South Australian Tariff, should I be in order ?
Mr SPEAKER
- Yes.
Mr POYNTON
- I wish to ask the Minister for Trade and Customs whether he will consider the case I have referred to. I have a number of other cases, where the increased duties are enormous, and I feel confident that the Minister does not realize-
Mr SPEAKER
- The honorable member is now going beyond what he stated. If he will confine himself to a question he will be quite in order.
Mr POYNTON
- I was just coming to the question. I desire to ask the Minister whether he will reconsider the measurement duties when he is dealing with the Tariff?
Minister for Trade and Customs
Mr KINGSTON
- I shall be happy to re-consider anything that is brought under my notice, either here or elsewhere, but I shall take it as a favour if honorable members will communicate with me, so that I may have an opportunity of considering their representations before coming to the House.
QUESTIONS
NORFOLK ISLAND
Mr HUGHES
- I desire to ask the Minister for Trade and Customs a question with regard to a matter I brought under his notice yesterday. I am at a loss to know how it is that the right honorable gentleman classifies Norfolk Island as he does 1 This is becoming a burning question. I understood the right honorable gentleman to

say that Norfolk Island was not a part of the Commonwealth. I understand that it is not a part of the State of New South Wales, but I do not understand how it is not a part of the Commonwealth 1
Mr Barton
- It is not placed under our jurisdiction.
Mr HUGHES
- Does the right honorable gentleman contemplate the possibility of there being territory which is not a part of the Commonwealth, and yet is under the control of one of the States, which control may be exercised in any direction that the State pleases ? I have looked through the Annotated Constitution of the AustralianCommonwealth and I find that whilst provision has been made that territory may not belong to any State-
Mr SPEAKER
- Order ; the honorable member can only ask a question.
Mr HUGHES
- What I wish to know is this - I thoroughly understand that Norfolk Island is not a part of New South Wales, but I do not understand how it is that it is not considered to be part of the Commonwealth.
Mr KINGSTON
- The States are federated, and as a result of that federation everything that is included in the States is in the Commonwealth, whilst that which is not included in the States' is not in the Commonwealth.
THE KANAKA QUESTION
<page>6989</page>
Mr R EDWARDS
- I desire to ask the Prime Minister whether he is correctly reported in the Sydney newspapers, as saying -
I have no intention of appointing a commission to inquire into the kanaka question. There is in the possession of the Federal Government now* fuller and more complete information respecting the sugar industry than the Queensland Government have ever obtained. So there is no necessity for further inquiry into the matter. This information is contained in my reply toMr. ].'h i 4 , which has been hung up owing to the censure debate.
I desire to know whether the Prime Minister will be good enough to place the particulars on the table of the House for the information of honorable members ?
Mr BARTON
- All the. information in the possession of the Government has been placed at the disposal of honorable members as thoroughly as it could possibly be. The statement in the Sydney press does not correctly represent what I said. What I stated "was that the information was accessible to honorable members of both Houses. Whatever information the Government has is thus accessible.
THE PREMIERS' CONFERENCE
Mr JOSEPH COOK
- I desire to ask the Prime Minister whether he contemplates submitting to Parliament a report of the conference which lately took place between himself and the State Premiers, or whether he regards the conference as purely consultative, and in some respects secret 1
Mr BARTON
- At the outset all those who were engaged in the conference took the view that it was purely consultative. A question was raised as to whether certain memoranda should be made public, and it was the opinion of, I think, the whole of the Conference that at such a stage matters would not be helped in any way by making the information public. The Conference was a confidential one, and if we could not have confidential communications under such circumstances it would be impossible in some cases to arrive at any conclusion.
Mr Fisher
- I think that was an error.
INDIAN COOLIES IN FIJI
Mr CROUCH
asked the Prime Minister -upon notice -
If he can inform this House whether the press statements that the Colonial Sugar Refining Company is

introducing large numbers of Indian coolies into Fiji are true?
Whether this will not create a difficulty for the Commonwealth later, and if he can now do anything in regard to the matter?
Ifhe is yet in a position to make an announcement to the House as to the policy of the Commonwealth in regard to the future control of New Guinea, Fiji, and the islands of the Pacific?
Mr BARTON
- The answers to the honorable and learned member's questions are as follow :
I cannot tell. Notice of this question was given only yesterday, and there has not been any sufficient time for inquiry. Besides, I am sure my honorable friend will not expect me to be conversant with every statement made in the press.
If such press statements are true they might cause some difficulty in the event of Fiji becoming a territory of the Commonwealth, unless the terms of her entrance were clearly defined.
It is already well known that the Government intend to submit to Parliament resolutions- as to New Guinea. It is considered that this question should be determined by Parliament before any step is taken regarding Fiji, or the Islands in the Southern Pacific. Any public statement of the communications relating to the New Hebrides is undesirable at the present stage.
VICTORIAN GOLD JUBILEE EXHIBITION
Sir JOHN QUICK
- In asking the Minister for Defence -upon notice -
Whether, in connexion with the GovernorGeneral's visit to Bendigo to open the Victorian Gold Jubilee Exhibition on the 13th instant, he will take steps to provide an escort of 47 mounted men from Elmore, and arrange that the 5th Battalion shall parade, with band, as a guard of honour,
I desire to take this opportunity of stating that to-day I had an interview with the Premier of Victoria, who informed me that arrangements had been made for special trains to leave Spencer-street station at 9.15 a.m. on Wednesday, the 13th instant, returning to Melbourne at 7.33 p.m., for the conveyance of the Governor-General and Members of Parliament and press representatives to and from Bendigo.
Minister for Defence
Sir JOHN FORREST
- Owing to my having been otherwise engaged this question was not brought under my notice early enough this morning to enable me to give a definite reply, but I shall make inquiries with a view of ascertaining how far it is possible to meet the honorable and learned member's wishes.
PACIFIC ISLANDS LABOURERS BILL
InCommittee(consideration resumed from 6th November, vide page 6947).
Clause 3. No Pacific Island labourer shall enter Australia on or after the3lstday of March, 1904.
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Mr R EDWARDS
- I move-
That the word "four" be omitted with a view to insert in lieu thereof the word " nine."
My object in submitting the amendment is to secure an extension . of the time during which recruiting shall be permitted by five years. I hope that the Prime Minister will accede to my proposal, because he must be aware that honorable members are labouring under a very grave disadvantage, although he has announced that complete information upon this subject is already in the possession of Parliament- I very respectfully beg to differ from that statement. I contend that honorable members are not possessed of the information necessary to enable them to legislate intelligently upon this question, which is of so much importance to one of the States. I submit that we should be extremely careful to avoid even the appearance of doing an injustice to Queensland, especially at the beginning of our national life. I have not altogether lost faith in the Government, but I am free to confess that in connexion with this legislation they have gone somewhat astray. The Prime Minister has not kept faith with Queensland. He distinctly gave that State to understand that before any interference with the sugar industry took place he himself would revisit Queensland in order to see and learn more about it than he knew at that time.
Mr Barton
- Has the honorable member a copy of any utterance of mine which goes to that extent ?
Mr.R. EDWARDS.- It is not in my possession at the present time.

Mr Barton
- If such a statement is contained in any newspaper, it is a misdescription.
Mr R EDWARDS
- I heard the Prime Minister make the statement in the Exhibition Building, Brisbane. He ought to remember having made it. If he does not it is his own fault. Queensland has a right to ask for consideration in this matter.
Mr Watson
- Queensland has not asked.
Mr R EDWARDS
- As one of the representatives of that State, I ask for such consideration. I hope the party with which the honorable member who has just interjected is identified will be a little more reasonable and considerate to others who are not of their own class. Those who are advocating an extension of time to the sugar planters are, I contend, acting more in the interests of the working classes than are the direct labour representatives in this Chamber. The aim of the latter is to destroy the industry.
Mr McDonald
- That is untrue.
Mr R EDWARDS
- If the legislation which is now proposed does not actually destroy the sugar industry, it will injure, check, or cripple it for many years to come. We who differ from the labour party are advocating not merely the interests of the working classes, but those of the community as a whole. I appeal to the Prime Minister and honorable members upon both sides of the House to grant this extension of time, which cannot possibly result in any evil. It will, however, enable the planters to secure for themselves other labour. If it be found later on that the sugar industry cannot be conducted without the aid of black labour, I shall be quite agreeable to sacrifice that industry. I certainly do not want a black population permanently located in North Queensland.
Mr CROUCH
- I wish to direct the attention of the committee to what I regard as a defect in this Bill. I refer to the definition of the word " Australia." Clause 2 sets out that - "Pacific Island Labourer " includes all natives not of European extraction of any island except the islands of New Zealand, situated in the Pacific Ocean beyond the Commonwealth as constituted at the commencement of this Act, &c.
This clause states that no Pacific Island labourer shall enter Australia after the 31st March, 1904. "Australia," as defined in the Acts Interpretation Act, means the whole of the Commonwealth. Already this afternoon we have had notice given of a proposal to include New Guinea in the Commonwealth .
Mr Watson
- I do not think that that resolution, if carried, will include New Guinea in the Commonwealth.
Mr CROUCH
- I would point out that under section 122 of the Constitution, these Pacific Islands may eventually become a part of the Commonwealth. Under the Acts Interpretation Act, "Australia" means the whole of the Commonwealth, including such portions as may at any time become a part of the Commonwealth. If the jurisdiction of the Commonwealth covers New Guinea and the Pacific Islands, I take it that we are making a serious mistake unless we put after every definition of " Australia " in this Bill, the words " as constituted at the commencement of this Act, otherwise the Pacific Islander will not need to enter Australia, as he would already be inside its extended limits."
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Sir WILLIAM McMILLAN
- I think that the Prime Minister might give careful attention to the remarks of the honorable member for Oxley. Whether he should go so far as the amendment the honorable member proposes, I am not prepared to offer an opinion. But I quite recognise - as I said in speaking upon this question on a previous occasion - that we have a clear mandate from the people of
Australia as well as from those of Queensland in regard to this kanaka question. I am sorry that a more independent inquiry has not been made, but that is a matter which has passed and is done with. I recognise that we must now deal with the Bill as it stands, and amend it, if possible, in a reasonable direction. The mandate from the people of Australia - and it is embodied in the Bill - was first, that within a

certain definite time this traffic in kanakas must cease, and secondly, that there must be power given to ultimately deport these people, in order that the kanaka may disappear absolutely from the continent of Australia. I admit that. But I think that sometimes we are prone to mistake what is absolutely the mandate of the people in regard to matters of detail. The cessation of kanaka labour at a certain period, and the ultimate deportation of these Pacific Islanders, is the mandate of the people ; but it is for this Parliament to decide how far, with fairness and honesty, that can be done. Honorable members must recollect that this agitation, so far as the Federal Parliament is concerned, began at the general elections. This Bill will probably not take effect till the end of the year. Under it, what are we asked to do? We are asked to immediately interfere with the status quo of this industry, which has been built up under the authority of law - by the Statutes of Queensland. Irrespective of whether or not the term should be five years, I consider that it would be more generous, a greater act of justice, and more in consonance with the spirit and character of the Commonwealth Parliament if we allowed a period of rest - even a period of one year - during which the status quo should be maintained. I understand, at any rate, that the sugar planters of Queensland, after not very favorable times, expect a very large crop of sugar during the next season. That is the condition of things at the present time. There is a crop coining forward. Although it may be said that we give a large amount of protection under the Tariff to the Queensland planter - and I admit it - we ought not in a moment to disturb the relations of a large industry of this character as far as its labour is concerned. Yet this Bill proposes at the very beginning of next year to stop to a certain extent the importation of kanakas. I accept the principle of the Bill right through. I accept it as embodying a decision which will probably never be altered by the people of Australia. But in dealing with the industrial life of the community, I think we ought to keep the spirit of justice clearly before us, and that we should not exercise the strong power of a majority, unless with great leniency, while carrying out the principle which we have in view. That principle would not be touched by an amendment of this clause. We ought to show to the world that in these great industrial arrangements we are ready even to go beyond what justice and necessity demand, in order that there may be no feeling of unrest or dissatisfaction amongst a section of the community.

Mr Fisher

- What term does the honorable member call a just one?

Sir WILLIAM McMILLAN

- I say that at any rate there should be an extension of time for a year. It is of no use introducing heat into the discussion of this matter. I should have voted for the second reading of the Bill had I been present. I have spoken in favour of it, and I realize that it represents the opinion of the people of Australia. But we are dealing now with what is purely a matter of detail. Some honorable members may say that the Government have been too lenient.

Mr Page

- I say so, at any rate.

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Sir WILLIAM McMILLAN

- I was thinking of the honorable member for Maranoa, when I made the statement. But after all the honorable member represents only one constituency, and the elect of Queensland represent only a section of the Commonwealth of Australia. They do not pretend to represent the people who are directly affected by this legislation. I am now dealing not with the principle of the Bill, but with the course which should be adopted by this Parliament in the carrying out of the mandate of the people. I have no interest in this business in any way whatever. I do not pretend to be an expert upon the subject. I look at it from the broad stand-point of an industry which has grown up under the protection of the law. I realize that we are dealing with that industry not in the second or third session of our National Parliament, but in the first session, and I remember that it is almost the first subject of an important character with which we have dealt. Will any honorable member say that if we maintain the status quo of this traffic for one year, allowing all the other sections to operate after that period, we are endangering the passage of the Bill, or incurring any danger in regard to the traffic? To act on this suggestion would be simply to recognise that we are dealing with an enormous industry, in which large capital is invested, and in which thousands and thousands of white men are interested. Will honorable members say that we have no right to consider the planters of Queensland, or that the latter are degraded, and carrying on a criminal traffic, because of

which they ought to be placed outside the pale of civilization ? Even if difficulties and enormities have arisen, they are more the creation of the system than the faults of individuals.
Mr Watkins
- Then the system should be abolished.
Sir WILLIAM McMILLAN
- There might have been some excuse for heat if there had been great controversy as to the House on the principle of the Bill - if there had been controversy over the question whether or not the kanaka traffic should be stopped in a certain time or whether the kanakas should be deported after a certain period. But we are not dealing with those questions, and, therefore, the heat of some honorable members is not justifiable at the present time. I am asking for only a little more leniency than the Government propose to give. No doubt the Government have given consideration to those engaged in the industry, and when they drafted the Bill they knew that certain members would resent the measure as not drastic enough. Viewing the circumstances impartially we ought, as a Legislature, to go a little further in leniency than the Bill. The amendment is not likely to be entertained by the Prime Minister, and if that be so, I would not advise my honorable friends to divide the committee. But the Prime Minister might consider whether it would not be better, us a matter of justice to a section of the community of the Commonwealth, to afford an extension of time. After all, the planters represent a great industry, which all of us hope to keep alive. I do not believe that any honorable member desires to destroy the sugar industry, though some honorable members may go so far as to say that if white men cannot be employed within certain latitudes, the industry had better be allowed to disappear. But so far as at any rate two-thirds of the great industry of Queensland is concerned, no man desires to see it destroyed. We look on sugar, maize, wheat, and wool as the great staple industries of Australia, as great exports to other countries, and as material for our own manufactures. All I plead for is consideration, not to the full extent desired by the honorable member for Oxley, but to the extent of maintaining the status quo for a year, in order to show the planters of Queensland that although we may have abstract right on our side, we are willing to go a little further in leniency than the Bill.
Mr WATSON
- I trust the government will not relax the terms of the Bill in the slightest degree. So far as the mandate of the people is concerned, I admit that it is extremely difficult at all times to interpret in detail what the people desire, especially under our present complicated system of securing representative government. The honorable member for Wentworth will not contend that it is possible or permissible, while keeping to the letter of the mandate of the people by passing a Bill, to at the same time put off indefinitely the consummation as to which the people are so anxious.
Sir William McMillan
- That is not a fair way of putting my contention.
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Mr WATSON
- The honorable member laid so much stress on the people not having expressed themselves on the details of the measure that his words would bear the interpretation that we ought to wait until the millenium for the cessation of the traffic. The proposals of the Government and the temper and attitude of honorable members show that just consideration has been given to every phase of the subject. It is useless for honorable members to say that the planters have been dealt with in any harsh spirit, when we consider what has been done for them under the Tariff. The proposals of the Government have been accepted practically without protest by every man in the Chamber ; and I am reminded that a number of the planters are agreeable to the compromise. But I go so far as to say that if the time stipulated in the Bill is extended to any appreciable extent, I shall vote against the high sugar duties proposed. I would call the attention of the honorable member for Wentworth to the fact that, from the introduction of the Tariff, the black-grown sugar of Queensland has enjoyed a protection of at least £3 per ton ; and, if those planters continue for some years to come to employ black labour, it must be admitted that the high duties evidence some spirit of justice and some spirit of sacrifice on the part of the people of the other States, who are not directly interested in this industry.
Sir William McMillan
- My point is, that although there may be the advantage of those duties, and higher prices paid by white

people in the future, there is not sufficient time allowed to alter the conditions.
Mr WATSON
- I do not question the honorable member's right to hold that opinion, but I differ from him as to the probabilities. During this year there is practically no labour to be supplanted, and during next year, if any men are deported, the places of three out of four may be filled from blacks imported again from the islands. It will be seen, therefore, that only about one-fourth of the labour during next year will have to be supplied from the ordinary sources.
Sir William McMillan
- That takes place in the first year.
Mr WATSON
- Surely we have had enough experience of the labour market generally in different parts of Australia to be pretty well certain that so long as reasonable inducements are offered there will be no difficulty in finding men to make good the planters' loss of coloured labour. At any rate, the position I take up is that this Bill represents, so far as the majority of the House is concerned, the extreme limit to which we are prepared to go. I know a great number of honorable members who would have much preferred to see the traffic cease on the instant - who would have been prepared to allow no time whatever in regard to a traffic of this description. The compromise having been offered, and the conditions suggested with regard to the duty, I think that those who have the interests of the planters at heart would do well not to strain too far the patience of a number of honorable members who desire to do justice to the planters, but, who, at the same time, desire to insure that the will of the people is carried out effectively as soon as possible.
Mr JOSEPH COOK
- The feeling I have is that if we extend the provisions of the Bill in the direction of greater leniency to the planters, or in the direction of an increase in black labour, we shall jeopardize the whole scheme. I do not think we can do better than consult the experience of Queensland. If we could be certain that in another five years the whole traffic would quietly drop out of existence, there would not be very much to say in opposition to the proposal of the honorable member for Oxley. But what are the facts? The experiment has already been tried in Queensland, where ten years' grace was given to the planters ten years ago. In that period the planters were supposed to be getting ready for a cessation of the kanaka traffic, but as a matter of fact the traffic has steadily entrenched itself, and instead of its being got rid of, the planters have been steadily putting acres under cultivation of cane, without, so far as we know, taking any steps towards the substitution of white labour. What happened politically during that time? It is well known that circumstances combined to to make a coalition possible in the politics of Queensland, and the result was to sweep away the restriction laws of some years before, and to practically maintain the right of the planters to have kanaka labour in perpetuity.
Sir William McMillan
- Is the Commonwealth Parliament not rather different from a local Parliament?
Mr JOSEPH COOK
- The Commonwealth Parliament is different in some senses, but I am not prepared to say that it is different in regard to this particular point. It is well known that at election times a supreme cry is sometimes raised on which representatives are elected to the Legislature. I apprehend that the Federal Parliament will be no exception to that rule, and it might be that those returned to a future Parliament might have a much more generous disposition towards the kanaka than has the present Legislature - that was the case in Queensland.
Mr McDonald
- That is not how it came about. The election of 1888 declared emphatically that the question was settled, and should not be re-opened ; but after that came the coalition.
Mr JOSEPH COOK
- Does the honorable member not see that the parties could not have agreed if Parliament had not stood at the back of them ?
Mr Fisher
- All parties coalesced against the labour party.
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Mr JOSEPH COOK

- My point is that what has been done in the past may be done in the future. No matter what particular form the combination may take, or what the circumstances may be, there will be established precisely what I have described. The fact remains that the people sent representatives into the Queensland Parliament to do away with the kanaka traffic, and the same Parliament some time afterwards reversed their decision.

Mr V L SOLOMON

- Does that fact not suggest caution and the giving of a little time ?

Mr JOSEPH COOK

- I do not think so. I think the logic would be that where a Parliament is specially selected for a certain work the sooner that work is done the better. I think that the mandate which this Parliament received in regard to the coloured labour question was as clear and specific as any ever given by the constituencies. So far as the New South Wales elections were concerned, the issue was a very live one, and I had to definitely pledge myself to vote for the abolition of black labour as speedily as possible. If we give the planters a nine years' lease of life, they will entrench themselves as they have done in the past, and begin to agitate for the permanency of the traffic. It is not because we wish to be harsh to the planters that we support the Bill, but because we consider that under all the circumstances it is better for them to know exactly ["when and how the system is to cease than to leave them a prey to vain and -false hopes. I consider the provisions of the Bill sufficiently. lenient, and, in my opinion, to extend the time in the manner proposed would not be fair to the planters or to the people of Australia.

Mr FISHER

- Honorable members who support the amendment say that they do so in the interests of justice to the planters and to the people of Queensland, and they leave it to be implied that those who do not agree with them wish to be unjust to both parties. But to my mind it is all a question as to how far one can see. I am convinced that the majority in this Parliament would not vote for protection to the planters to the extent of one penny if the kanakas were allowed to continue in the cane-growing industry. Therefore, if those who wish to retain the kanaka had their way, the sugar industry would be completely ruined, because, without protection, it could not compete against imported bounty-fed sugar. The provisions of the Bill are generous, though, if I thought that it would help the planters to grant an extension of time, I should be willing to discuss the matter ; but, in my opinion, any attempt to carry out the views of the honorable member for Wentworth would frustrate the whole purpose of the Bill. Have we not been emphatically told by the planters and their friends that they expect an exceedingly good crop of sugar this and next year, and that the production of sugar in Australia will soon overtake the demand 1 When that happens, how will white labourers be able to compete with kanakas in the canefields, where some say the kanakas are twice as good as they are, and where I admit they are equal to white men ? Is any honorable member so base as to argue that the white labourer should be content with the standard of comfort accepted by the kanaka 1 One would think, from the statements which have been made, that the Labour party are here for no other purpose than to do an injustice to the sugar-growers. We are not ignorant of the manner in which the interests of all white labourers are interlaced with the existence of the sugar industry, and I may say without egotism that in the Labour party there are men who are as humane, and who look as carefully into facts, and are as desirous of helping the planters as any other men in the community. In my opinion, what has been said against the labour party is an attempt to gain cheap popularity with the planters. Let me show honorable members the relation of the sugar industry of Queensland to her other industries. In 1899 the value of the sugar exported from Queensland was £1,163,010, or 9-74 per cent, of the total exports, while in the same year the export of frozen meat was valued at £850,000, or 7-12 per cent, of the total exports. In 1.900 the export of sugar was valued at £669,389, or 6-99 per cent, of the total exports of the State, while the export of frozen meat was equal to 10*25 per cent, of the total exports of the State.

Mr Piesse

- The value of the products exported does not show the whole value , of the industry.

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Mr FISHER

- The production of gold is about three times as valuable as the. production of sugar in Queensland, while the production of the pastoral industry still more largely exceeds it in value. Honorable gentlemen will therefore see that the production of sugar is not the dominating industry in Queensland. I think it will be of

interest and advantage to the committee if I read a tabulated statement which I have prepared, showing the annual production of sugar in Queensland from the year 1868 up to the present time. I wish to put this information on record because I think that it will be valuable for purposes of reference. A study of it will show honorable members that when the verdict of Queensland was reversed in 1892, it was reversed contrary to the facts shown by the statistics. The information is as follows : -
I direct the special attention of honorable members to the figures for 1892, because it was declared at that time by the advocates of the planters that the sugar industry was utterly failing. I defy any one, however, to prove by statistics that there was any sign of decadence as the result of the legislation that was introduced by Sir Samuel Griffith for the purpose of minimizing the kanaka labour traffic. We find in these figures nothing but progress in the industry, because although there are slight fluctuations there is a gradual increase shown all through.
Mr V L SOLOMON
- Is there not a decrease of kanaka labour all the time?
Mr FISHER
- No ; the recruiting did not stop until the end of 1890, and in 1892 legislation was passed rescinding the Act which put a stop to recruiting.
Mr V L SOLOMON
- But the kanakas gradually decreased after that?
Mr.FISHER. - At some periods there has been a lesser number of kanakas employed than in 1892.
Mr V L SOLOMON
- And an increased number of Japanese and other labourers.
Mr FISHER
- The honorable member supplied a large amount of that labour from the Northern Territory.
Mr V L SOLOMON
- That is not argument, and it is not even a fact.
Mr FISHER
- I do not wish to reflect on any honorable member, but I may say that Japanese were introduced against the wish and in spite of all the efforts of the labour party.
Mr V L SOLOMON
- But the Japanese have supplanted other labourers ?
Mr FISHER
- Not to a great extent.
Mr V L SOLOMON
- Yes, to a very great extent.
Mr FISHER
- Honorable members will see that there was a great falling off in 1 900, as compared with 1898 ; and although this decrease was entirely due to the bad season, we can quite imagine what would have been said by the friends of the planters if the Bill we are now considering had been passed two years ago. If we had come to the House and stated that the stoppage of the kanaka labour traffic had not affected production, we should never have been able to establish our case ; but the whole of the shortage in the sugar crop would have been attributed to the restrictions imposed upon the employment of coloured labour. If we allow the free recruiting of the kanaka to go on for a number of years, in good seasons such as I hope the planters will have, and they produce even the same amount of sugar as was produced in 1898, the supply will exceed the demands of the Commonwealth, the benevolent purposes of the Government, Tariff legislation will be defeated, and a blow will be struck at the cause of white Australia that will be fatal to every aspiration of those who believe in it.
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Mr PIESSE
- I venture to support the claim of those who are engaged in the sugar industry to a little consideration at the hands of honorable members. Although we have a mandate from the people of Australia on the question of coloured labour, the responsibility of the particular measures to be taken for carrying out the mandate rests upon us ; and I cannot help thinking that if we legislate in such a way as to deal practically with the crops that are now in the ground, and to upset the existing arrangements of the planters without

giving them any notice we shall not be acting as fairly towards them as their position demands.
Mr Watson
- They will not commence to deport the kanakas at once.
Mr PIESSE
- No ; but it is intended to provide that kanakas shall not be brought in to the extent of more than three-fourths of the number of those who may leave the State.
Mr Watson
- But then none may leave the State.
Mr PIESSE
- It is intended to provide for a diminution of the kanaka traffic, and we shall be acting more fairly towards the planters if we give them a year's notice of our intention to legislate in this direction. I am not prepared to vote for the amendment proposed by the honorable member for Oxley, as I think he wishes to go too far ; but at least a few months' notice should be given of the intentions of Parliament.
Mr Fisher
- Will the planters accept that?
Mr PIESSE
- I do not know ; I hope they will. I know nothing about the planters, and I am not speaking as their special advocate. I have just as deep a sympathy with the ultimate aims of this measure as the honorable member for Wide Bay, and yet I cannot follow him in every detail of the means by which he seeks to attain his ends.
Mr Watson
- We have given up a good deal already.
Mr PIESSE
- I believe that some honorable members had in their minds a much shorter method of dealing with this question ; but the only authoritative declaration of a policy which the planters can recognise is that which finds expression in the Bill before us. I think it would be well to give them a little longer notice ; and I trust that honorable members belonging to the labour party will be willing to concede this. It is not fair to put the planters in the position of sowing a crop which they may not be able to reap properly.
Mr Watson
- What leads the honorable member to suppose that there will be any difficulty ?
Mr PIESSE
- I understand that when there is a large crop there is always a difficulty in procuring sufficient labour, and if a number of the men who have been permanently engaged in the industry are to be withdrawn, still greater difficulty will be experienced in securing the necessary labour. I have no sympathy with the worst phases of the kanaka traffic, but we cannot at once dissociate ourselves from these evils, which we all deplore, and which we are anxious to get rid of. We have to take into consideration all the issues that are involved, and I hope honorable members belonging to the labour party will be prepared to accept this suggestion, even though they may feel that they are going a little further than they ought to go. A concession on their part will go a long way towards easing the position and reducing the hardship that must result from drastic legislation.
Mr Watson
- Will not the extra duty amount to between £30 and £40 per acre on this year's black grown sugar ?
Sir Malcolm McEacharn
- Of what value will that be to them if they cannot grow the sugar ?
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Mr PIESSE
- There is no doubt a good deal in the statement of the honorable member for Bland, and I think that the honorable member for Richmond answered a good many of the objections that were urged by those interested in the industry when he pointed out that we should, by these duties, be providing a large fund to meet the difficulty created by the withdrawal of the kanaka labour. Still, I would appeal to honorable members of the labour party to make the small concession I have suggested.
Mr.V. L. SOLOMON (South Australia). - The very temperate and reasonable remarks of the honorable member for Tasmania, Mr. Piesse, have to some extent anticipated what I intended to say. I suppose

there is no honorable member of the labour party who would accuse me of being favorable to black labour, but some honorable members representing Queensland, who perhaps know a little more about this traffic than I do, have been led away by their enthusiasm into a somewhat unreasonable attitude in regard to this legislation. But the whole question now before the committee is as to the period which we are prepared to give those people who have invested their capital in this industry, and who unquestionably have been led, by the legislation in their own State, to believe that that industry offered a safe investment, before saying to them absolutely that this traffic must cease. Personally I have had a good deal, of experience in connexion with tropical agriculture. That experience has been gained from a fifteen years' residence in the tropics up to the 13th degree of south latitude. That is further north even than Cairns. Of course I do not pretend to speak in reference to the conditions which prevail in Queensland, because I am not familiar with them. But the only two sugar plantations which I have seen started in the Northern Territory of South Australia, despite the fact that they were backed up by a very large capital, proved utter failures. I allude to the Delissaville plantation, which was supported by £25,000 or £30,000 of Adelaide capital, and Erick.son's plantation. But for the fact that I have been through these sugar plantations when the cane was over head, and know what it means to remain there, even for an hour or two, I should not express an opinion upon this matter. I feel thoroughly convinced that the trashing and hard work which has to be done upon plantations, in that part of the continent, is absolutely impossible for white labour. I say this regretfully because I have never been an advocate of black labour. Tropical agriculture in the northern portion of South Australia cannot be conducted without some form of cheap coloured labour. Any one who has lived there must be aware of that. My remark is not limited to the cultivation of sugar-cane. It applies with equal force to tobacco and rice cultivation. The whole question which Australia has to decide is whether tropical agriculture is to be absolutely a dead-letter in the strip of this continent which is north of the sixteenth degree of south latitude. Is that immense stretch of country to remain idle 1 I believe that the pastoral and mineral industries of Queensland will amply make up if need be for the extinction of the sugar industry in future years. There are points in this Bill which we should approach in the most careful and judicial manner. It is not a question whether one side of the House or another is particularly interested in this. Bill. The real question is whether we shall do a grievous wrong to a very important State and a very important industry in that State. Speaking with very great respect for the opinion of those honorable members who come from Queensland, and who have, perhaps, a much more intimate knowledge of sugar growing than I have, I say that we ought to consider this question dispassionately, altogether free from party bias, and with the sole desire of doing absolute justice to those interested in a big and flourishing industry. I think that the honorable member for Oxley rather strains our allegiance when he suggests that we should extend the period for the recruiting of kanakas from 1904 to-1909. There is a very great deal in the contention of tire honorable member for Wide Bay, that such a proposal goes too far. I am willing to extend the time a little, and if any modification of the period proposed can be suggested I shall be only too willing to support it. Some honorable members who are carried away by their enthusiasm upon this question, have declared that we have a mandate from the whole of Australia that the kanaka labour traffic shall cease. So far as South Australia is concerned, I say that there has been no absolute mandate in regard to the particular question of the employment of kanaka labour in the Queensland sugar industry. The mandate from South Australia was in favour of a white Australia,, but it was directed more particularly against the influx of Chinese, Japanese, Afghans, and other Asiatic races. It was never definitely directed against the employment of kanaka labour in the sugar industry of Queensland.

Mr Page

- It was in Queensland.

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Mr V L SOLOMON

- I am not disputing that for one moment. In South Australia, which is large in area, though small in population, the mandate was directed more against the general influx of undesirable immigrants, of whom we have had experience - the immigration of Chinese,. Japanese, and Afghans - than it was against the influx of labourers from the Pacific islands. It was never thought that kanaka labour constituted the danger which it has been represented to be in this House. To some extent this debate has opened my eyes.

Mr Batchelor

- There was a danger of similar labour extending to the Northern Territory.
Mr V L SOLOMON
- Indeed, no. The Government which the honorable member supported never saw the necessity even to repeal the Indian Immigration Act.
Mr Kingston
- It was not brought into force.
Mr V L SOLOMON
- It was absolutely in force, and could have been used at any moment upon the appointment of an immigration agent, which was a mere matter of an expenditure of £200 a year.
Mr Kingston
- It was a dead letter, and we would not appoint the agent.
Mr V L SOLOMON
- I hope that the Minister for Trade and Customs will not point honorable members to that Act as a reason why they should support the legislation which is now proposed.
Mr Batchelor
- The honorable member must not forget the strength of the National League party.
Mr V L SOLOMON
- The National League was never strong enough to alter that Act, which provided not only for the employment of Indian coolies upon sugar plantations, but upon the. State railways. It has never been repealed to this day. As far as the Northern Territory is concerned, there has never been sufficient pressure brought to bear to utilize the provisions of the Indian Immigration Act. Indian coolies can be introduced even now to work upon the State railways of South Australia.
Mr Batchelor
- Any Government which tried to bring them in would not last five days.
Mr.V. L. SOLOMON. - At the time the honorable member was leader of the labour party in the South Australian Parliament, what he says was perhaps a fact. At that time any Government which did not happen to suit the party, which was so very ably and courteously led by the honorable member, would not have lasted five days. The question of whether the northern portion of this continent can be developed without the aid of black labour, is one which requires a very intimate personal association with it. The suggestion put forward by the honorable member for Oxley yesterday, although it met with such energetic opposition, was a very good one indeed. Had I seen that there was the smallest chance of carrying it, I certainly should have given it my support, because I fail to see what harm could result from a delay of a few months. I appeal to those honorable members who are so strongly opposed to the slightest delay, to give a little consideration to the immense interests involved.
Mr Page
- The planters have had ten years consideration already.
Mr V L SOLOMON
- What the State Parliament of Queensland has done in the past has really no bearing upon this question at the present time. Did the people of Queensland, when they voted for federation, imagine that this matter was to be decided by a wave of the hand?
Mr Page
- I think so ; I did, any way.
Mr V L SOLOMON
- There is no doubt that it formed an excellent platform cry. Although I do not agree with the amendment, which, perhaps, goes too far, I am prepared to grant a little further time, in order that those interested in the industry may have an opportunity of feeling their way. A few years ago, when I was taking a prominent interest in the labour question in South Australia, I received from Senator Glassey a tabulated form showing that, in spite of the fact that the kanaka traffic had gradually decreased over a period of ten or twelve years, the area under cultivation had increased, and that the industry was in a much more prosperous condition than it had been before. But there was an explanation which the honorable members of the labour party have never striven to put prominently before the House, namely, that although the Pacific islanders were gradually decreasing, there was an increase in the numbers of Japanese, Malays, and other aliens equally objectionable from a European point of view.

Mr Bamford
- There are no statistics to show that these other aliens are engaged in the sugar-growing.
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Mr V L SOLOMON
- These Japanese, Malays and others are in Queensland, and if they are not engaged in the sugar industry, what are they doing? There are a good few hundred of them engaged in the industry, and it is only fair to face the fact. From my own experience, I would rather have the kanakas to deal with a dozen times over than I would the Japanese, Malays and Chinese. Under the Pacific Island Labourers Act, if properly administered, we can to some extent control the branches of labour in which kanakas can compete with white men, but the other aliens, to whom I have referred, very soon monopolize all branches of business. I think that the extension of five years is too long, and I would suggest that the period be made two years. In the case of Western Australia, the Federal Convention allowed that State to retain its Customs duties for five years, with an annual reduction by 20 per cent. ; and surely it will not be contended that the Western Australian people are to be treated in a more liberal spirit than those of Queensland who have invested their money in a big industry natural to their soil and climate, Would Queensland have entered the Federation if she had known that the kanaka traffic was to be " squelched " in the manner proposed ?
Mr Page
- That is the very reason Queensland entered the Federation.
Mr V L SOLOMON
- If the Prime Minister had told the people of Queensland that a measure on these lines would have been introduced, Queensland would not have been so lax at the last elections, but there would have been better organization on the part of other parties besides the labour party.
Mr Page
- Why does not the Philp Government take a referendum on the question now?
Mr Chapman
- And what about the election at Toowoomba ?
Mr V L SOLOMON
- These are questions the discussion of which this committee ought to avoid. But it may be said that the referendum is not taken in Queensland for the same reason that the Federal Government do not take a referendum on a similar question, namely, because it is a somewhat risky thing to do.
Mr Barton
- The Philp Government are waiting until they extend the franchise.
Mr V L SOLOMON
- I repeat that if the question had been put before the people of Queensland as it is now put before us, that State would never have entered the federation.
Mr Bamford
-That is the very thing that brought Queensland in.
Mr V L SOLOMON
- We know how frequently representatives are returned on election cries, but these cries are not reliable, a clever politician can make a because cry of anything. This cry for the abolition of black labour sounded very well to a number of people who, perhaps, did not reckon that in abolishing black labour, they were, in some districts, depriving white people of employment. If the honorable member for Oxley will so frame his amendment as to make an extension of two years, he may get considerable support from honorable members who are anxious for a " white Australia," but who are not inclined to go to extremes.
Mr McDONALD
- In my opinion the honorable member for Western Australia, Mr. V. L. Solomon, hardly touched upon the question he was supposed to discuss. He made a lot of wild statements of which it is not my intention to take any notice at the present time ; but it cannot be forgotten that when the agitation against the existing time limit arose in the State Legislature, the leader of the Opposition challenged the Premier to go to the country upon the question, and he was afraid to do so. The planters have known for a number of years that the extension of time was only a temporary expedient to give them an opportunity to obtain white labour. Some of the speeches which we have heard this afternoon would tempt one to believe that the

passing of the clause now before the committee would paralyze the sugar industry, because white men would not be able to do the work.
Sir Malcolm McEacharn
- Hear, hear.
Mr McDONALD
- I understand that the honorable member admits that sugarcane can be grown by white labour as far north as Mackay.
Sir Malcolm McEacharn
- Not in Mackay. Black labour is necessary in Mackay and north of that place.
Mr McDONALD
- Well, only 3 per cent. of the sugar produced in Queensland comes from Mackay and the country north of it.
Sir Malcolm McEacharn
- Then why make all this fuss ?
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Mr McDONALD
- That is what I should like to know. Honorable gentlemen must know that the amendment is absolutely useless, and, according to their statements, at the best, if carried, would only mean that the sugar industry will drag out an existence for nine years instead of for four years. As a matter of fact, however, the Queensland planters are prepared to subscribe £30,000 or £40,000 to fight this matter, and I warn the people of Australia that the passing of this measure will not settle the question. When the time comes for stopping recruiting, and deporting the islanders, the fight will be hotter than ever, and the planters will be supported by the big financial institutions.
Mr Macdonald-Paterson
- Who is to get the £40,000 that the planters are to subscribe ?
Mr McDONALD
- I do not know.
Mr Macdonald-Paterson
- The planters would all fail if they had to subscribe that amount.
Mr McDONALD
- That is a slander upon them. There is not a more prosperous body of men connected with the agricultural industry in any part of Australia. The more reasonable among the planters are prepared to make an honest effort to grow cane with white labour, but the large capitalists and the financial institutions, which control a number of the bigger plantations, are the people we have to fear. They throw all possible obstacles in the way of the employment of white labour, by making the conditions unbearable, and the wages too low for white men. I consider the term provided for in the clause a reasonable one, and a fair compromise, taken in connexion with the duties on sugar, and the bonuses to the cane growers. If the planters make an honest effort to obtain white labour in the interval before the expiration of the time appointed for the cessation of recruiting, they will find no difficulty in obtaining as many white workers as they require.
Mr L E GROOM
- I should not have risen to speak on this matter, but for some of the speeches which have been made by honorable members opposite, who would have one to believe that if a further extension of time were granted, it would be accepted as a final settlement of the question. The experience of Queensland, however, shows that that would not be so. When an extension of time was given in 1885, the matter was looked upon as finally settled, and it was hoped that the planters would employ white labour. But, instead of doing so, they commenced to agitate, and took steps to send people out of Queensland in order to frustrate the efforts made by Sir Samuel Griffith to settle matters.
Sir William McMillan
- Is there no difference between a State Act and a Commonwealth Act ?
Mr L E GROOM
- A Commonwealth Act applies to the whole continent, and no doubt the object of the measure before us is to prevent the kanaka from entering Australia. But the measure affects largely an industry which

belongs to Queensland and the northern part of New South Wales. The first point we have to consider is whether, by granting an extension of time, we can look upon the matter as finally settled. Experience has shown that the more concessions you give, the stronger the agitation for the continuance of the traffic. In 1892 an extension of ten years was given. Sir Samuel Griffith stated at the time that he still believed in the principle of a white Australia, and he hoped that within ten years a sufficient number of white workers would be available to make it possible to continue the industry without black labour. But what efforts have the planters made to do that ? When the other States passed immigration restriction Acts for the purpose of excluding aliens, Queensland entered into a treaty with Japan, whereby Japanese could be introduced to work upon the sugar plantations ; and the other day a paragraph in the Age referred to the fact that Hindoos were being imported under contract to work in the cane-fields. Does that show that the planters have honestly endeavoured to carry on their work with white labour? The real issue is this - Are we prepared to have in Australia an industry which requires the continued employment of coloured labour?
Mr.V. L. Solomon. - Does the honorable and learned member admit that the Japanese have been imported to take the place of kanakas ?
Mr L E GROOM
- Not to fake their place, but to supplement them. If the kanakas are becoming scarce, as has been said, and cane cannot be grown without coloured labour, where is that labour to come from ?
Mr McDONALD
- Paterson. - From British India.
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Mr L E GROOM
- Exactly. The honorable member gives the whole position away. This is really a racial question. We all know that the kanaka is comparatively harmless, because he can be easily regulated. There are no international considerations to prevent his deportation, though such considerations may affect the deportation of other coloured aliens. Hitherto many Asiatics and other coloured aliens have come into the Commonwealth under that principle of international comity by which one nation gives the right of ingress and egress to the inhabitants of others.
But we say that in the future we shall not allow coloured aliens to come here. I oppose any extension of the time for the cessation of the kanaka traffic, because I feel that such an arrangement would not conclude the matter. The fight will be continued, and when we go back to our electors we shall have to prosecute it as vigorously as we have in the past. When the Prime Minister came to Queensland, he said that the kanaka would ultimately have to go, but that he recognised that a great many people were concerned in the sugar industry, and, therefore, time would be given to them to accustom themselves to the new condition of affairs. Under the Queensland laws, industries have been developed and capital has been invested, and I presume that that is what the honorable member for Wentworth referred to when he said that a State law was not the same thing as a Commonwealth law. When we deal with State laws we have to recognise the vested interests which have grown up under them. But the honorable member had not so much to say in regard to vested interests when he was speaking on the question of free-trade and protection. The statutes of Queensland never held out to the planters any hope that they would be able to carry on the sugar industry with black labour for an indefinite period, and, therefore, there is nothing in the contention that has been raised by honorable members opposite. The idea was that in the end the sugar industry should be carried on by means of while labour. The employment of black labour was regarded as only a temporary expedient, and the sugar industry, so far, has always been dependent upon experimental legislation. The Government have invested half-a-million of money in the sugar industry ; but what was the object? Is it to be supposed that they would have advanced that money if they had thought they were encouraging black labour? No; the idea was that by erecting central mills they would enable the farmers to co-operate and make a profit sufficient to justify them in carrying on the industry by the employment of white labour. When the Royal commission sat in 1889 several things were relied on for the successful continuance of the industry in Queensland, and one of these was the establishment of reciprocal trade relations between the States of the Commonwealth. Many of the sugar planters said that as long as they had reciprocity with the other States they could do without black labour: and now that we have reciprocity one of the remedies suggested at that time has been applied. On the whole I cannot see my way to support the honorable member for Oxley in his amendment. He has fought the planters' cause

ably and well, and he deserves thanks not only from them but from us for placing so much information before us. When I was contesting the election for Darling Downs, many of those who were supporting me objected when I said that I was prepared to concede a certain time limit. I felt that certain people might have been induced to invest their money in the sugar industry in the belief that they would be able to carry on with coloured labour to the end of the chapter, and I thought therefore that some notice should be given to them ; but underlying this question of the extension of time there is the old cry that in Northern Australia climatic conditions are such that coloured labour cannot be dispensed with. I was glad to see that Mr. Philp, the Premier of Queensland, made an open declaration on the subject, and stated that he could see no harm in carrying on industries in the north of Queensland with a small percentage of black labour. I shall vote against the amendment.

Mr PAGE

- I feel very strongly on this subject, and I would not allow kanakas to be employed for another five minutes if I had my way. During the election in the Maranoa district, my opponent offered to give the planters a seven or ten years' extension, but I told the electors I would not give the kanakas another five minutes.

Sir Malcolm McEacharn

- But the honorable member has no kanakas in his district.

Mr PAGE

- No, we got rid of them.

Sir Malcolm McEacharn

- The honorable member never had any in his electorate.

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Mr PAGE

- Yes; we had them employed on two or three stations, where they were taking the bread and butter out of the mouths of the white men and women of the district. We do not want them there again ; and the electors of Maranoa desire to relieve their brethren on the coast from the evil consequences following upon the employment of black labour on the sugar plantations. The honorable member for South Australia said that the abolition of the kanaka labour traffic was not a burning question at the last election. But as a matter of fact the BrisbaneCourier declared at the outset that there must be a straight-out fight between capital and labour on the black labour question. Labour wished to do away with black labour, whilst capital wished to retain it. That was the point at issue in Queensland. We gladly accepted the challenge, and now we find that seven out of nine of the representatives of Queensland in this House are directly opposed to coloured labour of any sort. Similar results ensued in connexion with the Senate elections, and the verdict of the people was far more emphatic and far more definite than the finding of any Royal commission or select committee could possibly be. We always hear a great outcry whenever any attempt is made to touch monopolies, but I am sorry that the Government have not made their Bill even more drastic than it is. I should have been quite prepared to follow them if they had proposed that the kanakas should be deported immediately. The leader of the labour party in the Queensland Parliament challenged the Premier to go to the country on this black labour question only a month or two ago, but the Government were not prepared to accept the challenge, although the general elections would have been anticipated by only a few months.

Sir Malcolm McEacharn

- Will the honorable member postpone a decision upon the matter until then ?

Mr PAGE

- Not a minute. I have been waiting for this moment for many years, and I do not intend to let the present opportunity pass. Moreover, an election at the present time would not afford any real test of the feeling of the people, because the Government have been striking men off the roll by hundreds. As soon as we pass a Federal Electoral Bill we shall be quite ready to fight those who desire that the kanaka should be retained. The borders of Queensland have had their own way so long that they do not like to have all their plans upset. This Bill will give them the first rebuff that they have had for ten years, and now they are whining and crying for time. The honorable member for South Australia thought that he was playing a strong card when he told us that we have never explained how it was that the kanaka had become a declining factor in the sugar industry, whilst the production of sugar had doubled itself within a few years.

They have been introducing servile labour in other forms. They tried the labour of Southern Europe, but as soon as the. Italians came there, and found that the condition of the white worker was so good they left the employment of the planters and mingled with the white races upon the gold-fields of Queensland. Some of them are now doing very well. Speaking personally, I should refuse to work alongside a nigger, even if I had to walk from one end of Australia to the other. Who, I ask, built the railways of Northern Queensland? Was it the niggers or the Chinamen? Certainly not. It was our own countrymen, and I assisted in the undertaking. If white men built the railways there upon virgin soil, the miasma from which daily caused seven or eight of them to be prostrated with fever and ague, is it feasible to argue that they cannot work upon the cane-fields ? If they were paid the same wages upon the plantations as was paid upon the railways, I venture to say that from Victoria alone the Queensland sugar planters would receive all the labour they required each year. If men were paid so much per ton, just as the pastoralists pay the shearers so much per hundred for shearing, there would be no difficulty in providing sufficient labour for the plantations. Does any honorable member mean to suggest that the people of the Commonwealth will protect the sugar industry if it is to be carried on by black labour ? I for one should vote for the duty to be taken off quick and lively. We are not going to tax ourselves for the benefit of a few planters. That is the position in a nutshell. Are we going to give protection to kanaka grown sugar as against Fiji grown sugar, or do the planters run away with the idea that if they secure an extension of the period for recruiting purposes, or are allowed to retain kanaka labour altogether, we are going to impose a Customs duty of £6 per ton upon imported sugar ? It is of no use for the sugar planters to ask for more time. Ten years ago they asked for precisely the same thing. My vote will be recorded for the expulsion of the kanaka at once.
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Mr WILKINSON
- I think that upon this question the voice of no representative of Queensland should be silent. It is necessary for me to refer to what seemed to furnish the text of the speech of the honorable member for Oxley. He pleaded for justice to Queensland. I also plead for justice to Queensland.
That State has spoken against the continuance of the kanaka traffic in a more emphatic way than has been shown up to the present time. Public opinion there in reference to the proposed expulsion of the kanaka is not expressed merely by the votes polled in favour of those who are now members of this House. At least 75 per cent. of the unsuccessful candidates advocated the same policy. In the electorate which I represent, there were six candidates, not one of whom dared to do other than declare for a "white Australia." One of these gentleman went so far as to advocate an extension of the period allowed for the recruiting of kanakas by five years. I took up a position in favour of the immediate stoppage of the traffic, which is a step further than the Bill under discussion goes. I advocated a duty of £5 per ton upon Australian grown sugar, in order to protect it against the cheap labour from other parts of the world. The Government propose a duty of £6 per ton upon sugar, with an excise duty upon our local production. The gentleman who advocated the extension of the period for recruiting purposes was defeated by me by more than 700 votes. The man who came next to him had adopted practically the same platform as myself. The votes which were cast in his favour and in mine would, if put together, constitute a majority of more than two to one. This result occurred in a constituency out of which, a little while ago, some capital was made because two of its representatives at a farmers' conference at Bundaberg - Mr. A. Moffatt and Mr. Burgess, of Forest Hill - had urged that the Federal Parliament should extend the term for recruiting. This vote was recorded in the very district in which these men reside. Only a week or two ago the seconder of that motion, in testing the feeling of the association which he professed to represent at that conference, was badly beaten at a mock election at which the same question was tested. We all know that there are certain commissions which have been asked to report upon this matter by the State Government of Queensland. We know how these commissions are constituted as a rule. They do not voice the opinion of Queensland. That opinion was expressed in the first instance by the referendum vote. The results of that referendum, if examined carefully, show that the heavy vote in favour of federation came from the northern part of that State. The white workers there expressed their opinion that the quickest way of ridding Queensland of aliens of every class was to enter the federation.
Mr V L SOLOMON
- Was it not for the purpose of freeing their sugar duties, and getting a better market ?
Mr WILKINSON

- They had discussed the matter. The Honorable Angus Gibson,, at one of the conferences which was held! not long since, made it clear that a Customs duty of£5 per ton upon sugar would be sufficient to enable the planters to pay the wages required by white men. The kanaka is not only employed upon the plantations of Queensland, but he is occupying leased lands in the district which I represent, and is growing sugar upon them. I know that there is an impression abroad that these people are confined under the State laws to certain occupations. But I would point out that they obtain their exemption tickets. We should be careful that we do not give citizen rights to those who are not competent to use them in the best interests of the country. All the arguments which have been advanced in favour of an extension of the period for recruiting purposes have been well and fully answered by the speech of the Prime Minister, who has conclusively shown that for years past the plea for more time has been continuously raised. I think that the Government are dealing very fairly with the planters of Queensland. I compliment the honorable member for Oxley upon having made a good fight, although I do not know that his constituents will be pleased with his action. If that honorable member had voiced the same opinion before his constituents as he has expressed in this House, I do not think he would have been elected. I know the Oxley electorate fairly well, and that is my opinion. I am aware that there is a strong democratic element in that district. My vote will be cast in favour of the Bill as it stands. If it were possible to still further restrict the period allowed for recruiting, I should vote in that direction also.
<page>7004</page>
Sir MALCOLM McEACHARN
- I would still urge the Prime Minister to make some concession to meet the desire of those who are interested in this industry. I feel that there is no possibility of getting an extension of the term allowed for recruiting to 1909 ; but I do think that the Ministry should agree to some concession in order to overcome the difficulties which, so far as this particular industry is concerned, are patent to everybody. The honorable member for Darling Downs referred to the advances which have been made by the Queensland Government for carrying on the sugar industry by means of the erection of central mills, and stated that in making those advances it was intended to do away with black labour. That is perfectly true. It was provided that only cane grown by white labour should be crushed at these mills. But the Government themselves - as I stated when speaking upon the second reading of the Bill - had to withdraw from their position, and accept cane which had been grown by black labour, because it was otherwise impossible to get the quantity necessary to keep the mills supplied. That is sufficient to show that a trial has been given to the cultivation of sugar cane by white labour to the exclusion of black. The experiment has failed. The honorable member for Maranoa is always refreshing and forcible when he speaks. In fact I could almost fancy that he was addressing the Opposition in the Queensland Parliament with himself in the capacity of Premier. He laid down the law so very emphatically, and at the same time dealt with so much that was purely relative to the State of Queensland. But, although he is so intensely desirous of doing away with black labor, I am satisfied that he does not wish to do anything unfair to those who have invested large sums of money in the sugar industry. I feel also that there is a desire on the part of the labor party to face this matter fairly. All that is sought by the sugar-planters is an extension of the period for recruiting by two or three years. I understand that the honorable member for Oxley will presently ask leave to withdraw his amendment in order to move another, providing that the extension shall be for either two or three years. The question of a two years' extension is a very little one to those who desire a white Australia, but it means a great deal to those who have invested large sums in an industry which is of the greatest possible importance to Queensland. The honorable member for Kennedy has said that the planters urge that the abolition of black labour will ruin the sugar industry. Therefore, he argued, if the period allowed for recruiting were extended to 1909, the extinction of the industry would ensue at the expiration of that period. But that is not the argument which is put forward by the planters. When speaking upon the second reading of the Bill, the Prime Minister said that time had been granted because some machinery might be invented, or something might arise to compensate the planters for the abolition of black labour.
Mr Barton
- I did not say it was granted because of that.
<page>7005</page>
Sir MALCOLM McEACHARN

- The Prime Minister said that he hoped something would arise to enable the sugar planters within a certain period to be compensated for the loss which they would sustain by reason of the discontinuance of the kanaka traffic. That is the reason further consideration is asked for. Circumstances may arise which will enable the planters to do without coloured labour, but I do not think that will be the case so far as Northern Queensland is concerned. Certainly the longer term we give the greater opportunity the planters will have of putting their house in order ; and I urge the Government to see what can be done towards granting some extension. Two years is not a very long period, and there should be no hesitation on the part of. either the labour party or the Government in accepting such an amendment. Lt.-Col. Reay, after his visit to Queensland, wrote a good deal on the subject of the sugar industry, and no doubt honorable members have read his pamphlet with considerable interest. The conclusions of Lt.-Col. Reay clearly show that further consideration is necessary. He says -

Indeed, it is only because the conditions of 1901 present a vast growth of interests which were only subjects of speculative contemplation in 1889 that fresh research would now appeal to be necessary.

The conclusion to which he arrives is -

The reason I favour a Royal commission of inquiry is not that I doubt the capacity of the white man or the capacity of the industry to pay him fair wages, but because there are a number of complicating factors, current agreements, &c. , which must be the subject of careful consideration and adjustment if the Federal Government would avoid doing a great deal of incidental injustice.

That of itself is sufficient to warrant the Government and the House in granting the extension which I have suggested.

Mr. R.EDWARDS (Oxley).- It is evident that the majority of honorable members are against the amendment which I have submitted, and I ask leave of the committee to amend the amendment by substituting " 1906 " for " 1909."

Amendment, by leave, amended.

Minister for External Affairs

Mr BARTON

. - I think the proposal in the Bill is reasonable, and if that be the sense of the House, I do not see why the clause should be altered. I do not want to make a long speech, because I desire to see this Bill sent to the Senate as soon as possible. Certain specific dates are mentioned in its provisions, and it is important that the Bill should be passed into law before the1st January, otherwise amendments will have to be made in the dates in order to keep faith and adhere to the same specific periods. The honorable member for Oxley has charged me with not having kept faith with Queensland, but I am quite sure my conscience is clear on that point. At any stage of any of my speeches I never gave Queensland to understand that there would be any Bill except some such measure as this. It was impossible at that stage to say whether three, four, five, six, or seven years would be fixed by the Cabinet, who had not then agreed on the dates, and who must have known, as a Cabinet, that they had so to arrange dates as to command public approval.

Mr Fisher

- The Prime Minister was perfectly plain at Bundaberg.

Mr BARTON

- I was plain in saying at all times that a reasonably short period would be fixed. I used the words " reasonably short " in nearly every speech, pointing out that no long term of years would be proposed. I am sure the honorable member for Oxley is mistaken in saying that I gave the people of Queensland to understand that I would visit that State again before I dealt with the question. The honorable gentleman is suffering from mistaken identity, and is thinking of the leader of the Opposition.

Mr R EDWARDS

- I never heard the leader of the Opposition in Queensland.

Mr BARTON

- It was the leader of the Opposition who said he would visit Queensland again, probably in April ; and that he would not make up his mind until he did so. I never wavered in my statements from beginning to end of the campaign. The honorable member for Oxley says that Queensland has a right to ask for some extension ; but an extension has been granted. When, , in 1892, the Premier of Queensland put forward his manifesto, to the effect that a term of ten years would be sufficient - a term which will expire next year - there did not seem to be any who thought it was not a liberal offer to make.

But in order that, if possible, the time might be shortened, and might not extend so long as ten years, the right honorable gentleman who was then Premier of Queensland said he would not put any term in the Bill, because that would go far to create vested interests. The Bill was therefore passed in the form suggested by the Premier, in order to prevent the creation of vested interests, yet an extension is now asked for largely on the ground that vested interests exist. I do not think that such a position is within reason. I admit that when we are dealing with an important industry we ought to give those engaged in it an opportunity of turning round and making other arrangements without unnecessary loss to themselves, and that is why the term of five years is fixed for agreements, and a little over two years for the purpose of licences. It must be recollected that in Queensland there is a force of something like 9, 000 kanakas available for employment until the expiration of the period named in the Bill. I do not admit that Queensland is asking for a further extension than that which this Bill proposes to grant. Queensland does not ask for an extension, as the Federal elections showed beyond all doubt.

Mr V L SOLOMON

- No.

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Mr BARTON

- The honorable member is entitled to his opinion, as I am entitled to mine ; but I venture to say that the result of the Federal elections, so far as elections can prove anything, proves the fact that probably seven-ninths of the population of Queensland are in favour of the termination of this traffic in a reasonably short time ; and " a reasonably short term of years" were the very words I used. If the elections show what I have indicated, I do not think it would be fair to the electors to make the term unduly long. We know that there are a number of honorable members in the House who would gladly vote for the instant abolition of the traffic, and who are taking a moderate and reasonable course, from their point of view, in supporting the proposals of the Bill. We know also that extensions of time have been proposed and carried from time to time, sometimes by those who, there was reason to expect, would support further extensions when the time came. Looking at the matter from that point of view, I think we have done fairly and reasonably by providing the time mentioned in this clause and in the other clause dealing with the licences. There are those who say that the industry can never be carried on without black labour, and yet, when these people are making a request for something other than this Bill, they point to five, seven, or ten years - I dare say some would like it to be 100 years - as a reasonable period to allow.

Sir Malcolm McEacharn

- Not because it is reasonable ; but because it is all they can get.

Mr BARTON

- If the industry cannot be carried on without black labour, the position taken up by those persons to whom I have referred does not seem quite consistent. From their position, this would seem rather a case for a straight-out fight between those who say that black labour is indispensable, and those who say that it is not. I do not wish to dwell on that point, but only to urge that I think we are acting fairly and reasonably in this clause, and, therefore, are not called upon to accept the amendment. I should like to say a word on the question which has been raised concerning New Guinea. I do not want to anticipate the debate on the motion of which notice has been given ; but if New Guinea is taken over, and becomes a territory of the Commonwealth, a resolution carried by us would merely be a justification by Parliament of the intermediate administrative Action by the Government. The matter of New Guinea cannot be finally settled without an Act of Parliament, or, perhaps, more than one Act, in which all questions of this kind can, and will be, strictly defined. We have not yet taken over New Guinea, and I do not think we need complicate the discussion by references to that subject. The Government's policy in regard to New Guinea will, I think, be appreciated by those who have followed what the Government are doing in this matter.

Sir Malcolm McEacharn

- Is New Guinea not included amongst the Pacific Islands affected by this Bill ?

Mr BARTON

- That is a question which need not trouble us now, because, in a Bill dealing with New Guinea, we shall have to pay attention specifically to that question. As to the appointment of a Royal commission, which has been so much spoken of, I agree with the argument used by the honorable member for Maranoa,

namely, that public opinion has shown clearly what its direction is. Public opinion, in Queensland particularly, has proved that no Royal commission is expected by the majority of the people of that State. There are before this House reports, pamphlets, and every other kind of information to a greater extent than was ever before the Queensland Parliament when this question was dealt with. There has not been shown throughout the debate one reason for expecting that facts, which are not already in printed documents, will be discovered by any such inquiry. If that cannot be shown, then I think there is no case for a Royal commission. It is absurd to say, as some honorable members have said, that I have boasted of an inordinate degree of knowledge on this subject. I claim no knowledge on this or any other subject, but this Parliament has the means of obtaining knowledge in a greater degree than any Parliament which has previously dealt with the question. The time is ripe for action, and I see no reason to depart from the provision in the clause.

Mr. V.L. SOLOMON (South Australia). - I thought that when the Prime Minister commenced his speech he intended to suggest some compromise or middle course. The right honorable gentlemen said that he did not intend to absolutely fight the question, though he thought the proposals of the Government were satisfactory.

Mr Barton

- I did intend to fight the question; I said the proposals of the Government were not unreasonable.

Mr V L SOLOMON

- We have already dealt with the question of a Royal commission, and that matter is not before us now.

Mr Barton

- I was only answering what an honorable member had said.

Mr V L SOLOMON

- The question before us is, when this Bill shall come into operation. It is all very well for the Prime Minister to say that in Queensland he did not pledge himself to anything except some indefinite quantity.

Mr Barton

- I never said that.

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Mr V L SOLOMON

- The right honorable gentlemen spoke of, I think, " a reasonable time." What is a reasonable time?

Mr Barton

- What is a " reasonably short time ?"

Mr V L SOLOMON

- A reasonably short time may mean one thing under some circumstances and another thing under other circumstances. I think that if the balance of opinion on the Queensland side had been for an extension, the attitude of the Prime Minister would hardly be so stiff-necked as it is.

Mr Page

- The honorable member is speaking feelingly.

Mr V L SOLOMON

- I am speaking from six months' experience of the present administration.

Mr Fisher

- The same attitude will be observed after a longer period.

Mr V L SOLOMON

- Perhaps so. All that the honorable member for Oxley asks is that the period during which island labourers may be imported shall be extended from 1904 to 1909. I should like to point out that if this clause is not altered it will be very difficult to amend clause6, which says that after 1901 kanakas shall be imported only according to a certain scale. Clause 3, as it stands in the Bill, is utterly misleading. It makes it appear that kanaka labourers may be imported up to 1904, whereas under clause 6 it is provided that during 1902 the number imported shall not exceed three-fourths of the number who have been returned in 1901, while in 1903 the number to be imported is to be reduced to not more than one-half of the number who have been returned during the previous year. We shall not have done with this question when we pass this clause. There are still a large number of steps in the procedure which must be observed in getting the Bill through, and honorable members who are anxious to see it passed will not do well to prolong the debate by being too stiff-necked. No doubt a certain section of the committee have the

Government fairly under the whip. Were it not so, the discussion of the Tariff, which is a matter of vital interest to every commercial man in the States, would not have been postponed to enable this Bill to be brought forward.
The CHAIRMAN
- The honorable member cannot go into that matter.
Mr V L SOLOMON
- The Prime Minister placed the proposed duty upon sugar and the departure of the kanaka so closely together that it is difficult to separate the two questions. No doubt honorable members who oppose the amendment have a right to be keen in the views they advocate, because they have a substantial majority behind them, but they should not try to press their victory too far, lest it turn into a defeat. I am just as thorough upon the question of freeing Australia from all kinds of black labour as any member of this House, and I was so some years before the honorable member for Wide Bay ever thought of the subject. I started sixteen years ago in Northern Australia to fight against the introduction of aliens, and I have travelled through the States in opposition to it. I will put my record in this respect against that of any other man in Australia. I am not trying to shelve the question now, but I am of opinion that it will do no harm to accede to the proposal of the honorable member for Oxley. The alien invasion which first threatened Northern Australia was the invasion of Chinese and Japanese, who were a terror, not so much to the labouring man in Queensland, as to the trading population and the artisans.
Mr Page
- But now that we are ready to help the honorable member, he does not want our help.
Mr V L SOLOMON
- I do want it. I am as anxious as anyone to see the Bill passed in a fair and moderate form, but I do not want our enthusiasm to carry us too far. I have seen other questions just as popular rebound, and hurt the men who advocated them, though they were men with as good political reputations as we have. If honorable members cannot meet the honorable member for Oxley they might compromise with him. If they cannot agree to an extension of two years they might agree to an extension of one year.
Amendment negatived.
Clause agreed to.
Clause 6 -
Nothing in this Act shall prevent the granting of licences as follows : -
During the year 1902, to the number of not more than three-fourths of the number of the Pacific Island labourers who have returned to their native islands during the year 1901.
<page>7008</page>
Mr R EDWARDS
- I move-
That the words "three-fourths of," line 4, be omitted.
The object of this amendment is to enable the planters to indent the same number of labourers as may have returned to their native islands during this year. I would make another appeal to honorable members,, and point out that the planters of Queensland are at least entitled to a little consideration. Their interests will be very seriously affected if the Bill is carried in its present form, and there is nothing unreasonable in the amendment I am now proposing.
Mr JOSEPH COOK
- The honorable member has not given us any reason why we should support his amendment. If the views held by the majority of the representatives of Queensland in this House are any guide, the people in that State are entirely favorable to the proposals of the Government, and no reason has been advanced which would justify us in voting against them. Reference was made by the Prime Minister to the attitude of the leader of the Opposition- which he seemed to consider was not sufficiently firm - on this question of black labour. Whatever the leader of the Opposition may have done, he certainly did not succeed in securing the support of the pro-kanaka party and the anti-kanaka party at the same time. That is the answer to the Prime Minister, who talks about the tergiversation of other people.
Question - That the words proposed to be omitted stand part of the clause - put. The committee divided -
Ayes ... ... 44
Noes ... ... ... 4

Majority ... ... 40
Question so resolved in the affirmative.
Amendment negatived.
Clause agreed to.
Clause 7 -
No agreement shall remain in force after the 31stday of December,1906.
Amendment (by Mr. Barton) agreed to-
That after the word "shall" the words "be made or" be inserted.
Amendment by (Mr. R. Edwards) proposed -
That the figure" six " be omitted, with a view to insert in lieu thereof the figure "eight."
Mr BARTON
- The Government cannot agree to the honorable member's amendment. I am aware of the courage and perseverence which he has exhibited in regard to this matter, and I credit him with having the very best intentions. Nevertheless, I think that his proposal is covered by my reply upon an earlier occasion, that we believe the date fixed is really reasonable.
Mr GLYNN
- It seems to me that the amendment which has just been carried at the instance of the Prime Minister, implies that after the passing of this Act new agreements can be entered into. If that be so, it is clear that we are not repealing State Acts by this Bill?
<page>7009</page>
Mr Barton
- I do not think so.
Amendment negatived.
Clause, as amended, agreed to.
Clause 8 -
An officer, authorized in that behalf, may bring before a justice of the peace a Pacific Island labourer found in Australia before the 31st day of December, 1906, whom he reasonably supposes not to be employed under an agreement ; and the Justice of the peace, if satisfied that he is not, and has not during the preceding month been so employed, shall order him to be returned to the place from which he was originally brought into Australia, and he shall be returned accordingly.....
Mr. L.E. GROOM (Darling Downs).I wish to direct attention to a point which arises in connexion with this clause, and also in connection with clause 9. The enforcement of this Statute presupposes that there must be some court constituted for determining whether or not a breach of the Act has been committed. Section 71 of the Constitution provides -
The judicial power of the Commonwealth shall be vested in a Federal Supreme Court, to be culled the High Court of Australia, and in such other Federal courts as the Parliament creates, and in such other courts as it invests with Federal jurisdiction.
I contend that under this Bill we really purport to vest in some body the judicial power of the Commonwealth. That being so, I respectfully submit that on. the wording of section 71 of the Constitution it will be necessary to vest that judicial power in a Court. Under this clause it is simply vested in a justice of the peace. Clause 9 provides that any person who commits a breach of this Act shall be liable, on summary conviction before a police stipendiary, or special magistrate, to a penalty not exceeding £100. Seeing that we are really vesting a judicial power in a court it will be necessary to amend the clause, in order that the provisions of the Constitution may be complied with.
Mr BARTON
- I thank the honorable and learned member for his suggestion. He was kind enough to mention the point which he has raised to the Attorney-General before the Bill came on for discussion to-day. It appears to me that there is reason in his contention, and that it will be better if we use the words " court of summary jurisdiction " instead of " justice of the peace " in line 2.
Mr Crouch
- Who is to administer the Bill?
Mr. BARTON. - The general idea underlying the Bill is that its administration shall not be wrested from the hands of the authorities in Queensland. We do not think that the Commonwealth Government in the

limited period during which recruiting may be carried on, should interfere with the administration of the law, but that the Queensland authorities should administer it. We have every confidence that it will be honestly administered by them. I therefore move -
That the words "Justice of the Peace," line 2, be omitted with a view to insert in lieu thereof the words " Court of Summary Jurisdiction ; " also that the words, " Justice of the Peace," line 6, be omitted with a view to insert in lieu thereof the word " Court."
Amendments agreed to.
Mr CROUCH
- With reference to the answer given by the Prime Minister,
I wish to point out that circumstances will probably arise, under which the Executive of Queensland will not be too ready to put this clause of the Bill into force. I think that the Government should have some power to enforce the provisions of this Bill in the event of the State Executive authority refusing to act.
Mr FISHER
- In my opinion this is the most doubtful of all the clauses in the Bill. I have the greatest anxiety upon the question of whether it is desirable to deport these Pacific Islanders at all. The weight of the evidence, however, is in favour of the lines laid down by the Prime Minister, and accordingly I am prepared to support the Bill. In answer to the objection which has been raised by the honorable and learned member for Corio, I may say that if the State Parliament is to administer this Act, it will be administered very leniently. Personally, I shall not offer any opposition to a lenient administration of this provision, because there are many instances in Queensland where kanakas have made certain arrangements which it would not be humane to disturb. I would not do an injustice to any race, much less to a race many of whom have been compelled to come to Australia. I feel strongly upon this matter of deportation ; it seems to me we are straining our powers to the very utmost. I support the clause as it stands.
Mr GLYNN
- I should like to know how the Ministry think this clause is to be carried out. Who is to deport these Pacific Islanders upon the order of the court? Is it to be deportation by the local executive or by the person who has entered into an agreement with a particular kanaka and who is brought before a court of summary jurisdiction? Is the old employer or is the Commonwealth to deport? There is a declaration of principle in this clause without any machinery being provided for the carrying out of that principle. We cannot ask a court to determine what the Commonwealth Parliament had in its mind from such vague terms as are contained in this clause. I do not know whether the Prime Minister thinks that under the regulations a particular method can be provided. The Bill itself is silent upon the point.
Mr Barton
- The power to make regulations covers the ground.
<page>7010</page>
Mr GLYNN
- I thought so, but we could not provide by regulation that the
Government of Queensland should deport these men. Such a regulation would be ultra vires, because we have no direct power over the Executive of Queensland.
Mr Barton
- But we have direct power over any citizens.
Mr GLYNN
- We have direct power over any citizen as a citizen of the Commonwealth in relation to any matter delegated, but we have no right to declare that even a particular citizen is to carry out the laws made by the Commonwealth. It is the judiciary which has to do that. I hold that it would beultra vires to provide that a particular citizen should be the machinery for carrying out the laws made by the Commonwealth. The machinery for carrying out the principle contained in this clause is not provided in the Bill. The very same objection applies to the subsequent clause to which, however, I make merely a passing reference.
Mr BARTON
- It is provided in the Pacific Island Labourers Act, passed by the Queensland Legislature in 1880, that-
At the expiration of the engagement of any labourer His employer shall either cause him to be returned to his native island ; or, if the labourer does not then desire to return, pay the sum of £5 to the Immigration Agent, to be applied in defraying the cost of the return passage of said labourer when required by him.

That remains law. There are regulations for the carrying out of that section. The reason I make reference to that section is to point out that, except so far as it is impliedly repealed by, or inconsistent with, the present clause it will live. In addition to that the power to make regulations seems to me to be quite capable of being conclusively exercised by making a regulation for the carrying out of this section by any citizen who may be ordered to carry out the deportation.

Mr Glynn

- The local Act would not apply if the kanaka had decided to remain.

Mr BARTON

- It would not apply if the kanaka decided to remain, and to that extent the local Act is inconsistent with the terms of this provision. But this duty can be carried out, under regulations by any officer named in them.

Mr Glynn

- Who is to deport - the Commonwealth ?

Mr Deakin

- If necessary.

Clause, as amended, agreed to.

Bill reported with amendments.

Report adopted.

DEATH OF PRESIDENT McKINLEY.

Mr. SPEAKERannounced the receipt of the following letter : -

Melbourne, 7th November,1901.

Sir, -Adverting to your telegraphic message of the 18th September last, expressing for the members of the House of Representatives sympathy with the United States on the death of President McKinley, I have the honour to state that I have now been advised by the Secretary of State for the Colonies that the American ambassador, on behalf of the people of the United States, desires to convey to you and to the members of the House of Representatives his thanks for your very sincere and heartfelt expressions of sympathy, which are most deeply appreciated by the American people.

I have the honour to be,

Sir,

Your most obedient servant,

HOPETOUN, Governor-General.

DEATH OF THE EMPRESS FREDERICK

Mr. SPEAKERannounced the receipt of the following letter : -

Melbourne, 7th November, 1901

Sir, -I have the honour to inform you that I have been advised by the Secretary of State for the Colonies that the address to the King from the House of Representatives of the Commonwealth, expressive of sympathy with His Majesty on the death of his sister, the Empress Frederick, has been duly laid before His Majesty, who was graciously pleased to command that his grateful thanks should be conveyed to the members of the House of Representatives for their kind and loyal expressions.

I have the honour to be,

Sir, yourmost obedient servant,

HOPETOUN, Governor-General.

PROPERTY ACQUISITION BILL

In Committee(consideration resumed from 4th October, vide page 5654).

Postponed clause 44 (Mode of payment to State).

<page>7011</page>

Minister for Home Affairs

Sir WILLIAM LYNE

. - It will be within the recollection of honorable members that this Bill was passed through committee with the exception of clauses 44 to 48 inclusive, which were postponed because of a difficulty which arose mainly in connexion with clause 45. That is the clause which provides for the method of payment for the properties already taken over by the Commonwealth from the various States. A suggestion was then made that the conference of Premiers should be held, and a conference has since taken place at the

invitation of the Prime Minister.
Owing to differences of opinion amongst the Premiers, it is not intended at present, pending further consideration, to deal with the question of the method of payment for the properties already taken over. In the meantime, some action may possibly be taken towards getting a valuation of those properties, and when it is decided what the actual amount is, further steps will be taken towards a settlement. The figures which were given under certain circumstances, three or four years ago, are acknowledged to be fictitious.
Mr V L SOLOMON
- Merely guesswork.
Sir WILLIAM LYNE
- Merely guesswork.
Mr Barton
- They were below the actual figures.
Sir WILLIAM LYNE
- Means will probably be adopted to get a valuation of the properties, and when that is done, the question as to the method of payment will have to be specially considered. I want it to be understood that the Government do not abandon their position regarding the method of payment. Nearly every one who has expressed an opinion in my hearing, including some of the Premiers, believes that it will amount to the same thing ultimately, whether the arrangement be as proposed, or some other method be adopted to satisfy the States. By the amendments which I am about to propose, I do not wish it to be understood that the Government have receded from their position, but that it is in deference to the wishes of the Premiers that the consideration of the method of payment is postponed. The postponement can cause no inconvenience, because, as will be seen, clause 45 is not mandatory, but simply permissive, merely providing that action may be taken if no agreement is completed. In my opinion the valuations will take many months to complete, because all will have to be made by one set of men.
Mr V L SOLOMON
- There is much more than the mere question of valuation involved in the clause.
Sir WILLIAM LYNE
- But no difficulty will arise in consequence of the postponement. If no agreement be made with the various States, the question will be submitted to the House. It is not proposed to amend clause 44, because that clause does not take effect as applying to properties which have been taken over automatically by the Commonwealth, but it is proposed to amend clause 46, by amalgamating it with the next clause. None of the Premiers object to the course which I propose to take.
Mr GLYNN
- The Minister ought to give the committee some idea now as to what is proposed to be done in regard to clause 44, in case the representatives of the States decline to agree to the terms of the clause, whether by Act of Parliament, as suggested by the honorable and learned member for Parkes, or, as I think, by Executive action.
Sir William Lyne
- No one objects to clause 44.
Mr GLYNN
- I understand that clause 45 is in the same category.
SirWilliam Lyne. - Clause 45 is to be struck out.
Mr GLYNN
- Do the Government propose to have a separate Bill to carry out the object of clause 45? The Government are not absolutely abandoning the principle of that clause.
Mr Deakin
- No.
Mr GLYNN
- I agree with the principle of the clause, but, as I said before, I doubt whether, under the Constitution, we have power to enforce it without the consent of the States.
Mr Deakin
- That point does not arise now.
Mr GLYNN

- I do not take that position for reasons which were given in another place, because those reasons were fallacious. I do not think we can enforce this clause' without the consent of the States, because we can debit the money only against revenues collected in the States. Clause 45 proposes to treat as revenue collected in the States the credits due to the States on the valuation of their property.
Sir William Lyne
- The whole of this matter will be brought up again after the valuations are made.
<page>7012</page>
Mr GLYNN
- There has been a meeting of Premiers recently, and they apparently all decline to carry out the suggestions of this Parliament. My point is that without the consent of the States we cannot pass this legislation. The Constitution does not allow us to apportion per head of population the cost of the departments taken over, except as against revenues collected in the States, and I say that the amounts that will be due to the various States on the valuations cannot be regarded as revenue collected in the States.
Mr.V. L. SOLOMON (South Australia). - I do not think clauses 44 and 45 can be separated. Clause 44 provides for a certain mode of payment.
Mr Deakin
- And it has been approved of by the Premiers.
Mr V L SOLOMON
- Judging by his replies to questions asked in the House of Assembly in South Australia, the Premier of that State does not approve of it.
Mr Crouch
- Have the Premiers objected to the clause?
Sir WILLIAM LYNE
- No. I was present all the time, and I did not hear any objection. There was a consensus of opinion that the clause should be passed without amendment, so that it might affect properties already taken over ; but the Prime Minister explained that such properties would be excluded from its operation.
Mr FISHER
- I understood that there was some difficulty about this clause.
Mr Deakin
- All the fighting was on clause 45.
Mr FISHER
- I understand that some exception was taken to the powers conferred by paragraph (b) of clause 44, on the ground that, although the Commonwealth may become responsible for the liability of a State in respect to part of its public debt, if it does not make provision for meeting that liability the State credit will suffer.
Mr Deakin
- But the Commonwealth will be bound to make provision for paying both principal and interest.
Mr FISHER
- I am surprised that the Premier of Queensland agreed to the actuarial equivalent of a per cent. loan, because the money borrowed by the State has been borrowed at a much higher rate.
Mr G B EDWARDS
- I should like to draw the attention of the Attorney-General to the drafting of this clause. It says that the compensation payable may be paid "i n any one or more of the following modes."
Mr Deakin
- Yes. It might happen, for instance, that the compensation payable amounted to £1,100,000, and that liability might be met by the Commonwealth by becoming responsible for a debt of the State amounting to £1,000,000, and the payment of the balance in cash.
Mr G B EDWARDS
- In my opinion, the intention of the clause would be better expressed by the words " either or both of the following modes." I cannot understand the meaning of the word "or" following paragraph (a).
Mr E SOLOMON
- Has the Premier of Western Australia been furnished with a copy of the Bill, and has he intimated that

he is satisfied with this clause ?
Attorney-General
Mr DEAKIN
. The Premier of Western Australia was unable to be present at the Premiers conference, either personally or by representative, but he communicated his views in writing, and they are now being circulated among the other Premiers with a view to their consideration before the matter is finally dealt with. I understand that he takes no objection to clause 44.
Mr. GLYNN(South Australia).- I have pointed out before that the power given to Parliament by section 105 of the Constitution, to take over from the States their public debts, is to be exercised according to the respective numbers of their people, as shown by the latest statistics of the Commonwealth, and I should like to know what power we have to compel the States to accept as compensation the taking over of a portion of their debts in the manner provided for by this Bill, which is according to the value of the property resumed, and not according to the respective numbers of their people. The Minister for Home Affairs may think that by passing this clause he can compel the States to accept the compensation provided for in paragraph (b), but, in my opinion, it will have no Such effect. There must be an agreement on the part of the States to accept this mode of compensation.
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Sir WILLIAM LYNE
- It is not intended to act harshly towards the States. The object of the Government will be to make an arrangement with them both as to the method of compensation - whether by cash, or by the taking over of liabilities, or by the giving of securities - or as to the amount of the debts to be taken over. A large sum of money - probably £8,000,000 or £10,000,000 or more- will have to be paid for the properties already taken over ; but the arrangements to be made in connexion with that property will not be affected by this clause. The clause will chiefly affect smaller properties that may be required by the Commonwealth after the Bill is passed; nothing in this Act will affect the properties already the property of the Commonwealth, obtained automatically under the Constitution.
Mr. GLYNN(South Australia).- I suggest to the Minister for Home Affairs that the words " by agreement " should be inserted after the word " Commonwealth " in paragraph (b), so as to introduce the principle of agreement as between the States and the Commonwealth into that part of the clause. I do not think that there is any power to compel the States to agree to this method of payment. Am I to understand that it is the intention of the Government to subject this provision also to the principle of agreement ?
Mr Deakin
- Not in this case.
Mr GLYNN
- I think the Minister for Home Affairs understood that the principle was accepted already. As the clause stands, it will have a compulsory effect. I do not think power exists under the Constitution to compel the States to accept this mode of payment, and it cannot, therefore, be vested in the Commonwealth by Act of Parliament. Inasmuch as by compulsion we can only take over the debts per head of the population, under what authority can we force the States to accept payment by the assumption of their debts, if they do not agree?
Mr DEAKIN
- I do not venture to assert that the point raised by the honorable and learned member - that is, whether the Commonwealth can or cannot exercise its right of choice with regard to these modes of payment- is not open to dispute. My own opinion is that it can, but I admit that the opposite opinion might well be defended, although I do not think it is necessary to attack it at this time. If the contention of the honorable and learned member is correct, this provision is surplusage ; whereas if my contention is correct, the power sought to be conferred may prove a valuable one.
Mr Glynn
- It is dangerous to exercise a power that is bad.
Mr DEAKIN
- Although I was not present at the conference which took place between the Prune Minister and the Premiers of the States; I understood from some of the Premiers, and from some of my colleagues also, that in no particular was this clause challenged by the Premiers, and, unless I am misinformed, they

approved of it.
Mr Glynn
- I moved to have this power provided for under the Constitution itself.
Mr DEAKIN
- I sympathize with the honorable and learned member's object. I submit that section 85, sub-section (3), of the Constitution gives us in part the necessary authority to legislate as we are now proposing.
Mr Higgins
- That relates only to departmental property.
Mr DEAKIN
- All the property of the State is departmental property as far as I know - it must belong to some department.
Mr Glynn
- This provision does not come under that section.
Mr DEAKIN
- I do not wish to enter into any argument, because it seems to me unnecessary. Of course, section 51 gives us our main power of acquisition. With regard to the point raised by the honorable member for South Sydney, I might inform him that if he refers to the earlier part of the Bill he will see that the expression used in this clause is the same as we have adopted in every instance. To alter it here would necessitate amendments elsewhere, and, although it may not perhaps be quite elegant, it might, under the circumstances, be allowed to remain.
Mr. G.B. EDWARDS (South Sydney).. - The expression is not only inelegant, but it is incorrect. The main part of the clause refers to "compensation," whereas paragraphs (a) and (b) refer to " such compensation " ; consequently the sub-clauses must refer to the whole of the compensation. The clause should provide for the compensation being paid in " either of the following modes,"or "in either or both." The word "or" disconnects the two sub-clauses, and the wording of the clause seems to me not only inelegant, but perfectly illogical.
Mr Deakin
- I do not think so.
Mr HIGGINS
- I do not understand the meaning of the words "thesame currency" in clause 44. Assuming that there is power to take over a part of the public debt in return for any lands that are required, it is provided that the Commonwealth shall give an actuarial equivalent of a 3½ per cent. loan of " the same currency."
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Sir George Turner
- That provides for the way in which the amount is to be calculated - the longer the currency of the loan, the more valuable it is.
Mr. DEAKIN(Ballarat- Attorney-General). - I might explain that there are two broad characteristics of every loan. The first and most important matter is the amount of interest to be paid ; and the next is the currency of the loan. Under this particular clause provision is made that no matter what amount of interest may be paid by the State for its loan, it is to be reckoned as a 3½ per cent. loan of the same currency as the other loan. That is to say, that if we are dealing with a State which has borrowed money at 4½ per cent., or 4 per cent., or 3 per cent., we shall treat all these loans as at 3½ per cent., but in each case we must calculate the 3½ per cent. loan as having the same currency as the loan of a State.
Mr HIGGINS
- I understand clause 44 relates to land which was not used for departmental purposes at the time of the passing of this Act, but which was acquired afterwards. Under these circumstances I do not see how section 85, sub-section (3), of the Constitution can apply, because that relates only to lands which were departmental lands at the time of the taking over of the departments by the Commonwealth. Still I do not think the Government will have any difficulty in justifying this clause, inasmuch as they have power to acquire land for the purposes of their departments hereafter. The only difficulty I should have is as to whether we could as buyers make our own arrangements as to the currency in which we shall pay.
Mr Deakin
- The only limitation is that the payment shall be made on just terms.

Mr HIGGINS
- Of course it is obvious that a payment in some Mexican money at a certain ratio would not answer the purpose. Instead of paying cash for lands acquired, we simply say that we will give an equivalent in the shape of taking over a part of the public debt of the State. Of course there is nothing unjust in that, but although I do not see the same difficulty as others, I do not justify this clause under section 85.
Mr Deakin
- Only in part.
Mr. V.L. SOLOMON (South Australia). - I am sorry that the consideration of this Bill, and the amendments proposed, should have been sprung upon us so suddenly. It has taken the Government six or eight weeks to negotiate with the Premiers of the States - the negotiation having proved unsatisfactory - and yet the House is expected to deal with the Bill in a few minutes. We have had no time to consider the effect of the amendments proposed upon the provisions of the Bill, and I do not think it is fair to press for the consideration of this matter at this moment. The Government contention is that they are eliminating all debatable matter from the Bill ; but we have not yet been told that this clause has been agreed to by the Premiers of the different States.
Mr Deakin
- As far as I know it has absolutely.
Mr V L SOLOMON
- A short time ago the Minister for Home Affairs told us that, as far as he knew, there was no objection, and that is all that we could ascertain.
Mr Deakin
- The Minister for Home Affairs was present at the conference, and I was not.
Mr V L SOLOMON
- This matter should not be discussed unless some member of the Government is present who can tell us what was done at the conference.
Mr Deakin
- Cannot the honorable member deal with the question on its merits, without being told what to do?
Mr V L SOLOMON
- Did the Government deal with it on its merits in the first instance?
Mr Deakin
- Yes.
Mr V L SOLOMON
- They did nothing of the sort. They took the Bill out of the hands of the House, and referred it to the conference of Premiers.
Mr Crouch
- That was necessary under the Constitution.
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Mr V L SOLOMON
- It was the result of second thoughts on the part of the Government. After the Bill had been passed through the Senate, and had been submitted to this House, it was withdrawn from us, and submitted to the conference of Premiers. Now we find that the Premiers are not satisfied, and we cannot get any representative of the Government to assure us positively, without any reservation or quibble, that the Premiers approve of this clause. I am inclined to think that the Premiers do not agree to the provisions of this clause. Judging from the statements made by the Premier of South Australia, no proper agreement has been arrived at, and honorable members should not be asked to consider the Bill under such conditions. We know that the Premiers have not come to any conclusion. If what the South Australian Premier says is to be credited the whole of this consultation has been absolutely valueless, and we should have been as well off if we had proceeded with the discussion of the details of the Bill without consulting the State Premiers at all. I do not know how far the Premiers are in agreement with clause 44. In the amendments which have just been put before us by the Government it is proposed to omit clauses 45 and 47, and to pass clause 46" with an addition. All these are matters of importance, and the Bill itself, so far as the rights of the various States are concerned, is one of the most important with which we have had to deal. It excited a tremendous lot of comment and discussion in another branch of the Legislature. It

has also excited much debate in the various State ' Parliaments, and yet to-day we have no evidence that there is a single State Premier who is satisfied with if. I ask the Attorney-General if the Premier of Victoria is satisfied with clause 44 1

Mr Deakin

- I believe that he is entirely. Two Premiers spoke to me in approbation of this clause. I think they were the Premier of Queensland and the Premier of Victoria, but I am not sure.

Mr V L SOLOMON

- As the consideration of this measure, after it had been partially considered by this House and wholly considered by another branch of the Legislature was postponed, owing to its > importance to the States, it does seem farcical to bring it before us again without giving lis some positive information as to what the State Premiers had to say regarding it. I ask again if the Premier of Victoria is in favour of this clause ?

Mr Deakin

- I believe so.

Mr V L SOLOMON

- We ought not to proceed with the discussion of the Bill without knowing whether this particular clause is approved by the Premiers.

Mr Isaacs

- Is there any possible danger to be feared 1

Mr V L SOLOMON

- There does not seem to be anything seriously wrong with the clause, except that the mode of payment and the percentage are essentially matters for the consideration of the State Treasurers as well as of the Federal Treasurer. It appears to me that clauses 44 and 45 run together. Does the Government abandon clause 45 or not 1 It is very hard that honorable members should be called upon to consider the important amendments which have only a few minutes since been put before us. I think the Government would be acting wisely if they postponed this discussion until we have at least had as many minutes to consider these amendments as they have had weeks. -

Mr PIESSE

- Surely the Parliament of the Commonwealth is not going to submit its legislation to the approval of the State Premiers. I understand that, as a matter of courtesy, and in answer to representations made by the . State Premiers, this Bill was held over till a conference of those gentlemen could be held, at which also the Federal Government would be represented, the idea being that the latter could subsequently advise this House if, in their opinion, any amendment of this measure was deemed to be necessary. I understand that, in the amendments which have been placed before us, we have the results of that conference.

Mr V L SOLOMON

- Is that so 1

Mr PIESSE

- I can see only what is contained in the amendments, and it certainly looks very like it. The amendment proposed to clause 46 takes out of the purview of the Act any land vested in the Commonwealth before the commencement of this Act in regard to claims for compensation, the determination of such compensation, and the mode in which it shall be paid. All lands vested under section 85 of the Constitution are not affected by this Bill at all. Clause 47a, which is a new clause, provides that where no agreement can be made as to the mode of compensation to a State for the value of any property vested in or acquired by the Commonwealth under section 85 of the Constitution - which applies to land vested in departments transferred to the Commonwealth - the Governor-General may re-invest such property in the State.

Mr Glynn

- Extraordinary !

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Mr PIESSE

-Whether the mode is approved of or not, it is apparent that there is no desire under this Bill to take advantage of the States in any way whatsoever. Therefore, I think that many of the objections which were

previously urged against this measure have been removed by the suggested amendments.
Mr. V.L. SOLOMON (South Australia). - I should be most willing to accept the assurance of the honorable member for Tasmania, Mr. Piesse, if he could inform us that this little sheet of amendments is the result of the consultation which was recently attended by the State Premiers. I desire once more to ask the Attorney-General whether clause 44 met with the approval of any one of the State Premiers ?
Mr. DEAKIN(Ballarat - Attorney-General). - As I was not present at the recent conference, I have avoided speaking with the positiveness which would come of personal knowledge. But I have the assurance of my three colleagues who were present during the whole of the discussion, that the Premiers raised no objection to clause 44, and that they approved of it as it stands. I will add that the omission of clauses 45 and 47 are made with a view of meeting what were understood to be the wishes of the Premiers.
Mr. V.L. SOLOMON (South Australia). - I merely desire to say that the point which I raised was not raised from any spirit of opposition to the Government. I know that considerable dissatisfaction exists on the part of members of the Parliament of South Australia, and I desired to obtain some assurance from the Government that the recent conference did result in something tangible, and was not absolutely abortive, as the press reports represent it to have been.
Mr A McLEAN
- Had the conference any reference to land which may be acquired hereafter ?
Mr V L SOLOMON
- The Prime Minister, when questioned upon the matter this afternoon, said that it was inadvisable that the proceedings of the conference should be made public.
Mr Deakin
- He was referring to some particular proceedings.
Mr V L SOLOMON
- We have no record of the proceedings at all. At the present moment all we can do is to accept the assurance of the Attorney-General that the Premiers are in absolute accord in regard to clause 44, and that the omission of the other clauses is also in accordance with their wish. That I take it to be a correct interpretation of his assurance to this House.
Clause agreed to.
Clause 45 -
The Governor-General may from time to time, by order under his hand, reduce the amounts payable for compensation to the several States, in respect of any property acquired under this Act, or under section 85 of the Constitution, by the whole or a part of the amounts which would be chargeable against those States respectively, if the full amounts of compensation were paid by the Commonwealth ; but so that the reduction -
shall, if the amount would be chargeable against the States, in proportion to population, be made in respect of all the States in proportion to their populations, and
shall not in the case of any State exceed the amount of the compensation payable to that State.
The compensation payable to the several States shall thereupon be deemed to be reduced by the amounts of such deductions.
A copy of every such order of the Governor-General shall be laid before both Houses of the Parliament within 30 days after the making thereof, if the Parliament is then sitting, and if not within 30 days after the next meeting of the Parliament.
Mr GLYNN
- When the previous clause was under discussion, I incidentally referred to this clause. If the State Premiers will not accept this alternative method of paying for property, do the Government propose to compel them to do so by Act of Parliament? I am thoroughly in accord with the Government method of paying for the properties which have been acquired by the Commonwealth. I believe in the policy of it, and in the policy of clause 44, not only with regard to property acquired under this Act, but as an alternative method of discharging obligations taken over under the Constitution. I believe in the Commonwealth taking over from the various States a proportion of their public indebtedness equivalent to the value of the properties acquired. I moved in that direction in the Federal Convention, but was unsuccessful. I understand it is the intention of the Government, irrespective of whether the States agree to this alternative method of payment, to introduce a Bill-

Mr Deakin
- To introduce this clause again, if in the meantime either by ourselves or with the aid of suggestions, we cannot arrive at a better method.
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Mr GLYNN
- But if the. Government fail to get this method adopted by agreement, I do not understand where the power of compelling the States to adopt it is derived from. The clause proposes to deduct from the total amount of the compensation payable to the States the amount which the States would be liable to contribute per head of the population. If the amount to be paid to South Australia for the properties taken over under the Constitution were £1,500,000, the Government propose to deduct its share per head of the population. If the total were £10,500,000, and the compensation £1,500,000, the share of South Australia would be £1,000,000, which she would have to contribute. The Government- propose to deduct from the total compensation of £1,500,000 the sum of £1,000,000, that being, per head of population, the quota of South Australia. The inherent weakness of the proposition of the Government is that it deals with compensation moneys payable to the States - that is, credits due to the States - as if that compensation or credit were revenues collected under the Constitution Act. That is the fundamental weakness in the Government's proposition from a constitutional point of view. Section 89 of the Commonwealth Constitution declares that until the imposition of uniform duties of Customs the Commonwealth shall credit to each State the revenues collected in the State by the Commonwealth, and that the Commonwealth shall debit to each State the expenditure for maintenance, and the proportion of the State, according to the number of the people, in the other expenditure of the Commonwealth.
Mr Deakin
- As this clause has been withdrawn, and this or some other scheme will be discussed again, is it worth while opening up the subject now ?
Mr GLYNN
- As the Government have declared their policy of introducing this provision in a separate Bill, I think I am entitled to point out that they cannot compel the States to adopt it.
Mr Deakin
- I am glad to have the suggestion, but I hope the honorable member will not enter into the argument.
Mr GLYNN
- I am not going to enter into the argument, but desire to simply mention the inherent weakness of the proposition. The point I desire to put before the committee is that we cannot debit, per head of the population, the amount allotted to each State on the expenditure, as against the revenues collected in the State. Inasmuch as the amounts that will be found due to the States for compensation will not be revenues collected in the States, we cannot possibly debit, per head, against the States. We cannot treat the purchase money as if it were revenue collected in the States, and, therefore, under section 89 we cannot make it the basis against which debits for maintenance and other expenditure are made. The proposition of the Government, without agreement with the States, has no validity, and if we try to force the States, the action may afterwards be declared by the High Court to be ultra vires. I make the suggestion because if a Bill be introduced, it is as well that the States and the Government should know that difficulty may arise unless an agreement is entered into.
Clause negatived.
Clause 46 -
Where any land of a State has, either before or after the commencement of this Act, become vested in the Commonwealth or been acquired by the Commonwealth under section 85 of the Constitution, such land shall, for all purposes whatever, be deemed to be vested in the Commonwealth in the same way and to the same extent as if it had been acquired under this Act, and the provisions of this Act, so far as they are applicable, and subject to the Constitution, shall apply to such land.
Attorney-General
Mr DEAKIN
. - I move -
That the following words be added to the clause : - Provided that the provisions of this Act relating to claims for compensation, the determination of the amount of compensation, the payment of

compensation, and the mode of such payment, shall not apply to land so vested in the Commonwealth before the commencement of this Act.
This amendment is to provide that nothing beyond making a valuation shall be done in regard to lands taken over under section 85 of the Constitution. This clause differs from clause 44, because it relates to land which either before or after the commencement of the Act becomes vested in the Commonwealth. As drawn, the clause covers land which, under the Constitution, has passed from the States to the Commonwealth, and unless there were this exception, it would be possible for the procedure in regard to the acquisition of land, to go right through to the point at which payments would become due. The amendment stops the procedure short at valuations. It will not place any obstacles in the way of the valuations of all lands, but it will prevent further steps being taken as to State lands already vested until we have the measure which the Government intends to introduce this session, dealing specifically with the compensation for State lands. If the amount were determined, it would be open to a State to move for judgment against the Commonwealth.
Mr Higgins
- There is no provision in section 85 sub-section (3) of the Constitution, providing for the mode of payment.
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Mr DEAKIN
- Clauses 45 and 47 are taken out of this Bill in order to be used as a foundation for the future measure of which I have spoken.
Amendment agreed to.
Clause, as amended, agreed to..
Clause 47 negatived.
Mr DEAKIN
- I move-
That the following new clause be inserted to stand as clause 47a : -
Where no agreement can be made as to the mode of compensation to a State for the value of any property vested in or acquired by the Commonwealth under section 85 of the Constitution, the Governor-General may by proclamation direct that the property shall be divested from the Commonwealth, and thereupon it shall become the property of the State, and the restitution of the property shall be deemed to be compensation or part compensation to the State for the value of the property.
This clause is one direct result of the Premiers' conference. It was suggested that under the Constitution, lands might pass to the Commonwealth which, in the interests of the Federal Government, it might not be necessary to retain, and which at the same time the States would rather have than sell at the price. This will also be a valuable provision in cases where differences of opinion arise in regard to any portions of land which are now vested in the Commonwealth, but which might not be worth the cost of taking, whatever procedure may hereafter be adopted to ascertain the amount of compensation. There are scraps of land in various parts of the country on which, for some reason or other, the States may set special value, whereas the Commonwealth may only be prepared to take them over at the ordinary value. These lands may not be worth fighting about, and if the Commonwealth think they are not worth retaining, or we are desirous Of saving the cost of arbitration, this clause provides a simple and ready means of divesting the Commonwealth of the land. The reason for the words "compensation or part compensation" is that the States might point out that the Commonwealth had used the land for twelve or eighteen months, and that something was due in the way of rent. In this clause power is taken, not only to hand back the land, but also to pay a reasonable sum in the nature of rent.
Mr V L SOLOMON
- How will this new clause fit in with section 85, sub-section (2), of the Constitution, which provides -
The Commonwealth may acquire any property of the State, of any kind, used, but not exclusively used, in connexion with the department ; the value thereof shall, if no agreement can be made, be ascertained in, as nearly as may be, the manner in which the value of land, or an interest in land, taken by the State for public purposes, is ascertained under the law of the State in force at the establishment of the Commonwealth.

The Government may take over in the ordinary course the custom-house buildings or the post-office buildings of a State, and may be unable to arrive at a definite agreement as to the value. It seems to me that under this clause it would be competent for the Government to throw these buildings on the hands of the State, although the buildings are valuable only for the particular purposes for which they were built. That might be done, for instance, in the case of the Melbourne Post-office, and the Federal Government might say that they could transact the business on land much less valuable out of the city. If that is the position, it seems to me that we are legislating much against the interests of the various States, and are throwing a great deal too much power in. the hands of the Federal Government.
Mr DEAKIN
- I would direct the honorable member's attention to the words of the clause - " compensation or part compensation." If the Commonwealth Government threw back on a State a property which had no value to the State, then that return might only be part of the compensation, and the State could come on the Commonwealth for any reasonable difference between the value of the property to the State as returned, and the value it might be deemed to have, considering the purposes for which it had been transferred.
Mr Fisher
- How could it be part compensation, when it was of no value?
Mr DEAKIN
- Of course if the property is of no value, it is of no value, but the honorable member is using the words in a loose sense, and means no considerable value.
Mr JOSEPH COOK
- Who will determine the question of compensation if there is disagreement?
Mr DEAKIN
- That will be provided for in the Bill to be introduced hereafter.
Mr A McLEAN
- The property might not be of any value for the original purpose, but of some value for another purpose.
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Mr CROUCH
- I submit that it would be ultra vires for the Governor-General by proclamation to divest the Commonwealth of property which the Constitution declares shall be vested in the Commonwealth. Section 85, sub-section (1), of the Constitution says -
All property of the State of any kind used exclusively in connexion with the department, shall become vested in the Commonwealth.
Mr Deakin
- Cannot we divest?
Mr CROUCH
- I submit that we cannot if the property is once vested in the Commonwealth. The only way in which that is provided for in a case of this kind is by compensation. Anybody who reads subsection (3) of section 85 of the Constitution will see that the compensation must be in some other form of value - it must be value and not the land itself which is given in compensation. To return the land as compensation is an attempt to give the Governor-General a power which is contrary to the powers forced on the Commonwealth by section 85.
Mr. HIGGINS(Northern Melbourne).The idea which has been expressed by the honorable member for Corio has also passed through my mind. I did not understand him to say that in no case could the Commonwealth divest itself of land once it acquired it. Section 85 of the Constitution makes the vesting of certain lands obligatory, and of other lands not obligatory; but with regard to both lands, once they are acquired or vested, the Commonwealth must pay compensation ; and if the Constitution provides that we must pay compensation, nothing we can enact in this Bill will prevent us from having to do so. Therefore, even if land is re-vested in a State, the Commonwealth will still have to pay compensation in regard to it. I should like the Attorney-General to consider this matter. It is one of the unfortunate things with regard to written Constitutions that we have continually to discuss, not what is expedient for the public, but what is within the powers given by the Constitution.
Mr GLYNN
- I think it would be safer to omit this provision altogether. It gives a far greater power than, according to

the statement of the Attorney-General, is required, because it applies to all lands vested under the Constitution, however acquired. Of course, we have no idea of handing back Post-office sites to the States, if we cannot come to terms with them as to the mode of compensation, but the clause is drafted to give such a power. If it is to be retained, I suggest that it should be amended so that the exercise of the power will be made only on the suggestion of a State. The justification for the clause is that the State may wish to get back property which has been taken over by the Commonwealth. The clause, however, gives power to the Commonwealth to compel a State to take back property whether it wants to do so or not. If the idea is to enable the Commonwealth to give back property which the State wants, there can be no harm in limiting it to that. I suggest that the clause, if not struck out, might be amended by inserting after the word " proclamation " the words " with the consent of the State." If the position of the honorable and learned member for Corio, that the Commonwealth cannot divest itself of property acquired under section 85 of the Constitution, be correct, the clause is ultra vires; but if it be not correct, the ordinary power of transfer exists. The vesting of property in the Commonwealth does not mean that the Commonwealth must retain that property for all time ; the Commonwealth holds it subject to the ordinary rights of ownership, one of which is the power to sell or transfer. Why, then, should provision be made for divesting by a particular mode, when the ordinary mode of transfer open to the private individual is open to the Commonwealth?

Mr. JOSEPHCOOK (Parramatta).Honorable members are assuming that there will be an amicable agreement between the States and the Commonwealth for the States to take back certain property which the Commonwealth does not want ; but the clause is to meet the case where there is a disagreement as to the mode of compensation. If we provide that where there is a disagreement as to the mode of compensation, certain steps must be taken to divest the Commonwealth of property, why provide for further trouble with regard to the compensation? I could understand the Government taking power where there is a disagreement to settle the matter by arbitration, or to settle the question of part compensation by arbitrary methods ; but it seems to me that a difficulty is created by the first part of the clause, and that then an effort is made to get rid of it by the creation of another possible difficulty.

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Mr DEAKIN

-I shall not insist upon the clause. I am naturally impressed by the arguments of my honorable and learned friends. This is the one clause which was the positive result of the Premiers' conference. It was suggested by one or more of the members of that conference, and I had it drafted to meet their wishes. The rigorous - though it may prove the correct - reading of sub-section (3) of section 85 of the Constitution Act may render the clause inadmissible, but, in any case, it is out of place in this Bill as we have amended it. In every other particular we are leaving the question of the mode of compensation, as between the Commonwealth and the State, to be determined in a Bill to be introduced later in the session, and the subject of the clause should be dealt with in that Bill. I shall give very careful consideration to the objections of my honorable friends; but I venture to submit that we may expect that the justices of the High Court will, in reading the Constitution, accept the principle authoritatively laid down in the United States, and, if my memory serves me, approved in the mother country, that, in the interpretation of a Constitution, regard is to be had to the general aims, purposes, and meaning of the instrument. The construction which has been put upon section 85 of our Constitution Act is a very strict one, turning as it does upon the meaning and nature of compensation, and if correct must necessarily be a bar to the insertion of the clause in this Bill. Reading it as if it occurred in an ordinary measure relating to property, it might then be held that the Legislature intended it in its narrow sense.

Proposed new clause, by leave, withdrawn.

Progress reported.

Resolved (on motion by Mr. Deakin) -

That the Bill be recommitted for the further consideration of clauses 50 and 59.

In Committee- (Recommittal).

Clause 50 -

. . All legal proceedings by or against the Commonwealth in respect of any matter under this Act may be instituted by or against the Attorney-General in his official name ....

Amendment (by Mr Deakin) agreed to -

That the words "Attorney-General in his official name " be omitted, with a view to insert in lieu thereof the words "the Commonwealth in that name."
Clause, as amended, agreed to.
Clause 59 (Land acquired before the commencement of this Act).
Amendment (by Mr. Deakin) agreed to -
That the following new sub clause be added : -
Where before the commencement of this Act the Attorney-General has, for or on behalf of the Commonwealth, executed a conveyance or lease of any land vested in the Commonwealth, the conveyance or lease shall be as valid and effectual, for all purposes whatever, as if it had been executed after the commencement of this Act.
Clause, as amended, agreed to.
Bill reported with further amendments.
INTER-STATE COMMISSION BILL
Second Reading
Debate (resumed from 4th October, vide page 5067), on motion by Sir William Lyne -
That this Bill be now read a second time.
Mr GLYNN
- I must compliment the honorable and learned member for Bendigo upon the excellent summary which he gave us of the facts which, to some extent, suggested to the Federal Convention the establishment of an Inter-State Commission. The only fear I had when the honorable and learned member was dwelling upon the history of the operation of the. preferential rates on the railways was that some honorable members, or perhaps the public, might consider that the real point in dispute was whether or not the war of railway rates existed, and not whether the particular mode of putting an end to that war which was suggested by the Government was necessary, or would, if adopted, be: likely to prove efficacious.
Sir John Quick
- It had been contended that the Bill was not necessary.
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Mr GLYNN
- The issue really is whether the particular mode suggested by the Government of establishing an Inter-State Commission and investing it with extraordinary powers is expedient or necessary. The existence of the preferential rates and their harassing nature is really absolutely beyond dispute. I mention that, because when I read the speech of the Minister for Home Affairs. I could see at once, from the recital of the alleged evils attaching to preferential rates, and from the report he had obtained recently from Mr. Oliver, the Chief Railways Commissioner of New South Wales, that the Minister was in effect, if not by intention, really clouding the minds of honorable members as to the real issue. There was no dispute as to the existence of these preferential rates. We had that proved ad nauseam at the convention, and to again prove what was not in dispute did not establish the soundness of the policy embodied in the Constitution, and did not strengthen the Minister's contention that an Inter-State Commission should be at once established, armed with the extraordinary powers which this Bill proposes to vest in the commissioners. I may say that it is somewhat of a commentary upon the action of the Minister for Home Affairs in giving these long recitals from Mr. Oliver's report that Mr. Oliver was opposed to the establishment of an InterState Commission when he was asked to report on the evidence taken in Adelaide in connexion with the suggested appointment of the commission. The Railways Commissioners of South Australia, New South Wales, and Victoria were examined by the finance committee, and subsequently Mr. Oliver reported upon the evidence given, and I think if honorable members will look at the report which is published in connexion with the appendices to the proceedings of the Adelaide conference, they will find that Mr. Oliver - and to some extent he seems to have been agreed with by Mr. Mathieson, the Victorian Railways Commissioner - did not consider that the abolition of the alleged evils attaching to preferential rates required the appointment of an InterState Commission. Therefore we now have cited as evidence in favour of a commission details of competitive rates given in a report of the same Mr. Oliver, who, when he was asked to report two or three years ago, did not recommend this means of putting an end to the evil.
Sir John Quick

- What did he recommend 1
Mr GLYNN
- He considered that the difficulty could be disposed of by an agreement. The agreement of 1895 was referred to as an attempt which would have been successful in putting an end to the war - as regards, at all events, the wool rates - but, unfortunately, the Victorian Government, I think, refused to ratify it. If, however, the commissioners had been armed with powers to come to an agreement without reference to the politicians, the conclusion of the war of preferential rates would have dated from the adoption of that agreement of 1895. The position I take is that any machinery not really required for the purposes of the Constitution should not be created. I look upon all political machinery as more or less an evil, and, other things being equal, the Constitution that has the smallest amount of machinery,, and works in the simplest way, is the best. I therefore approach any suggestion to create a body armed with exceptional powers with a sort of prima facia instinct against the expediency of it. If we look at bigger countries than our own - in some cases federal communities, and in other cases where unitarian Constitutions exist - we find they get on very well without boards armed with these exceptional powers. Take Germany, for instance. No one will say that in Germany there is not likely to be a greater clashing of interests and greater competition of an injurious character amongst the railways - if this class of competition is injurious - than exists, or is possible, in the Commonwealth of Australia.
Sir John Quick
- Their Federal Council has the powers of the Inter-State Commission.
Mr GLYNN
- I will deal with that presently. I first wish to refer to the possibilities of unfair competition in the case of the railways of the German Empire. They have empire railways, State railways, private railways under State administration, independent railways, and railways let on lease by the Government. So that there is great diversity of machinery at all events, and from the fact of there being State railways, Imperial railways, and private railways, all engaged in competition in regard to certain lines of traffic, there is a possibility of a greater clashing of interests than that which has led, in the case of our State railways to the evil of preferential rates. What appears to have been done in Germany was to create an Imperial board to act in conjunction with a number of provincial railway boards, which are helped by district committees . The members of these committees are elected by representatives of commerce, agriculture, and forestry. They do not control, but they suggest chiefly. The boards do not control the rates except as far as may be necessary to secure low long-distance rates, or to secure as far as possible uniformity of management. There is no attempt to fix rates, except as far as the rates do not cany out the mandate of the Constitution that there shall be low long-distance rates, and as far as possible uniformity of management. The German Constitution- - articles 42 and 46 - provides for uniformity of management of the railways as one system, for uniformity of regulations, and for long-distance rates for all agricultural and mineral produce.
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Mr Higgins
- Does that refer to State railways or to all railways 1
Mr GLYNN
- It refers to all railways. The sole object of the railway provisions in the German Constitution is not, as is sought to some extent by the Bill before us, to level up rates so as to cancel natural advantages, but to bring produce nearer to market by insuring to the producer low long distance rates, and to secure for general purposes of economy, uniformity of management. But there is not in the German Constitution, nor is there in any of the State laws, any provision which allows the federal body in Germany or the State Executives to interfere with private carriers. As regards water rates, the provisions of the German Constitution are directed not towards increasing - as I will show later on seems to be the idea in the mind of the Minister for Home Affairs - the water rates so as to advantage the railways, and cancel natural advantages, but towards diminishing them, and making the water-ways more efficacious for the purpose of Inter-State trade and commerce. In the Imperial Constitution of Germany power is given to the federal body in regard to rafting and navigation upon these water-ways which are common to several States, and concerning the conditions of such water-ways, and the river and other water dues. This seems to me the very antithesis of the idea in the mind of the Minister for Home Affairs, who apparently thinks that we

ought to level up the river rates in order to prevent what he considers unfair competition with the railways. To some extent the Minister has been inspired, probably, by the suggestions thrown out by the late Mr. Eddy, who, in conjunction with the other Railways Commissioners, was examined before the finance committee in Adelaide in 1897. Mr. Eddy, who looked at this matter purely from the point of view of a railway manager, then suggested that the river rates might be levelled up to enable him to increase some of the competitive rates upon the railway. If honorable members look at his evidence they will find that what I say is correct. He suggested interference with the water rates, because he was unable, to some extent, to work the railways of New South Wales to the best advantage, owing to competition by the water carriers. In Germany, however, they look at this matter from the point of view of the producer. The object there is to get his produce to market in the cheapest possible way. They do not regard the matter purely from a railway stand-point, as did Mr. Eddy. That gentleman, however, declared that none of his rates were losing rates. None of the InterState rates of a differential or preferential character involved New South Wales in a loss, but yet he suggested that, in order that bigger profits might be obtained, the river rates should be levelled up by an Inter-State Commission. I am sorry that the Minister for Home Affairs has taken such a mistaken view of what ought to be the policy of the Federal Parliament in relation to the powers of this commission. In the Canadian Federation, the scope and territorial extent of which are as great as are ours, no body analogous to this commission has been created.

Sir John Quick

- There is not a number of States competing for a common back country trade as we have in Australia.

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Mr GLYNN

- That does not matter. There are two great trunk lines which are competitive. But though in Canada there is a great extent of lines which have been established by private companies, with the help of the Government, the interference which we propose to allow by this Bill does not exist, and has not been suggested in connexion with that Federation. I think that this evil of preferential rates has been very largely exaggerated. It does not hurt the producers. The complaint is that certain railways have been injured because lower rates are charged by competitive railways. Who gains? The producer ! If men choose to injure themselves, and others thereby derive a benefit, we ought to recognise that a benefit is conferred as well as an injury done. The Minister for Home Affairs, by a question which he asked at a meeting of the finance committee in Adelaide in 1897, hinted that the producers of Riverina derive very much benefit from these preferential rates. From that point of view, we have to qualify or diminish the alleged extent of the evil. It is not quite so oppressive as some honorable members seem to consider. Besides, the parties who are really complaining, and on whose behalf interference is alleged to be justified, are the States, as the owners of the railways, the owners of wharfs, and, so far as local business is affected by diversion elsewhere of traffic, particular localities. But if we do not take into account the incidental benefit created by their competition, we shall altogether magnify the existence of the evil. At this early stage of the Federation, do we require to establish this Inter-State Commission, or, at all events, to do more than technically comply with the provisions of the Constitution % Of course we can technically comply with the mandate of the Constitution by appointing a few gentlemen as ox officio members of an Inter-State Commission. If the Constitution makes it obligatory that there should be a commission appointed, there is not the slightest necessity for arming it with the exceptional powers conferred by this Bill. A commission can be created whose powers can be cut down close to zero. Beyond the exercise of a minimum of power for technical compliance with the Constitution, an Inter-State Commission is not really required. The reason why we should not precipitate the creation of a full-fledged commission is that the Railways Commissioners told us in 1895 that if left to themselves they could speedily end this system of preferential rates. They said that they could accomplish this if politicians would abstain from interference. The report of the South Australian Railways Commissioner, dated October, 1894, as to the adequacy of agreements, states -

In other countries where competition is far keener than in Australia, and where the position of the railway companies is much more complicated, such a course was after a protracted struggle found to be absolutely necessary, and the only solution of the difficulty if ruin was to be averted. The agreements entered into for years, and have stood the test of time, and we see no. reason why a similar course should not be pursued with similar results in this and other colonies interested.

What those Commissioners insisted upon was the framing of an agreement between the States to abolish preferential and differential rates. The Railways Commissioner of South Australia points out that such a course was effectively adopted in other countries whose conditions are similar to ours, and where the evils are really of far greater magnitude than our own. I think that the Government, acting on the suggestion of the honorable and learned member for Bendigo - if one may take his -printed amendments as indicating his present opinion - should allow a little time for the States to consider this matter of agreement before creating n tribunal which will probably be found to be for permanent purposes useless. It will be exceedingly harassing, and will surely be found to be expensive. In the
Federal Convention of 1891, the idea of creating an Inter-State Commission was pooh-poohed. I think it was raised by one of the South Australian representatives in the person of the Hon. J. H. Gordon . But, as the Attorney-General will recollect, the idea of establishing such a body did not take on with the convention.. In 1891, therefore, there could not have been such a manifestation of the evils which are insisted upon by those who advocate the passage of this Bill, since a convention which was dealing with Australian matters never seriously considered the suggestion made that an Inter-State Commission should be created to put an end to competitive railway rates. The evils could not have been of great magnitude, if, when the first suggestion to abolish them was made, it did not catch on.
Mr Deakin
- I think the idea then was that Parliament would be capable of dealing with it. '
Mr GLYNN
- I know that in 1897 and 1898, when the matter was being discussed in the second Federal Convention, the fact that it was pooh-poohed in 1891 was insisted, upon as a good argument against taking the step which is now proposed. Even in 1S98- the proposal to create a commission was. accepted with very great reluctance. The present Federal Treasurer stated - as is reported in the Convention Debates qf the Adelaide Session, page 1075 -
I do not like this Inter-State Commission.
The right honorable and learned member for East Sydney said that he would limit its power over railways to cases where the management is used unfairly to interfere with the natural course of business. He added that it was absurd to give it greater power than that. Greater power is, of! course, proposed to be given by the Bill before us. I remember, also, when this, question was being discussed at one of the sessions of the convention, the Prime Minister interjected that possibly the Railway Commissioners of the States might be appointed a commission for the purposes of the Constitution.
Mr Higgins
- There is a reference in the debates to the power which would be involved of regulating water rates.
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Mr GLYNN
- We understood, when the matter had been thoroughly thrashed out, and when the exhaustive convention debated the final suggestion to leave a good! deal to Parliament, that the words as drafted would give certain powers to the commission over water rates, which, I say, the convention never really wished to vest in them. I remember when Mr. Simon Fraser was speaking upon this question, that he asked whether it was intended to control the river rates, and Mr. Wise interjected - " No ; only State boats." Could anything be more conclusive than that as to what class of rates were to be touched, or as to whether private carriers, either by land or water, were to come within the scope of a Bill? There was no contradiction of the interjection of Mr. Wise that interference with water rates was to be limited to cases in which the boats were owned by the States. The honor- able and learned member for Bendigo, at the Convention, pressed a solution which was ultimately adopted, and which Left rather too great a power ultimately with the Federal Government. Speaking from memory, I think he insisted that simple words of very great comprehension provided the best way out of the difficulty at a time when nobody at the Convention clearly knew what we were doing. So many suggestions were made that the Convention seemed to fall to pieces. The words I quoted from the speeches of the leader of the Opposition and the Treasurer at the Convention, as to the limitations indicated by the former, and as to the timidity suggested by the latter, of some of those who voted for the Inter-State Commission, justify my allegation that it was with reluctance and a somewhat vague idea of what they were doing that the Convention finally adopted the words which finally found their way into the Constitution. I remember a suggestion was made by Mr.

Gordon, of South Australia, who seems to have been the strongest advocate for interference, that powers to control rates within a State should be given - that not only competitive rates between localities divided by the demarcation of a State limit should be controlled, but that particular liabilities in a State should be covered by the Inter-State Commission. But the idea did not receive any favour from the Convention, and the amendment was either rejected without a division, or was withdrawn. The Minister for Home Affairs, in introducing this Bill, said -

I know that produce is brought down from Riverina to Melbourne and shipped round to New South Wales, and probably to Adelaide, at a lower rate than that for which it could be taken direct on the railways.

What are we to understand by that ? Does the Minister think that so far as a particular route is aided by low water rates, we are to cancel the advantages enjoyed?

Sir John Quick

- That was rather an unfortunate expression on the part of the Minister.

Mr GLYNN

- But I am bound to test the speech as it was delivered. I had not the opportunity of listening to it. and this may have been an unfortunate observation of a Minister desirous of passing a Bill, but it was a pretty good index of what the honorable gentleman desired. It shows the danger of vesting practically absolute authority in a board of three commissioners, one of whom may possibly have a mind on this question somewhat like that of the Minister for Home Affairs. The commissioners would have an absolutely arbitrary power of settling rates, and their decision would be final ; and if by some misfortune one with a mind such as is indicated by the quotation, found his way on to the com miss on I am afraid the interference with the rights of States or private carriers would be oppressive and unjust. If the Minister thinks that Mr. Oliver's report, with a long catalogue of grievances, was brought in to enable this House to put an end to this class of evil, he has mistaken the object with which the power to create an Inter-State Commission was vested in this Parliament. Nor is it necessary to create an Inter-State Commission to put an end to another evil referred to by the Minister, namely, the differentiation as regards wharf charges between State and State. The Minister mentioned that some of the wharves in Sydney are free to local users, whereas to those who come from other States a charge is made.

Mr Deakin

- That is so in Victoria, New South Wales, Tasmania, and Queensland.

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Mr GLYNN

- That is an evil which does not require the creation of special machinery to put an end to. It is illegal under the Constitution, and is declared to be illegal under the common law in America. Whether we create a commission or not, this differentiation, after the Tariff is passed, if not now after its introduction, can be put an end to, it can be terminated as soon as challenged, because the Constitution declares such preferences to be illegal. As to the comparative triviality Of this matter, might I point out that in the United States they seem to have got on pretty well down to 1887 without any special machinery. It is stated by a writer -

The development of natural resources during the period of 60 years, mainly as the result of facilities for railroad transportation, has proceeded beneficially, and has exhibited a progress unparallelled in history.

These are the words of a writer who is criticising a suggested extension of the powers of the Inter-State Commission in America. It appears that down to 1887, the year in which the commission was created, they got on very well without any body to control the Inter-State rates in the way in which they are controlled now. The InterState Commission was established in America for reasons only some of which exist, or can he alleged in Australia. In 1886 there was a decision of the Supreme Court of America in the case of the Wabash Railway Company against the State of Illinois, to the effect that any attempt by a State to interfere with or regulate Inter-State commerce and Inter-State railway rates was unconstitutional. In consequence of that decision a commission was appointed, because the States were particularly jealous of interference by the railway companies with the rights, as regards equal facilities of traffic, of particular States. But look at. the position in America. They have over 180,000 miles of railway line, connecting 45 or 46 States, with a population of 70,000,000 or 80,000,000. In America the railway companies are great territorial owners. They own mines in some of the States, and up to 1887 it had been

the policy of some of the companies to practically boycott certain States in which there were companies competing with the railway companies as producers.
Mr Deakin
- More than that. The railway companies boycotted localities, classes, and individuals.
Mr GLYNN
- Undoubtedly that was done : but I am simply speaking of a particular class of boycotting in America and which cannot exist here. My object is to show that conditions which justified the creation of an Inter-State Commission in America do not, to the same extent at all events, exist here. One of those conditions in America is that railway companies are producers competing with companies which are not owners of railways. The railway companies boycotted the competing mine owners - owners of coal and other mines - and this led to very serious evils which required parliamentary check. To put an end to that state of things, the InterState Commission was created in 1S87.
Mr O'Malley
- The railway companies gave low rates where there was competition, and robbed people where there was not competition.
Mr GLYNN
- Nothing of that kind exists in Australia., where we have no railway companies which are mine-owners, and private carriers have no interest in boycotting or giving preference to one State as against another. The conditions are not at all analogous as between the United States and the Commonwealth of Australia. In regard to the powers conferred on the commission, we find that in the United States, notwithstanding the far greater justification that existed for the creation of a body of the kind, the powers given were not nearly so great as those proposed under the Bill. The powers in America are limited to any traffic by rail, or rail and water under one common management. In the Bill before us, power is given to deal with rates, whether the traffic is under one common management or not, or whether there is through traffic by rail and water, except so far as the new amendments may modify the provision as to water-carriage. At any rate, the Bill at present gives power to deal with water rates, although the water carriage is not part of one general transhipment charge made by railway companies. So far as the power of interfering with private individuals is concerned, there is no power given in America except as to railway companies, and railway companies which have another mode of carriage in connexion with their lines. Generally speaking, private carriers, not railway companies, do not come within the scope of the commission.
Mr O'Malley
- An effort is being made to bring them under the commission now.
Mr GLYNN
- But Congress has refused? to pass the law.
Mr O'Malley
- They are not educated) up to it yet.
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Mr GLYNN
- Some of the best authorities deny the expediency of giving such a. power, and I shall endeavour to show that there is justification for refusing the power to the commission. Inter-State Commissions, like all public bodies, clamour for more power, in the same way that Parliament always desires to extend its powers. One of the future difficulties of this federation will arise from the imposition of a check by the States on probable attempts by the Federal Government to arrogate to itself more powers. All parliamentary and administrative bodies have, perhaps, too high an idea of their own significance, and are remarkable for their attempts to promote their own aggrandizement. It is, therefore, not surprising that in America the Inter-State Commission has from time to time endeavoured to extend its powers, although, happily, up to the present, Parliament has denied applications for this extension. In 1886 a committee of the American Senate reported on a suggestion that the proposed commission should be given power to fix rates.
Mr O'Malley
- But the States have power to fix rates in their own limits.
Mr GLYNN

- But on the question of a federal Inter-State Commission, the committee of the Senate in 1886 expressly declared against giving any such power to the proposed body. The report stated that the fixing of rates, involving as it would infinite labour, investigation, exact knowledge as to thousands of details, and the adjustment of a vast variety of conflicting interests, was inexpedient. Judge Cooley, who was a member of the commission, I think, if he did not draft the report, which has been described as one of the ablest ever presented to the United States Parliament, declared that the task of such a body in fixing rates would be superhuman. With regard to the fixing of coastal rates, I would remind honorable members that Mr. Eddy, although he wished, as a railway manager, to increase river charges, scouted the idea of allowing any Federal commission to interfere with the sea traffic between the States.

Mr Higgins

- Has not the proposal been abandoned?

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Mr GLYNN

- No, it has been modified. Amendments are before us, which are still exceedingly dangerous, because they give power over sea rates, although they limit the extent of the powers conferred by the Bill. I am not able to discuss the interpretation of the amended clauses to-night, because I have not had an opportunity of refreshing my memory, but I can see that a very dangerous power of interference with coasting vessels is retained. However, it is a matter we can deal with in committee, because it does not affect the principle of the Bill. Mr. Eddy wished to exclude from the power of the commission the oversea and coastal traffic, in relation to which the greatest opposition is being offered to this Bill. Mr. Eddy did not satisfy himself with stating that in answer to questions, but when he had. finished his evidence in answer to interrogatories, he voluntarily emphasized the fact , that no power over coastal or oversea rates should be given. Such power is proposed to be given by the Bill, and in a somewhat modified form by the suggested amendments. I think I have said something to show that the conditions which exist in America, which country has been taken as our great exemplar in this matter, have no analogy to the circumstances here. There they have 46 States with a population of 80,000,000 of people, and a multiplicity of lines owned by private individuals and companies, and the conditions are altogether different from those we find in Australia, where we have five continental States owning the railways, and there is a possibility of coming to an amicable agreement which will put an end to the evils that are now complained of. Now, let us look at the United Kingdom. This Bill is to a very large extent based upon the provisions of the Inter-State Commerce Acts of America, and upon the corresponding provisions of the English Act, which vests power in the Board of Trade to interfere with railway charges. The evils in England were far greater than any that exist here. Over 20,000 miles of lines were owned by private companies who had been neglecting the comfort and safety of passengers, and had neglected the permanent way. Consequently provision for the Board of Trade to interfere in the direction of compelling improvements was given by Act of Parliament. Power to regulate the class of rails to be used, the class of brakes to be employed, and the carriages to be used, and to provide facilities for passenger traffic were vested generally in the Board of Trade. Of course, no such powers are necessary here, because the railways are State owned, and: could not be neglected in that way. The private companies to some extent neglected their duties in the United Kingdom, but the principal reason why an analogous. foody to the proposed Inter-State Commission was created in the United Kingdom, in 1888, was that trade depression was mainly caused by the preferences given to continental importers as against local producers by the railway companies, and by the absence of facilities for the conveyance of produce to markets over the railways. A commission sat in the United Kingdom in 1886, and in fourteen out of fifteen reports it was unanimously stated that preferential rates were the chief cause of the existing industrial depression. The rates for the carriage of coal and iron were particularly heavy.

Mr Deakin

- They are still.

Mr GLYNN

- These high rates are a great evil still. Perhaps the Board of Trade has not sufficiently ample powers, or they may be neglecting the exercise of those powers in the same way that the American commission is alleged to have neglected its powers. At any rate, the railway rates are burdensome still. What I wish to point out, however, is that it was the existence of preferential rates, against the local producers, and

operating in favour of the importers, that led to the creation of a body in England in 1888 analagous to the Inter-State Commission which it is now sought to bring into existence here. The charges for coal were shown to be double the German rates, and double the Belgian rates, for an equal distance. A railway authority, Mr. Jeans, , who gave evidence before the commission, pointed out that the rates for the carriage of iron were 58 per cent. higher than those charged in France, and 80 per cent. higher than those in Germany ; and that in many cases through rates were refused by the competing companies. Besides that, the railway companies were beginning to buy up the canals, and it was found that as soon as a railway company became the owner of the canal it increased the rates in order to divert most of the traffic to the railways.

Mr Salmon

- They closed up the canals.

Mr GLYNN

- Yes ; they closed up some of the canals, or allowed them to fall into such disrepair as to render traffic by water impossible. These were the pressing evils which existed in England, and which justified the creation of a body, with the powers that are given under the English Act, and which are, to some extent, copied in our proposed local legislation. Under the English Act, however, there is no power given over purely coastal and sea traffic, and no powers over private carriers other than canal and railway companies - powers which are proposed to be vested by the Bill in the Inter-State Commission. I think ' I have shown honorable members enough to make them hesitate before they copy the legislation of the United Kingdom or the United States in this matter. We are asked, not only to copy the legislation in those countries, but to extend it, although the evils in both the United Kingdom and in the United States were far more pressing than they are here. I had intended to analyze the Bill; but I am not in a position to do itat this stage without looking through my notes. I desire, how to say a few words in regard to the Constitution. Section 101 provides that -

There shall be an Inter-State Commission, with such powers of adjudication and administration as the Parliament deems necessary for the execution and maintenance within the Commonwealth of the provisions of this Constitution relating to trade and commerce and of all laws made thereunder.

The safeguarding of the provisions of the Constitution, as regards Inter-State freedom of trade, does not require the creation of the commission. If we could dispense with this commission, Inter-State commerce would still be free within the meaning of the Constitution.

Mr Deakin

- It ought to be.

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Mr GLYNN

- I believe it would be. Why do I say it would be? Because the courts can take cognisance of breaches of the spirit as well as of the letter of the Constitution. They have to rely upon the common law for redress in connexion with breaches of the Constitution in America, and when the commission was appointed in 1886 the desire, as expressed by the report of the committee of the Senate, was not to secure something which the common law did not to a great extent supply, but an amplification of the common law powers and machinery to carry out the implied powers of the Constitution. After we have adopted our Tariff, and InterState free-trade has been established, it will be competent for any State or individual who is affected by preferential rates to challenge them in the courts of justice. I believe that, pending the creation of a federal tribunal, a State Court can pronounce upon the invalidity of preferential rates.

Sir John Quick

- Could a State Court restrain the State Government?

Mr GLYNN

- Yes ; I think it could restrain a State Government as a carrier or an individual.

Mr Deakin

- Even in a case involving issues outside its own territory?

Mr GLYNN

- Yes; the State Court would probably have power in regard to anything that would be a breach of the provision of the Constitution that Inter-State commerce must be free. That is the whole point, because the power in respect to preferential rates was given only in order to prevent any attempt to neutralize the

provision of the Constitution regarding the freedom of commerce.
Sir John Quick
- Could the State Court of Victoria restrain the Railways Commissioners in New South Wales ?
Mr GLYNN
- Yes, I think so ; and I believe that the honorable member for Northern Melbourne will agree with me that the necessary power is given under the Constitution.
Sir John Quick
- How could the State Court of Victoria exercise jurisdiction over the Railways Commissioners of New South Wales ? Could the Victorian sheriff go over there to enforce the decree of the Victorian Court?
Mr GLYNN
- My observation is correct, but it is not essential to my argument. I believe that, pending the creation of a Federal Court, we may appeal to any existing courts in order to secure the carrying out of the Constitution.
Sir John Quick
- The Constitution provides special machinery for that purpose.
Mr GLYNN
- It provides that special machinery shall be created, but does the honorable and learned member suppose that a hiatus was created between the establishment of the Commonwealth and the first meeting of the Federal Parliament? Does he suppose that it was intended that there should be a condition of anarchy until the Federal High Court could be established 1 I deny any such proposition. There is always the saving provision in English jurisprudence that as long as there is a law we shall not want for a tribunal to enforce it. The King himself can enforce the law, and in theory he only delegates his powers to the courts, which will always see that the provisions of Acts of Parliament are enforced. Until we have established the Federal High Court our Acts of Parliament of necessity should and probably can be enforced by the State courts, and ultimately by the Privy Council, without the creation of a federal tribunal.
Mr JOSEPH COOK
- As long as there is a victim to operate on.
Mr GLYNN
- Or a right to be effectively asserted. The observation that the State courts might do this was not necessary to my argument, because if we have to create a Federal court, we can do so at any moment. The point I insisted upon was that an individual or a State could apply to some court to compel respect of the provisions of the Constitution in relation to InterState freedom of trade, without the intervention of an Inter-State Commission. So far as railway rates attempt to neutralize those provisions, they are invalid under the Constitution. To some extent the creation of a commission of this sort may hamper litigants. As to the point of the existence of common law rights, I might mention that there is adequate power to control these preferential rates. Section 102 of the Constitution, according to a fairly well-founded interpretation, requires the creation of an an Inter-State Commission only as the basis of Federal legislation to control preferential rates on railways. If honorable members will look at section 102 they will find that -
The Parliament may by any law with respect to trade or commerce forbid, as to railways, any preference or discrimination by any State, or by any authority constituted under a State, if such preference or discrimination is undue and unreasonable, or unjust to any State : due regard being had to the financial responsibilities incurred by any State in connexion with the construction and maintenance of its railways. But no preference or discrimination shall, within the meaning of this section, be taken to be undue and unreasonable, or unjust to any State, unless so adjudged by the Inter-State Commission.
What is the one probable meaning of that provision?
Mr A McLEAN
- It would require a very smart commissioner to interpret it.
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Mr GLYNN
- Yes. I remember deploring this section in the Convention. It seemed to me to put behind what should be in front. The reading of the section, which I believe is possible, if not probable, is that before Parliament can pass a law in relation to these rates we must create a commission to. declare them bad. Here is an allegation that it is a condition precedent to the passing of such legislation that a special tribunals hall be

created to declare those rates bad. That forms the basis of the legislative power. It is an absurd position in which to be placed, but that is a probable interpretation of the section: So far as there may be necessity to create a commission; that necessity only exists, for the purpose of this section, to justify legislation. I repeat that without legislation the Constitution declares such rates to be invalid. If we neglect to create an Inter-State Commission we still have remedies which will be adequate against the continance of those special rates. But when we begin to legislate in regard to them we require a commission, under section 102, to justify that legislation. I think that the honorable and learned member for Bendigo will agree with me that if that section were not in the Constitution it would not be necessary to create a commission. At all events, it would not be necessary for us to do more than nominally appoint a commission so as to fulfil the requirements of section 101 of the Constitution which says that there shall be an Inter-State Commission. I do not think I will deal any further with the particular clauses of the Bill. I have suggested in some amendments which are before honorable members that it would be better to create a commission composed of such of the railway commissioners of the several States as are permitted to act. I am acting upon the suggestion thrown out by the reports to which I have referred, as the result of the agreement at which the railway commissioners unanimously arrived in 1895, when I say that if we give power to the railway commissioners to end this war of rates it will be done.

Mr Poynton

- If they are backed up by the machinery of an Act.

Mr GLYNN

- Yes. If we appointed the railway commissioners of the different States as the tribunal, under the terms of this Bill, the war of rates would be abolished. If this is not done, another suggestion which is contained in my amendments, is that the power of the commission should be limited to rates charged on the railways, or at all events to rates on railways or railways and other modes of conveyance used and controlled by the railway of the States for the purpose of completing the carriage of goods entrusted to them. The commission should not be given power over private carriers in regard to water or land rates; but wherever the rail way authorities have imposedpre- perennial rates and are using and controlling water carriage for the balance of the distance over which they carry the goods, the commission might have power to interfere. That is not a preference, but an alternative suggestion; What interests would prompt a private carrier, by water or by land, to help a particular State ? Has that patriot yet been found who is prepared to sacrifice questions of pounds, shillings, and pence to the corporate advancement of a particular State? Have honorable members ever met a private carrier who is willing to reduce his rates in order to benefit one particular portion of his State as against a particular portion of another State? I have not done so, nor have I conceived the existence of such an individual. What self interests could prompt private carriers, by sea or by land, to impose preperennial or differential rates of the character imposed hitherto by the Railway Commissioners ?

Sir John Quick

- Such a carrier might be receiving secret rebates from a State authority.

Mr GLYNN

- Could the commission put an end to that until the discovery of it? But the moment the fact leaked out that a private carrier was receiving secret rebates the courts could put a stop to the practice. We do not require a commission to discover it. We are asked to create a commission to declare the rates bad. The commission would declare that they were opposed to the spirit of the Constitution, but three Judges would be probably as wise as the commission. I do not suppose that it is intended to pay the members of the commission £7,000 or £10,000 a year in order to secure the best railway managers from England.

Mr Higgins

- Three commissioners could not know what was going on all over Australia.

Mr GLYNN

- People who are touched, and States that are affected, are very keen to the existence of an evil.

Mr Higgins

- I agree with the honorable and learned member that it is absurd to think that the commission could discover something which an interested private individual had failed to do.

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Mr GLYNN

- Yes. It is generally a private individual who puts the commission on the scent. The private individual complains, but he cannot complain of an evil the existence of which he does not know. When he discovers it, he can point it out to the court. I cannot see why, even from the point of view of the private individual, whose interest it is to make the discovery, we should place private carriers within the scope of the Inter-State Commission. Such a proposal was never contemplated by the convention, and should not have been placed in this Bill. If I remember rightly, the honorable and learned member for Bendigo referred to certain rates by water, which showed a preference in favour of Sydney as against Brisbane on the through charges between Sydney and Brisbane and some Northern port.

Sir John Quick

- Between Sydney and the northern ports of Queensland, such as Townsville.

Mr GLYNN

- I have got the charges which have been agreed to by the various shipping companies, and they show absolutely no preference. There is a reduction in rates for through carriage from Sydney to a further port in Queensland, as against the rates from Sydney to Brisbane, and Brisbane to that port, but nothing more. It is that class of rates to which the honorable and learned member referred.

Sir John Quick

- They charge less for the longer than for the shorter haul.

Mr GLYNN

- Why interfere with it? Should not a shipping company be allowed to proportionally charge lower rates for the through carriage between terminal ports than a portion of the voyage ? Why should the rate between Brisbane and another port in Queensland be proportionate to that for the carriage of goods through from Sydney without transhipment ?

Sir John Quick

- There seems to be something wrong in making the charge for the longer haul less than for the shorter one.

Mr GLYNN

- I have some notes explaining the reason, but I will not read them now. The commission could not interfere with them, because they are reductions due to the fact that the shipping companies think it more economical to have direct carriage between certain ports than carriage involving transhipments between the ports. There are two handlings of the goods in one case, and only one in the other. There is nothing unjust in the system, and nothing in it with which the commission should be asked to interfere. I thank honorable members for their patient hearing of my remarks, which in the circumstances have been necessarily somewhat discursive. In committee I shall endeavour to limit the powers of the commission, at all events to the measure given in the United States, and to prevent interference with private carriers. I hope the suggestion which I have made, that we should endeavour to induce the States to come to an amicable arrangement to put an end to these special rates, will be carried out. The honorable and learned member for Bendigo has circulated an amendment to postpone the operation of this Bill for six months, with a view of enabling the Government to call the attention of the States to the powers of the Federation. That amendment, I think, should be adopted. The States themselves could arrive at an agreement, which would not only put an end to differential rates, but save us from the expense of this tribunal and from unnecessary machinery, which would prove harassing. The simpler our machinery is the better, and a thing that is proved to be unnecessary should not be created.

Mr. HIGGINS(Northern Melbourne).I think we are indebted to the honorable and learned member for South Australia, Mr. Glynn, for the industry he has shown, and the useful criticism of this measure which he has given us. I confess, for myself, that upon hearing it announced that this Bill was before the House, I could not have produced my notes on the spur of the moment in such a ready form, and in such an interesting way as the honorable and learned member has done. I may say that I have watched this measure with a good deal of interest. It contains two parts : one as to the creation of the InterState Commission; the other as to the regulation of rates. They are two very different matters. They are connected, but still they may be dealt with quite differently. I do not agree with the honorable and learned member's view that the less Government interference the better. I am inclined rather to think that where we can secure a central influence upon our affairs usefully, we ought to apply it in the interests of the public.

Mr Glynn
- Where necessary.
Mr HIGGINS
- I do not take the view adopted by the honorable and learned member that Government regulation is to be deprecated.
Mr Glynn
- It should be deprecated only where it is unnecessary.
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Mr HIGGINS
- I go with the honorable and learned member so far as to say that there is nothing so likely to make the people hate Government interference or to put back the hand of the clock with regard to Government control as ill-advised or unnecessary Government control - Government control which has not been well thought out and which the people do not require. I feel strongly that there is no need for the immediate creation of this court. I am aware that the Constitution provides that there shall be an Inter-State Commission, but fortunately it does not say that it shall be appointed within a particular time. I do not know how other honorable members find the current of .public opinion, but my experience is that in the present stage of transition there is a great . deal of uneasiness with regard to the finances of the different States. If it be possible to allay that uneasiness, to assuage that anxiety, and to postpone the creation of an expensive tribunal such as is here contemplated, I think that we ought to do it. I admit that if we could not get on without an Inter-State Commission we should be bound to create it. But I think we can. I venture to say that if this InterState commission is created it will be found to have little or no work to do for many years.
Mr Poynton
- If the States are robbed of legitimate revenue as they are now by the cut-throat system of rates, will not such a tribunal be necessary 1
Mr HIGGINS
- That is just the point to which I was coming. I want to say first, however, that it is not obligatory to create this commission within one or two years. If the House thinks it is not essential to create this expensive court at once, that its establishment should be postponed until the ship of State has steadied itself a bit, and until people know where they are and where the finances are, there is nothing to prevent us deferring legislative action. I am willing to submit to a great many inconveniences at this stage of our national life, in order that we may give the public, and the State Treasurers an opportunity of seeing where they stand. There are railway rates, I admit, which are cutting rates, and which are most injurious to the public interest. Most of these injurious rates could not be touched by the Inter-State Commission at all. If people have to pay a lower rate for cargo from Sydney to Rockhampton than from Sydney to Brisbane, I say, without any hesitation, that that rate cannot be touched by the Inter-State Commission. I say, further, that if there is a lower rate for traffic from Sydney to Hay than obtains from Sydney to Cootamundra, which is the shorter distance, that long haulage rate cannot be touched in the slightest degree. It was intended to be touched, but it is not touched. There is no doubt that the railways are the chief carriers in Australia. If one looks at section 102 of the Constitution, it will be found that the only rates which can be prohibited upon the railways are what are called " preferences, " or " discriminations." If I charge all persons the same rate for all goods between the same termini there is no preference and no discrimination, but there is a preference or discrimination if I charge men a different rate, according to the place from which they bring their goods. I will give honorable members an instance or two, as it is always best to put a concrete case. Upon our Victorian railways for example, it has been the practice to charge £4 7s. lOd. per ton for the carriage of goods from Melbourne to Echuca. What is the corresponding rate for the same goods from Melbourne to Echuca, if these goods are intended to go to Bourke or Nyngan ? It is £1 2s. Gd. per ton. That is a preferential rate indeed.
Mr Poynton
- Can that exist under our Constitution ?
Mr HIGGINS
- I admit that that preferential rate can be touched under the Constitution.
Mr Deakin

- By the Inter-State Commission.
Mr HIGGINS
- Yes. It prefers the goods or the people of one district to the goods or people of another district. But that is the only sort of rate that can be touched by this commission.
Sir John Quick
- The rate must be " unjust " or " unreasonable."
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Mr HIGGINS
- It must give a preference or discrimination first of all. I think that sort of thing would be regarded as unjust or unreasonable. Concerning the differential rates, the position is very different. Supposing, for example, that in order to attract trade to and from Sydney and Moama or Albury, there was a low rate charged for the long haul. That would not be discrimination or preference at all because all persons who went to the same station would be treated alike, and the same rate would be applicable to the goods. Unfortunately, therefore, in section 102 of the Constitution there is no power to interfere with differential rates.
Mr Crouch
- Would not section 98 cover it.
Mr HIGGINS
- I do not think it would. If one reads section 102 one finds that it is specific with regard to the railways, and it would be meaningless if we were to apply any general power to it for the regulation of trade and commerce. There was a tremendous amount of debate in the convention with regard to the development of territory, and as to financial responsibilities - debate upon quite a subsidiary and minor matter. I did my best to point out that preferences or discriminations would not cover differential rates.
Sir John Quick
- Would not a less rate for a longer distance constitute a discrimination, based upon distance ?
Mr HIGGINS
- I have looked at the adjudications concerning this matter in the American courts. There, they do not treat as discrimination a low rate for a long haul. We must give advantages to the dwellers in the back blocks, if they are to be the producers of goods. The result is that in America they have two distinct terms. They speak of a " low rate " for a long haul as a differential rate, and of a rate which is different according to a source or the distinction. So the rate from Melbourne to Bourke would be regarded as a preferential rate, because it prefers the Bourke producer to the Echuca producer. It prefers goods travelling to Bourke to those travelling to Echuca and stopping there. These preferential rates, however, cannot be treated as such, so as to be interfered with, unless the Inter-State Commission adjudicate that they are preferential and unjust. This is the only argument in favour of the creation of the InterState Commission. I do not know what has happened since October the 8th, which was the date upon which Inter-State free-trade was supposed to have been established.
Mr Piesse
- Within the meaning of the Constitution ?
Mr HIGGINS
- It is treated as that, though I think wrongly. I have been watching for any evidence that the railway authorities are still keeping up the preferences and discriminations to which I have referred.
Mr Poynton
- They have made it rather worse than better.
Mr HIGGINS
- But the honorable member is speaking of the rates which are differential and not preferential.
Mr Poynton
- Yes.
Mr HIGGINS
- Seeing that the railways are under the State authorities, I doubt very much whether these preferences and discriminations will be continued in violation of the Constitution. If we find evidence that they are being continued-
Mr JOSEPH COOK

- It is very questionable now whether there are any preferences which would come under the jurisdiction of this court.
Mr HIGGINS
- But supposing it is found that, notwithstanding the provisions of the Constitution, the States are still maintaining these preferences and discriminations, it will be easy to appoint three railway commissioners, who in half-an-hour's sitting could put the matter right.
Mr Poynton
- Would the honorable and learned member say that a rate from Serviceton to Dimboola, which was less than the rate from Dimboola to Serviceton for the same class of goods, was a preferential rate?
Mr.HIGGINS.- It would all depend upon circumstances. It would depend upon where the goods were going ultimately, and upon what was the motive. In the case stated by the honorable member the goods are probably intended to go beyond Serviceton. Are the goods meant to go beyond Dimboola? We cannot answer a question of that sort without knowing all the factors, and as to what is the final goal of the goods. I should call it a preferential rate if one man were charged a lower rate than another for sending an exactly similar kind of package from Servicetown to Dimboola.
Mr Poynton
- That does not occur.
Mr HIGGINS
- I am citing an extreme case. Of course, I know that a number of honorable members have their minds full of the evil which is being done by differential rates, and I, who also had my mind filled with it, deplore that there is no remedy until the Constitution is altered.
Mr Poynton
- The geographical situation is of no advantage to a State ?
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Mr HIGGINS
- I would not go so far as to say that, but, at all events, geographical advantage is largely discounted by railway rates. This is a very important matter for South Australia as well as for Victoria, but so far I am inclined to agree with the honorable and learned member for South Australia, Mr. Glynn, that we ought not to hasten in appointing this Inter-State Commission. I see that the Treasurer in his estimates conceives that the salary of each of the commissioners will be £2,500 or £3,000 a year, the total provision under this head being either £7,500 or £9,000.
Mr Wilks
- Then there will be a staff to provide for.
Mr HIGGINS
- No doubt there will be a big staff of officials, and a building will have to be provided, in which to deposit the archives. I am sorry that this InterState Commission has been adopted in imitation of the United States' example. This is one of the evils of the spirit of pedantry which has haunted the making of our Constitution from first to last. We found that there was an Inter-State Commission in the United States, and, therefore, as we were forming a federation, we must have an Inter-State Commission in Australia. The circumstances in the two countries are altogether different. In the United States they had to deal with very grave conditions. There were private railways, infinitely ramified, which had to be kept in some sort of control for the public interest, whereas in Australia we have State railways and practically no others. In the United States they have magnificent rivers like the Mississippi, while here we have no Inter-State rivers worth speaking of for the purposes of navigation. The only river of the kind is the Murray, with its tributaries, and they are dry half the year. The unfortunate thing is that we have foisted on Australia an Inter-State Commission, which, so far as I can see, is not at all essential. I should much prefer to see our railways and our rivers under national control.
Mr Poynton
- Pass this Bill, and we will soon see the necessity for national control.
Mr HIGGINS
- I can see the necessity whether this Bill passes or not. The public mind is ripening to the feeling that we have hedged round the Federal Parliament's powers too rigidly. There is no doubt that there are several matters which experience will show can be much better dealt with in a national spirit by a national

Parliament It may be asked - " Who is to look after the enforcement of the section of the Constitution which provides that there shall be free-trade between the States?" We are supposed at the present moment, and I hope it is true, to have free-trade between the States, and if any authority, say in Victoria, attempted by means of wharfage regulations, for instance, to prevent New South Wales goods from coming in, the attempt would be illegal. Section 92 of the Constitution provides -
On the imposition of uniform duties of Customs, trade and intercourse among the States, whether by means of internal carriage or ocean navigation, shall be absolutely free.
Mr Kennedy
- The honorable and learned member would not have said the intercourse was free, had he been on the Victorian and New South Wales border during this last fortnight.
Mr HIGGINS
- I expect there has been friction ; but I would point out that any such infringement of the Constitution can be dealt with in the ordinary courts. There is nothing in that section of the Constitution which I have quoted to oblige us to await the decision of any Inter-State Commission. If a man be charged an unrighteous wharf age rate with the object of discouraging his goods from coming over the border, he can find a remedy in the courts of the State.
Mr Poynton
- Would that not operate against a railway rate as between one State and another?
Mr HIGGINS
- A railway rate of the character to which the honorable member refers as a preferential rate is not an interference with free-trade ; indeed, it rather encourages trade to come across the border.
Mr Poynton
- It interferes with the way in which a man wishes to send his trade.
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Mr HIGGINS
- It may do that, but freedom of trade between the States is a matter which can be dealt with by the ordinary courts. The only matter in which an Inter-State Commission is essential is that of preferences and discriminations. In the United States there have from time to time been actions brought by people who have been charged wrongly, and who have recovered the amounts thus paid ; and I see no reason why we should not get on well enough without an Inter-State Commission in Australia. It may be urged that it is not fair to impose on a private person the expense of proving that there has been an infringement of the Constitution. No doubt that is so, but if we had an InterState Commission, the same thing would occur, because the commission is a court of record, and it will not move until it is put in motion. We shall have litigants appearing before this new kind of court with all the attendant expense, and I see there is provision for lawyers appearing.
Mr Deakin
- There is also a provision that the Inter-State Commission may be moved by public bodies.
Mr HIGGINS
- I admit that. In addition to litigation by private persons, we shall have litigation by public bodies, and I think that is a distinct advantage. All the clauses of the Bill show that the idea is to have the commission regarded as a court in all respects. Clause 23 provides that, if there be any objection to a rate charged, the objection must be put into writing and submitted to the commissioners, and by clause 24 the commission is made a court of record. By subsequent clauses the commission is given jurisdiction to hear and determine complaints and disputes, and we see that a State, the Commonwealth, a borough, or any other public body may bring matters before the court. All this shows that the commission has to be moved by some one ; and we could not expect three men, who have to deal with all Australia, to devote their whole time to fossicking out grounds of complaint throughout the Commonwealth. If they have any work at all, they will have quite enough to do to hear and determine the cases brought before them. I see that clause 32 actually incorporates, in connexion with the commission, some of the sections of the Supreme Court Act. Clause 33 gives the commission power to award damages, and by clause 39 an order made by the commissioners may be made a rule of court. What I desire to point out is that the two chief matters with which an Inter-State Commission could deal can be practically dealt with without a commission. These matters are free-trade as between the States, and preferences and discriminations. The question

of free-trade can be dealt with by the ordinary courts, and preferences and discriminations will, I have no doubt, so far as regards railways, be adjusted by the Railways Commissioners. If the commissioners do not put the matter right, all we need do is to appoint three Railway Commissioners as an Inter-State Commission, and increase their salaries to a small extent, when I have no doubt that they will find an hour or half-an-hour's sitting per month quite enough for the work. I do not propose to go into the details of the clauses on the second reading. I see, however, an attempt to drag the differential rates under the control of the commission, just as if we could add to the Constitution. If we look at clause 15, we see it provided that all rates fixed by a common carrier for service rendered in respect of external or Inter-State commerce must be reasonable and just, and " every such rate which is unreasonable or unjust is hereby prohibited. In clause 21, which may be described as containing the long haulage provisions, we have a most interesting instance of the way in which the framers of this Bill have been puzzled how to provide that the differential rates should be treated as if they were preferential.

Mr Deakin

- Not all.

Mr HIGGINS

- Not all, but some of the most obnoxious of them. Of course we cannot by a declaratory Act extend the operations of the Constitution, and if the Constitution says that we must leave differential rates alone, clause 21 cannot make differential rates invalid by stating that where a smaller charge is made for a long haul than for a short one, it should be primâ facie evidence of undue preference. I think that in almost every respect the Bill is right so far as it limits the legislation to InterState commerce.

Mr JOSEPH COOK

- Only it is not wanted at all.

Mr HIGGINS

- It is not wanted, I think. I see that clause 28 provides that any complaint, dispute, question, or difference whatever to which a common carrier engaged in external or Inter-State commerce is a party ; or relating to external or Inter-State commerce; or between the Commonwealth and a State as to the carriage or conveyance of mails upon the railways of a State, or the transmission of telegraphic or telephonic messages within or through the State may be referred to the commission for decision.

Mr Deakin

- That can only be done on the application of both parties, and with the consent of the commission.

Mr HIGGINS

- Then the commission will act as a kind of voluntary arbitration board.

Mr Deakin

- Yes.

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Mr HIGGINS

- There is no great objection to that, although this is the only instance in which the Inter-State character of this commission has been forgotten. With regard to the proposed regulation of the rates charged by water carriers and others, , I wish it to be clearly understood that I do not sympathize in the slightest with the cry against Government regulation, where it seems to he wise ; and where it seems to be justified by experience. The more we can secure the public interest under the control of Parliament the better, but I would deprecate any sudden invasion of the domain of private enterprise in cases where there are no real complaints. To rush in and interfere with industries which are fairly well carried on before we know whether we can make them better, would be calculated to bring our legislation into contempt. I find a provision in clause 44 requiring that all common carriers who are engaged in external or Inter-State commerce may be called on to furnish reports showing in detail such information as the commission may require, in relation to- -

The earnings and receipts from each branch of business and from all sources, the working and other expenses, the balances of profit and loss, and the financial operations of the carrier each year.

Rates or regulations concerning fares or freights, or agreements arrangements or contracts with other common carriers or with any person.

The amount of capital invested in the business, the dividends paid, the surplus fund if any, the funded or other debts, and the interest paid thereon, the cost and value of the carriers' property franchise and

equipment, the number and salaries of employes, and any other matter pertaining to the business. I apprehend that that extends to all common carriers, including every carter trading between Wodonga and Albury, and every lighter-man. Any carter who takes goods from Wodonga to Albury may be "bailed up" and asked for all these particulars.

Mr Deakin

- That is only if they are required. The burden is not placed upon everybody.

Mr HIGGINS

- But, according to the clause, if a report is required from one, it must be required from all.

Mr Deakin

- Only from all those engaged in the same business.

Mr HIGGINS

- Even though it is intended to exercise the power only in certain cases, it seems to me that a great deal is asked for, and I am not sure if the community is ready for any such power being taken yet. If unfair charges were being levied in any particular case, and evidence were produced to that effect, I would not scruple to give the power required, but I prefer to wait until necessity arises. The provision in clause 45 to the effect that the commission shall make a report to Parliament is of no great importance. Clause 46 provides that there shall be a publication of rates, and that no advance shall be made in any rates except after ten days public notice I would ask whether that is advisable, having regard to our circumstances? I have received a communication from some people who are interested in the Murray trade.

Mr Deakin

- That case needs to be met, and the clause will require to be amended.

Mr HIGGINS

- I am very glad to hear that the matter has come under the notice of the Attorney-General. I understand that, owing to the peculiar nature of the river, changes in the rates have to be made at very short notice when freshest come and permit of navigation and the transit of goods to a limited extent. If a river carrier finds that a freshet in the river will permit of his sending one boat instead of perhaps three, he has to charge special rates, and to take advantage of every moment of time that the river is navigable. I have very grave doubt as to whether clause 54 is in accordance with the Constitution, in so far as it proposes to enable the commission to exercise its power through one commissioner. The Constitution provides that the commission may do certain things, but I do not think that any Act we may pass would enable any one commissioner to perform the functions of the commission as a whole. I doubt also whether clause 41, which provides for appeals, is constitutional. In sub-section (4) power is given to the High Court to make any order that the commission might have made. Clause 35 also contains a provision which I think very objectionable. It provides that every finding of fact made by the commission in respect of any complaint shall, in any other complaint before the commission, be evidence of each and every fact found. This would leave the way open for gross abuses, and would permit of an intending litigant bringing a fictitious action against himself for the purpose of establishing certain facts in view of action being subsequently brought by or against another party.

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Mr Deakin

- What is intended is that, where evidence has been taken in proof of certain facts as to any rates,, for instance, it should not be necessary .to prove the same facts over again in a subsequent case of. a similar nature. The power may be too wide, but that is the intention.

Mr HIGGINS

- That to a very large extent removes my objection. If the Government can see its way to have the Bill postponed for a little, I think it will be wise for them to defer its consideration. I have been asked by some persons if I would vote for the second reading of the Bill "this day six months," but I do not feel free as a supporter of the Ministry to join in any action of that sort. At the same time, considering the urgent and grave business now before Parliament, I think this Bill might be put very low down on the business paper. The Ministry arc not in the least to be blamed for having brought the Bill forward, because it formed a part of the programme which was , announced by the Prime Minister at Maitland. But I think there ore other measures which must be pushed forward in preference to this Bill. The honorable and learned member for Bendigo has moved an amendment which provides that the Bill shall come into force as soon as the

Governor-General in Council makes a proclamation, but I think that would be giving too much power under the circumstances. I hope that Ministers will allow the Bill to stand in abeyance for the present, so that we may have further time for deliberation before committing the country to the great expense that will be involved in the carrying out of the provisions of the measure. I am anxious to avoid incurring any unnecessary expense at this time, when our financial requirements can only be met by the exercise of the strictest economy.

Mr WILKS

-I would ask the Attorney-General to consent to the adjournment of the debate. This is a very important measure, far-reaching in its effects; and amendments - which I am pleased to see - have been circulated, which require some consideration. I move -

That the debate be now adjourned.

Attorney-General.

Mr DEAKIN

- I feel not only that the measure is one of great importance, but that it demands the most careful consideration, and that honorable members were scarcely as well prepared for its consideration to-night as they might otherwise have been. It was anticipated that the other two Bills which have been disposed of would have occupied the attention of the House for a longer period. In the circumstances I shall not ask the House to proceed further to-night. I may state that we propose to proceed with this measure to-morrow. There are reasons why it should be placed upon the statute-book in some form or other before the session closes.

Motion agreed to. Debate adjourned.

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22:31:00

House adjourned at 10.31 p.m.