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1901-08-21

House of Representatives.

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

PETITIONS

Mr. KENNEDY presented petitions from residents of Goorambat attending the Wesleyan Church, from residents of Benalla attending the Methodist Church, and from residents of Nathalia, praying the House to pass clauses 54 and 55 of the Post and Telegraph Bill.

Mr. CROUCH presented similar petitions from adherents of the Primitive Methodist Church, Chilwell, Geelong; of the Wesleyan Church, Werribee; of the Primitive Methodist Church, Leopold; of the Free Presbyterian Church, Geelong; and of the Primitive Methodist Church, Pakingtonstreet, Geelong West.

Mr. RONALD, for Mr. Higgins, presented similar petitions from the adherents of the Presbyterian Church, North Fitzroy; from the Bible Christian Church, Fitzroy and Collingwood; and from residents of Parkville and Royal Park.

Mr. KNOX presented similar petitions from adherents of the Kew Independent Church; from residents of Armadale and Malvern; and from adherents of the Prahran Presbyterian Church.

Mr. CHANTER presented a similar petition from residents of Tatalia.

Sir JOHN QUICK, for Mr. Isaacs, presented similar petitions from residents attending the Wesleyan Church, Bright; and from residents of Wandiligong.

Mr. McCOLL presented similar petitions from residents of Echuca and from residents of Turrumbarry.

Petitions received.

Mr Watkins

- I should like to know from you, Mr. Speaker, if it is strictly in order for one honorable member to present three or four petitions at the one time?

Mr SPEAKER

- If other honorable members wish to present petitions, it is not strictly in order for any honorable member to present more than one at a time; but, as honorable members have been presenting a number of similar petitions, I have allowed several to be presented at once, because of the great saving of the time of the House which the practice entails.

QUESTIONS

IMMIGRATION OF EUROPEANS

Mr REID

asked the Prime Minister, upon notice -

Whether he has any objection to state, for the information of the House, the number of persons of each European nationality who have arrived in the Commonwealth from places beyond the seas during the past three years, giving each year separately.

Minister for External Affairs

Mr BARTON

- I am endeavouring to obtain this information, and will lay it before this House as soon as I am able to do so.

RESUMPTION OF PROCEEDINGS ON BILLS

Mr SALMON

in asking the Prime Minister, upon notice -

Whether, in view of the state of the notice paper, he will consider the propriety of introducing a standing order which will provide that any Bill which has passed its second reading, but has not been finally dealt with during the session, may be taken up in the next session at the stage which it reached in its first session -

I would point out that the Legislative Assembly of Victoria has passed a similar standing order, and that it has been found to have good results.

Mr BARTON

- I will suggest to the Standing Orders Committee the preparation of standing orders on this subject. In two at least of the State rules of this kind have been found to work with advantage.

UNIFORM COPYRIGHT ACT

Mr WILKINSON

asked the Prime Minister, upon notice -

Whether the Government will consider the advisableness of legislating in the direction of an uniform Copyright Act, with a view to providing greater protection to authors, dramatists, and musical composers against the piracy of their plays or works

Whether, in any proposed legislation, a provision will be included making such piracy an offence punishable by imprisonment, with or without the option of a fine.

Mr BARTON

-The matters embraced in these questions are under consideration, and I expect that a Government measure will be introduced next session.

UNIFORM OF MESSENGERS

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Mr PAGE

asked the Prime Minister, upon notice - .

Whether his attention has been drawn to a paragraph which appeared in one of the Melbourne morning newspapers with reference to the proposed uniforms of the messengers of the House of Representatives.

Mr BARTON

- I have been furnished with the following information -

This matter is at present under consideration by the 'House Committee.

POST AND TELEGRAPH BILL

In Committee(consideration resumed from August 20, vide page 3931) :

Clause 27- (1.) The proprietor, printer, or publisher of any newspaper may at such time and in such form and with such particulars as may be prescribed, upon payment of a fee of Five shillings, register it at the General Post-office of any State, and the Deputy Postmaster-General of such State may from time to time revise the register and remove therefrom any publication, a posted copy of which contains seditious, blasphemous, indecent, or obscene matter, or which by reason of the proportion of advertisements to other matter therein, or for any other reason is not within the description aforesaid, and any publication for the time being on the register shall for the purposes of this Act be deemed a registered newspaper. (2.) No publication which after the expiration of one month from the commencement of this Act is tendered for transmission at any post-office in the Commonwealth shall be sent by post as a newspaper unless the provisions of this section have been complied with. (3.) Any Deputy Postmaster-General may refuse to transmit or deliver any publication containing seditious, blasphemous, indecent, or obscene matter. (4.) Any posted newspaper found to contain seditious, blasphemous, indecent, or obscene matter may be destroyed by order of the Postmaster-General. (5.) No action shall be brought against the Postmaster-General or any officer of the department for anything done under the provisions of this section, but any person aggrieved by anything done by the Postmaster-General or a Deputy Postmaster-General under this section may appeal to a Justice of the High Court or, until the establishment of such court, to a Judge of a Supreme Court of a State by summons or petition in a summary manner, and the decision of such Justice or Judge shall be final. (6.) All unregistered or irregularly posted newspapers and all newspapers having any matter which is not a supplement accompanying them, shall be treated as packets.

Upon which Mr. Mahon had moved by way of amendment -

That the following words be added to subclause (3) - " Provided that no publication shall be deemed to contain seditious, blasphemous, indecent, or obscene matter, unless such matter shall be so adjudged by a Justice of the High Court, or, until the establishment of such court, by a Judge of a Supreme Court, to whom the Postmaster-General or a Deputy Postmaster-General may apply by summons or petition in a summary manner, and whose decision shall be final."

Mr WATSON

- The Prime Minister indicated last night that he would be prepared to-day to make a statement as to the intentions of the Government with regard to any possible amendment of the clause, and I had hoped that he would have been ready with that statement now. I think that the committee, while agreeing generally that any newspaper or other publication containing obscene or indecent advertisements or other objectionable matter should be prevented from going through the post, will recognise that the

Government propose to go further in this regard than the legislation of any of the States goes.

Mr Mahon

- Except that of Queensland.

Mr WATSON

- Does it apply to blasphemous and seditious literature ?

Mr Mahon

- I think so.

Mr WATSON

- The instances cited last night by the Prime Minister had application only to publications containing obscene and indecent matter, and I do not think there will be two opinions as to the procedure which should be adopted in regard to literature of that sort. But the question, what is seditious or blasphemous matter, is capable of such widely different answers that it seems to me improper to leave its determination to the Postmaster-General. A great deal may be urged against allowing a non-political officer to decide that matter, and, whatever may be so urged, applies with tenfold force against allowing an active politician to have the power. We can understand how the interpretation of blasphemy and sedition might be stretched in its application to a newspaper which happened to be obnoxious to persons in power. I think that the question should be remitted for decision to a judicial authority. It is a proper thing to provide that the courts shall have power to prevent the dissemination of blasphemous and seditious literature by means of the Post-office, and to punish those who are guilty of attempting to corrupt the public mind by publishing it.

Mr JOSEPH COOK

- Would the honorable member give the courts the same power in regard to letters ?

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Mr WATSON

- We are not now dealing with clauses 54 and 55, but I have paired in favour of those clauses.

Mr Conroy

- Is there any harm done where the matter objected to is contained in closed envelopes' ?

Mr WATSON

- The question is open to argument.

Mr Conroy

- Would the honorable member allow the postal authorities to open letters to find out whether they contained matter which was objectionable ?

Mr WATSON

- I am not going to discuss the provisions which the honorable member has in mind; but when letters are addressed to a well-known sweep promoter, we have prima facie evidence of their contents. I quite appreciate the point put forward by the Prime Minister with respect to the necessity of insuring against the removal of newspapers from the register without proper cause being shown. I think that is one safeguard, but the amendment of the honorable member for Coolgardie was placed at the end of sub-clause (3) with a view to covering all the proceedings enumerated prior to that in the clause. I do not say that it attains that object, but that is the view with which it was placed so far on in the clause. I am prepared to admit that it might be advisable under some circumstances, especially with regard to obscene or indecent matter, to stop a paper from being sent through the post pending judicial inquiry, but there should be a distinction between sedition and blasphemy on the one hand, and indecency and obscenity on the other. The latter class of offences are capable of clear and ready interpretation, but with regard to sedition and blasphemy that is not the case, and I would like to see distinct sets of regulations or clauses dealing with these two classes of matters. If the Government cannot see their way to alter the clause, so as to at least take out of the hands of a political officer, such as the Postmaster-General, the power to deal with newspapers that might be criticising and making themselves offensive to the Ministry of the day, I shall be reluctantly compelled to vote for some amendment that will have that effect.

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Mr CROUCH

- I should like to see all reference to sedition and blasphemy eliminated from the clause. The Prime Minister said last evening that any man who did not know what sedition was would have to acknowledge

himself a fool, but I must admit that I do not know what sedition is. I have looked up the dictionary for the meaning of the word and I find that sedition means "an attempt to upset the Government." According to that I suppose the leader of the Opposition is constantly guilty of seditious conduct. I understand that there is a different meaning from that, and that the word used in another sense means "an attempt to bring about a revolution." It would be possible here, as it has been in the House of Commons, to bring in a resolution in favour of republicanism, if any one were sufficiently ill-advised to do so. Such a motion was in fact brought before the House of Commons, and it was not regarded as seditious. It was considered to be perfectly constitutional there, and it would be perfectly constitutional here, and if that is not sedition, according to the dictionary meaning, I do not know what sedition is. At no time have the powers with reference to seditious or blasphemous matter been exercised in connexion with the Post-office, and I think it would be a great mistake for us to confer powers which are doubtful or quite obsolete. The Prime Minister was rather doubtful as to what blasphemy consisted of, but I remember reading something which perhaps might throw some light on the matter. In March, 1883, the secretary to the society for the suppression of blasphemous literature, wrote to the London Times and other papers, and amongst other things said -

We propose to get up cases, as our funds will allow, against Professor Huxley, Dr. Tyndall, Herbert Spencer, Swinburne, the author of Supernatural Religion, the publishers of Mill's works, the publishers of Strauss's works, Leslie Stephen, John Morley, the editor of the Jewish World, Dr. Martineau, and others, who by their writings have sown widespread unbelief, and in some cases rank atheism, in cultivated families

It seems an outrage that the writings of such men as those named should be labelled as blasphemous, and yet if we were to go back and look up the history of blasphemy laws, we should find that still more outrageous things have been done. I think that, as the Government have always been content to allow these laws to remain a dead letter, we ought not to revive them by inserting any provisions as to blasphemy and sedition in this Bill. I am sure that the Government themselves would not have a sufficient amount of bigotry or savagery to attempt to convict any man of blasphemy, considering that they are very doubtful as to what blasphemy consists of, and considering further that what is sometimes regarded as blasphemy is really the expression of a man's honest convictions against the conventional religion of the times.

Sir WILLIAM MCMILLAN

- Although I am opposed to clause 55, which deals with letters, I think there is a great difference between newspapers and letters, and I quite agree that any matter that offends the public conscience, such as obscenity and that sort of thing, should not be carried by the postal authorities. A newspaper is a special package which is sent through the post under favorable circumstances. It is open at both ends, and is conveyed under special conditions as to cost, which, perhaps, do not remunerate the Post-office, but which are intended to promote the spread of decent literature. In making these remarks, I wish to indicate clearly my position in relation to the course I shall take with reference to clause 55, because I consider there is no analogy between newspapers and letters. I quite agree that there is no use in including in this Bill anything that it would take all the lawyers of Australia to decide, and leave us in the end knowing no more than we do now. Sedition is a thing which it is almost impossible to define - what is sedition to - "It may be gospel to-morrow - and I think that all reference to sedition might very well be omitted from the Bill. As I have said in connexion with previous Bills, we are now passing legislation for all time to come, and it will be very easy if some of the evils that are feared become rampant, to deal with them effectively in the future. In the meantime, our legislation ought to be based on common-sense principles, and therefore I think it would be better if we simply provided that the Postmaster-General should have the right to stop anything from passing through the post that would "Obviously offend the public conscience of a Christian people.

Sir EDWARD BRADDON

- I think the powers proposed to be conferred upon the Postmaster-General and Deputy Postmaster-General by this clause are such as it would be very unwise for this committee to intrust them with. I am just as anxious as any one that our post-office should not be converted into a sewer by which filth may be conveyed to the people, to the demoralization of the subjects of the Commonwealth; but at the same time I desire to see our newspapers left free to canvass public questions in the fullest possible

way, stopping short only at that point where criticism falls into anything that is likely to offend the public morality. If we look at the English Act, we shall find that there is no power whatever given to the Postmaster-General to stop newspapers or interfere with them in respect to any blasphemous or seditious matter, and that as to those matters in which the Postmaster-General of England can interfere, he has to do it with the sanction of the Government. Under the laws of the different States we have no provision whatever which empowers the Postmaster-General or any one else to deal with seditious matter, and yet our laws have worked very well. I am not aware that any newspapers have been found guilty of propagating matter which might be regarded as seditious, even by the most hyper-critical. I would like to know who is to pronounce what is sedition - who is qualified to give a decision upon an important point of this sort save the most learned members of the legal profession ? How is the construction of this term, so difficult to define, to be intrusted to a political Minister possibly entirely untrained in the law, and who has within the Commonwealth absolutely no tradition or previous experience to guide him?

Mr BARTON

- Would the right honorable member point out who else could decide, and, if the honorable member cannot find any one else - to decide, does he think that seditious or blasphemous matter should be allowed to go through the post ?

Sir EDWARD BRADDON

- I think it should be left to an act of State, to be decided upon by a Supreme Court Judge.

Mr Barton

- A Supreme Court Judge has nothing whatever to do with acts of State.

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Sir EDWARD BRADDON

- But Ministers might be guided by a Supreme Court Judge. However, it would not be difficult for the Ministry, acting as such, on their own initiative, and bearing the full responsibility, to stop seditious matter from passing through the channels of the Post-office without any enactment on 'our statute-book, which might be subject to the most gross misuse and applied to improper purposes. As to the question of blasphemy, I would like to ask whether every Deputy Postmaster-General, or the Postmaster-General himself, is to be regarded as qualified to say what is blasphemy ? What is blasphemous to the mind of one man might be quite the other thing in another man's opinion. It is within my own experience that a magistrate - a man of some culture - construed the term " bloody " as blasphemous. It is really almost a prayerful expression, derived, as we all know, from " by our lady." I think that we might very well retain our legislation on the old and well-travelled lines, with which we are familiar, and not hazard a dangerous experiment such as is proposed under this Bill. The purpose of the Government to prevent the Post-office from becoming a channel for impure literature can be thoroughly attained without the inclusion of the words " blasphemous " and " seditious." I propose to move that those words be struck out.

Amendment, by leave, withdrawn.

Amendment (by Sir Edward Braddon) proposed -

That the words "seditions, blasphemous," subclause (1), be omitted.

Mr O'MALLEY

- I am very pleased to see that the right honorable member for Tasmania has moved on this question. It seems to me that we have had trouble enough without giving any one or any small number of men the right to interfere with the freedom of the people. I know for a certainty that if they had had such a power as this in Tasmania at the time of the federal elections my message would have been called blasphemous and seditious, yet the people of that State indorsed it by an enormous majority. Supposing a newspaper here wrote in favour of a republic, that would be sedition.

Sir William McMillan

- It would depend on the Postmaster-General.

Mr O'MALLEY

- The Postmaster-General is generally one of those honorable gentlemen who are guided by Government House influence, and the ways the flowers bloom. I am not going to vote to give any one this power to abuse or restrict the rights of the people. I have suffered myself, and I know what it means. Can it be thought for a moment that a powerful journal would be suppressed under this clause ? Never ! It is always the little journal, rising up somewhere in a back street, and denouncing the infamy and tyranny of

usurpers, that gets kicked. . The big journals, it is said, would not do it. How often have we seen honorable members kicked and cuffed by newspapers, and yet not daring to say that their souls are their own.

Mr Barton

- But those newspapers do not publish blasphemous or seditious matter.

Mr O'MALLEY

- What is blasphemy? In Scotland a few years ago they hanged a boy because on a cold day he said that he wished he was in hell, in order that he might get hot. The amendment shall have my unyielding support.

Mr BROWN

- I am going to support the amendment. The history of the past shows that such powers as those in the clause have been used to the detriment of true liberty. I think that the more liberty we give to the printing press the better it will be for the advancement of the community. We know very well that what is regarded as seditious to-day may not be considered as such to-morrow. The clause enables the Postmaster-General or Deputy Postmaster-General to exercise autocratic powers in dealing with these matters. He can say whether a paper shall be registered or not, and, so far as I can see, there is no appeal from his decision. Not only would the clause affect the printers and publishers of newspapers, but a great number of our standard classical works could be objected to under it. The Bible itself, the keystone of Christianity, might be brought under this definition of blasphemy and sedition. I believe that these matters should be dealt with by the ordinary criminal process, and that we should not establish another censor in our midst in addition to our courts of justice. In the interests of true progress I am going to vote for the amendment.

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Mr WILKS

- The honorable member who has just sat down cannot be charged with disloyalty, but he is strongly against this provision in the clause. The amendment is worthy of our support, not merely because it is in the direction of progress -and liberty, but because it provides a safety valve such as that of a public meeting. Public meetings at Hyde Park, London, the Domain in Sydney, and the Yarra bank, Melbourne, are the safety valves of enlightened democracy, and if certain sections of the community are so weak in their loyalty and religion as to be affected by the passing through the post of what may be considered blasphemous or seditious matter, then we cannot say much for them.

The very strength of British authority is the right given to the people to freely express their opinions, how ever strong they may be. We do not want to confuse well directed democracy with misunderstood puritanical ideas. When we find that the right to disseminate seditious opinions by means of public speech has no evil effect, why should we fear the dissemination of such views by means of printed matter sent through the post? If we pass the clause as it stands we shall lead to the creation of secret political societies, and sedition will be likely to grow much more rapidly than it would if this restriction were removed. We have had experience of what may happen in the action of the ultra-loyal Premier of this State, who carried things to such an extent that his action did not meet with the approval of even the Imperial authorities.

Mr. RONALD(Southern Melbourne).I support the amendment for the simple reason that the terms " seditious " and " blasphemous " are purely relative, relative to the time and to the place in which they are used. We might in this House give a definition of what is blasphemy by saying that it is that state of feeling expressed on being aroused by the honorable members for Parramatta and Werriwa. It is purely relevant to the person using it. On the other hand, the terms " indecent " and "obscene" can be understood and decided upon by a jury, as being an offence against the moral sense which is visible and tangible. We can have no sedition unless there be the elements for creating a revolution, and no official should be allowed to decide what is blasphemous and seditious. That should be left entirely to a jury.

Mr G B EDWARDS

- I do not think that the remarks of the previous speaker are well founded. Whilst I admit that there may be a difficulty in defining " blasphemy " and " sedition," there is quite as much difficulty in laying down a definition of "indecent" and "obscenity." History affords numerous instances of the varying constructions which have been placed upon these terms. When I was previously resident in this State, I remember that

some individual wrote to the press complaining that the statues in the Fitzroy Gardens were indecent. In several periods of the world's history other things equally as innocent as those statues have been condemned and smashed because of their alleged indecency. I admit that the Government ought to have power to stop the circulation of literature partaking either of the nature of sedition, blasphemy, indecency, or obscenity, but I do not think that that object would be achieved by the adoption of the amendment proposed by the right honorable member for Tasmania, Sir Edward Braddon. That provision would only have the effect of stopping the circulation of -a newspaper containing such offensive matter after an application had been made to the Supreme Court, and an order had been granted to suppress it. Pending the issue of that order the obnoxious literature would have to be circulated. My own idea is that the best course to follow is to give the Postmaster-General the necessary power to deal with this matter, but at the same time to hedge round the exercise of that power with conditions that will safeguard popular liberty. In spite of what has been said as to the difficulty of defining the terms already referred to, I hold that there are publications which the whole House would admit to be blasphemous and indecent. The Government ought to have the power of intervention in such flagrant cases. But whilst I would allow the Postmaster-General the power to stop the circulation of any newspaper which he deems to contain seditious, blasphemous, indecent, or obscene matter, I would make him responsible for the exercise of that power. Sub-clause (5) does not provide an adequate remedy in this respect. If the Postmaster-General stopped the circulation of a newspaper upon a groundless charge that it contained sedition, blasphemy, or obscenity, and the proprietor of such publication suffered damage by the action of the Government, the injured individual should be in a position to recover the full amount of the damage sustained, together with costs. If such a provision were inserted the rights of the individual would be thoroughly safeguarded, and the Postmaster-General would think twice before running the risk of stopping the circulation of a newspaper without a sufficient justification.

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Mr KENNEDY

- I wish to point out that under sub-clause (5) the owner or publisher of a newspaper which has been prevented from passing through the post by the Postmaster-General can appeal to the court to determine whether such publication does contain seditious or blasphemous matter. Upon such an appeal, a decision may be entered in his favour, and yet he will have no redress against the Postal department. In my opinion that is an arbitrary power to place in the hands of any Minister.

Mr Barton

- I intend to move an amendment bearing upon that point.

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Mr KENNEDY

- Of course, if a remedy be provided for that defect, I may change my opinion, but in its present form I shall certainly vote for the -amendment of the honorable member for Tasmania, Sir Edward Braddon. I would also point out that varying decisions may from time to time be given as to what constitutes sedition or blasphemy. The proper course to adopt is to place the Government in a position to take action whenever they have reasonable cause for believing that a newspaper contains seditious or blasphemous matter, and to restrain by an injunction - if that were thought necessary - the circulation of that publication. Then a proper tribunal would define what constituted sedition or blasphemy. Under this clause, however, the onus is thrown upon the publisher to prove that he is not guilty of having published blasphemous or seditious literature, whereas he should be proved guilty of the offence before being penalized. Mr. WATKINS (Newcastle).- This is the first time in my experience when a proposition has been seriously put forward to punish a man for an offence without giving him a trial. After he has suffered injury he will under this provision be able to appeal to a Judge simply to establish his innocence. I do not think we should proceed in that way at all. A man is entitled to be tried before he is convicted. This clause will give to the Postmaster-General the power to temporarily suspend the circulation of a newspaper, and to throw the onus of proof upon the accused, which is not a proper thing to do. I agree with the amendment proposed by the right honorable member for Tasmania, Sir Edward Braddon, because there is a difficulty in defining what constitutes blasphemy and sedition.

Mr. BARTON(Hunter- Minister for External Affairs). - I intimated last night that the early portion of this clause seemed to be susceptible of an amendment in the direction of reducing the hardship that might

appear to be contained in it. Before I can propose all the amendments which I desire, to submit it will be necessary for the right honorable member for Tasmania,

Sir Edward Braddon, to temporarily withdraw his amendment, which comes in the middle of three which I wish to make. I desire to safeguard the provision in such a way that no harm can be anticipated from an official administering it, whilst paying some regard to the objection that has been voiced against a member of, any Ministry administering it. The power given is to some extent judicial, but yet it cannot be effectively exercised by any officer who is not an officer of the Postoffice. We cannot otherwise get that instant decision upon these matters which is necessary to prevent the pollution of a service which, after all, belongs to the Crown and the Government, whom the people control, and which must be effectively exercised, or not exercised at all. It will remain largely a question for this committee to say whether they intend to allow, even for a limited period, the Post-office to be a common sewer. I suggest that after the words "from time to time," in the first paragraph of the clause, we should insert "subject to appeal as hereinafter mentioned." In the next line the words "removed therefrom" should be omitted, and the words "may call upon the proprietor, printer, or publisher of" should be inserted in lieu thereof. Then at the end of sub-clause (1) I suggest adding the words "to show cause why such publication should not be removed from the register, and if sufficient cause be not shown he may remove it accordingly." That will still be subject to the appeal provided for by sub-clause (5). The idea is to save time in order that if any body in the result be injured by the decision arrived at, the injury may be as shortlived as possible. Assuming that the clause, in other respects stands as it is, I should be prepared to move to insert after the word "Judge," the words "who may award damages and costs to the appellant in his discretion." I do not mean to say that I adhere precisely to that form of words, because it is obvious that if the appellant be defeated he must be prepared to pay the costs himself. The officer, in dealing with a case, would have to consider two things, first, that there was a tribunal staring him in the face if he were wrong. Next there is, not the certainty, but the possibility that any unadvised or precipitate action on his part may entail serious consequences to himself. If the provision is inserted that the department may have to pay damages for any precipitate action it takes, we may be quite sure that any officer of the department, having a knowledge of that possibility, will be extremely careful how he exercises his powers. I wish, therefore, to surround the matter with the closest safeguards, so that the power may be exercised in a case in which its exercise appears to be absolutely necessary in the public interest, but in no other case. That it should be exercised in some resort is, I think, certain; but I feel confident that, apart from the controversies which we may have had on other subjects, I can call upon the public spirit, the loyalty, and decency of the committee to deal with this matter without reference to party considerations. It has been suggested that a difficulty is created by the appearance in the clause of the words "seditious" and "blasphemous." I would ask the right honorable member for Tasmania, if he intends to push his amendment to a division, that it may be put so that honorable members may have the choice of voting for the retention of one word and the rejection of the other. It will be of the greatest advantage to all concerned that the right honorable gentleman shall not embarrass those who are inclined to vote with him for the omission of one word by forcing them to vote for the omission of both or of neither.

Sir Edward Braddon

- I have no objection to taking the course which the right honorable gentleman suggests.

Mr BARTON

- With regard to the use of the words in the clause, I have taken the trouble to consult an authority upon this subject, which I think is unsurpassed in English Law - Sir Fitz-James Stephens' Digest of the Criminal Law. He has written a digest of the Criminal Law which could have taken its place as a code, but which is simply a declaration of the law as he understood it. I propose to read his definitions of the terms "sedition" and "blasphemy." In article 98 he says, with regard to sedition -

A seditious intention is an intention to bring into hatred or contempt or to excite disaffection against the person of Her Majesty, her heirs or successors, or the Government and Constitution of the United Kingdom as by law established, or either Houses of Parliament, or the administration of justice, or to excite Her Majesty's subjects to attempt, otherwise than by lawful means, the alteration of any matter in church or State by law established, or to incite any person to commit any crime in disturbance of the peace, or to raise discontent or disaffection amongst Her Majesty's subjects, or to promote feelings of ill-will and hostility between different classes of such subjects.

The limitation placed upon that definition is that seditious intention is not evidenced unless the means taken to express that intention are unlawful. There is a further limitation in the next paragraph -

An intention to show that Her Majesty has been misled or mistaken in her measures or to point out errors or defects in the Government or Constitution as by law established, with a view to their reformation, or to excite Her Majesty's subjects to attempt by lawful means the alteration of any matter in church or State by law established, or to point out, in order to their removal, matters which are producing, or have a tendency to produce, feelings of hatred and ill-will between classes of Her Majesty's subjects, is not a seditious intention.

So that everything that we regard as reasonable and constitutional is expressly excepted in that definition as forming no part of a seditious intention. The definition contains the opinion of perhaps as high an authority on the subject as I could quote, and it is supported by a number of leading authorities who are cited. I am reading these extracts, not because I thought at the outset that it would be necessary to do so, but because part of the discussion has turned upon the alleged difficulty of determining what is "seditious" and what is "blasphemous."

Sir Langdon Bonython

- Are the words in any existing Postal Act ?

Mr BARTON

- The words " seditious " and " blasphemous " are not to be found, I believe, in any State Act, though the words " obscene " and " indecent " are.

Mr Winter Cooke

- Blasphemy is provided against in the Victorian Act.

Mr BARTON

- That may be so, but, at any rate, there is not such a weight of State legislation for the restriction of blasphemy and sedition as for the restriction of indecency and obscenity.

Sir Edward Braddon

- The word "blasphemous " is not in the English Act.

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Mr BARTON

- That has been pointed out several times. With regard to the definition of blasphemy, Sir Fitz-James Stephen gives in his book two classes of definitions in parallel columns, and in a note he says - Mr. Starkie many years ago wrote , "A wilful intention to pervert, insult, and mislead others by means of licentious and contumelious abuse applied to sacred subjects, or by wilful misrepresentations, or artful sophistry, calculated to mislead the ignorant and unwary, is the criterion and test of guilt." This is the language of a man who means, but is reluctant to say plainly, "you may deny Christianity to be true, but you must do it in a decent way and with regard to the feelings of others." Lord Coleridge allows me to say that the left-hand side of the page correctly states the law laid down in the last trial which took place for blasphemy, of Regina v. Pooley, tried at the Bodmin Summer Assizes in 1837, before Coleridge, J. The case therein referred to was a case in which the late Chief Justice was counsel, the Coleridge, J., referred to, who tried the case, being his father or his uncle. I shall now proceed to read the definition given on the left-hand side of the page.

Every publication is said to be blasphemous which contains matter relating to God, Jesus Christ, the Bible, or the book of Common Prayer, intended to wound the feelings of mankind, or to excite contempt and hatred against the Church by law established, or to produce immorality.

Sir Edward Braddon

- Here there is no " church by law established."

Mr BARTON

- That makes it all the more easy to ascertain what comes within the definition, and allows a very much greater latitude to those whose actions are likely to be called into question. Following the definition comes a very strong qualification, to which I call honorable members' attention.

Publications intended in good faith to propagate opinions on religious subjects which the person who publishes them regards as true, are not blasphemous (within the meaning of this definition), merely because their publication is likely to wound the feelings of those who believe such opinions to be false, or because their general adoption might tend by lawful means to alterations in the constitution of the Church

by law established.

So that we find, with regard to both sedition and blasphemy, that if the matter complained of is a decent expression of lawful means of altering the Constitution of the State or of the Church, the complaint cannot be upheld. A large amount of latitude on the score of good faith must always be allowed to those whose actions are called into question. Any one who reads the paragraphs which I have quoted will see that, if the actions of those whose publications are called into question appear on the face of them to have been dictated by good faith, and an honest belief in what is written - not by mere ribaldry or the desire to unconstitutionally and unlawfully create unrest - they must be held to be exempt. The whole question turns upon the good faith of the person responsible for the publication, and that is to be determined in a large measure by the manner in which he expresses himself.

Mr Mahon

- Would the right honorable gentleman allow a politician to say whether a thing is or is not in good faith ?

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Mr BARTON

- I am leaving the matter in the hands of the Deputy Postmaster-General, who has his own official position to consider, and who must remember that he has to regard, not the opinions of his official superior, the Postmaster-General, but the probable judgment of the court. There is an expressed provision for an appeal to a court which is not to be found in the Acts which have been cited, and that provision makes all the difference, because it will cause the official whose duty it will be to give a tentative decision in regard to these matters to take care to give a decision which will not be upset, not by his superior officer, but by the court, and damages awarded against the department. The matter is not left to the Postmaster-General, who might act according to individual caprice, or in fear of, or deference to, what he thinks the breath of popular opinion. The regulating breath in this case is the breath of a court, which we are all accustomed to regard as impartial, and which will therefore be a guiding factor, because any official must act in view of the probable judgment of the court. I think that the amendment which I have outlined may be accepted by honorable members on both sides as sufficiently safeguarding the clause. The suggestion that it is difficult to define what is "seditious" or what is "blasphemous," is, in a very large measure, met by the honorable member for South Sydney, who said that if we were to stick at difficulties of that kind, we might as well let the whole matter alone, because in the minds of some men there would be difficulties in the way of defining what is "obscene" and what is "indecent." But men of good judgment and fair sense have as little difficulty in finding out what is seditious as they have in finding out what is indecent, and it is men of that good judgment and good sense who are to regulate this matter under appeal, and it is in fear - and proper fear - of his judgment being appealed from that any official will have to act. Now let me put another difficulty before honorable members ; I wish to do it quite fairly. Supposing we do not do something of this kind, what will happen in the meantime? If we are going to have qualms as to whether a post-office official might always be right to the letter, acting under great responsibility, and we say that there shall be no restriction at all, let us paint the picture on the other side. What defence will any of us have against the accusation that must then be brought against us that, because we were afraid of doing justice in a case in which there was, *prima facie*, a misdoing ; we were prepared to convert one of the Crown departments in this country, over which we have the power of legislation, into an open channel for the conveyance of profanity and filth ? I do not use too strong terms there, because that which is blasphemous is undoubtedly profane, and that which is indecent or obscene is undoubtedly filthy. We may take one of two courses. AVe may say that, because we are very careful to avoid any mistakes that might be made by a postal official, we are going to allow time to elapse within which a case may be heard in court. In the interval the objectionable matter may be allowed to run its course, and the Post-office, which ought to be pure, may be used for the purpose of conveying this matter broadcast among the people. It may be that the matter in question may aim at upsetting the form of government which we, the majority of the people, may think right, or at spreading such literature as no man in this House would for an instant allow to be in the hands of his child. These things are to be carried and spread broadcast if restrictive measures of this kind - which are mildly restrictive in every sense of the word as I now propose to amend this Bill - are not passed. If these provisions are not to be adopted by this committee it will mean that honorable members who are sitting all round me, who would not for the world leave in the hands of their daughter, their sister, their wife, or their child, any of this stuff, are to

order His Majesty's Government to convey it through the post. Honorable members can judge of the position by the probable results, and the probable results are these : that until these matters are determined by the court fatal damage may be done to many a hearth and many a home. There is no use attempting to blind my eyes in this matter. I am dealing with it free from any feeling or prejudice. I am one of those men so happily constituted that when I know that a newspaper is attacking me with all sorts of filth I never allow it to go into my house or take any notice of it whatever. It has been the lot of all of us to be attacked, but it is not attacks upon public men that are dealt with in this clause. It is not any party action which may affect a Ministry, because actions designed to oust one Ministry and put in another cannot for a moment be assumed to come within the definition of sedition. To remove a Ministry is within the Constitution, and to take all lawful means to remove it is also within the Constitution ; therefore, this matter does not hang in the least degree on party considerations, but rests upon those considerations that appeal to us all as reasonable and honest citizens, and it is only in that light that I desire to put it before the House, speaking without passion, and yet with that warmth which any honest man. may be forgiven in connexion with such a subject. I think that this committee is to a very large extent put to the test in this matter, not through any fault of ours, but by the conditions that are existing in this society of Australia. God forbid that I should say anything against the freedom of the press. I have suffered enough at the hands of the press, and have been quite as sparing as any honorable member of this House in the way of answering or replying to their criticisms. I do not conduct such controversies, and, therefore, I have nothing to say against the complete liberty of the press. It is not liberty, however, but licence, which is the question before us. We are not seeking to restrict the adoption of all lawful means to carry out controversies on great public questions with that freedom without which a healthy public spirit could not exist. I recognise that the conditions under which public questions may be discussed must be amply liberalized, so that matters may be discussed freely on both sides, and so as to permit of the fullest expression of public feeling, and of public feeling being influenced in every legitimate way. But we are dealing with cases where means are adopted outside of the ordinary honest expression of opinion, means which those great journals that have been spoken of would never adopt, means which may be adopted in many cases by it may be little journals, the repression of which does not imply any animosity to that weak or little journal, but purely a proper spirit of justice exercised against breaches of the law. Let us bear this in mind : there is no prejudgment - the offence if it exists can be tried in the courts. This Act does not touch that question. The question is whether a great department of State is to carry such matter as has been described, and whether, if we are to empower - to compel - it to carry such matter, we are ready to take the responsibility. I for one am not. I am ready to be responsible to the people in most matters, but not to the people or my own conscience for the carriage of any matter of this kind. This is too important a matter to be treated from any light stand-point. It is one of the most important matters which we can consider - whether matter which the law holds to be in itself the commission of a criminal offence is to be carried by the very Government which is itself the chief guardian of the law. The Postmaster-General has only to decide whether a publication that goes through the Post-office contains certain matter. The question whether the printer or publisher or proprietor of that journal comes within the scope of the criminal law is a matter that the court only can determine, and there is not a syllable in the Bill which gives the Postmaster-General any power in that regard. All he has the power to determine is whether the Post-office, of which he is the custodian, is to continue to carry matter of a certain character, and the question is not whether a man who may be ultimately responsible is guilty of an offence, but whether the objectionable matter should be willingly carried by the Government into the homes of the people. With reference to the early part of the clause, I would ask honorable members to look at what is provided. It would be a mistake to suppose that the Postmaster-General, or the Deputy Postmaster-General, is asked to, or could by any possibility, decide questions of this kind every day. There is a register of newspapers which is kept under other statutes, and is to be kept in the same way in this case. There will be hundreds if not thousands of names of newspapers on that register, and it would be impossible for the Postmaster - General to go through that every day for the purpose of saying whether a certain paper should continue to be delivered. All that would be possible for a man with the multifarious duties of a Deputy Postmaster - General would be to revise the register periodically, and that is what is provided for in the clause.

There is to be- a periodical revision, and if it has been noticed during the period under revision that any

paper has been sending out matter of the character objected to - it may be for only one issue - the Deputy Postmaster - General can call upon the proprietor, printer, or publisher of that paper, subject to an appeal to a Judge, to show cause why the paper should not be removed from the register. If cause can be shown why it should not be removed, or if the owner of the newspaper can convince the officer - it seems impracticable to get anybody else than an official of the Post-office to act in the first instance - that the proposed removal of the paper from the register is premature or precipitate, the officer looking to his very clear responsibility to a court will, certainly not condemn him - he cannot condemn him - unheard without great consideration. There ought to be some such reserve power. The sum and substance of the amendments will be to make it clear that the action of the Deputy Postmaster-General is subject to the appeal mentioned under sub-clause (5). The Postmaster-General can call upon the proprietor, printer, or publisher to show cause why his publication should not be removed from the register, and if sufficient cause be not shown, he may remove it accordingly - that is, subject to the right of appeal in sub-clause (5). After exercising the best of his judgment, the Deputy Postmaster-General may, if he is not satisfied with what the owner or proprietor says, remove the paper from the register, and if a Judge finds that he has done wrong, of course, the newspaper will have to be again registered. If anyone suffers in the meantime it will doubtless be the newspaper proprietor. That is quite clear. On the other hand, it is for honorable members to choose whether in that time which must elapse the injury shall be to the newspaper, which is prima facie guilty, or to the whole of the public, who are more than prima facie innocent.

Mr JOSEPH COOK

- Is the circulation of a newspaper through the post to be suspended before the controversy between the proprietor and the Postmaster - General takes place ?

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Mr BARTON

- No. Under my amendment the Deputy Postmaster-General may not stop a newspaper until he has called upon the printer, proprietor, or publisher of the newspaper in question to show cause why it shall not be removed from the register. It is only in the event of cause not being shown that a newspaper can be removed, and the removal is then to be subject to the right of appeal.

Mr THOMSON

- I was very much inclined, as the -clause originally stood, to support the amendment, because of the difficulty which the Postmaster-General must experience in deciding what is obscene, indecent, blasphemous, or seditious. I was further inclined to accept the amendment, because if the Postmaster-General was mistaken in his decision - i-if he acted without sufficient discretion or from improper motives - there was no sufficient remedy for the newspaper proprietor. Now that the Prime Minister has foreshadowed certain alterations, however, I think that - the committee might very well accept the compromise. There are cases of indecency, obscenity, blasphemy, and sedition about which there can be no question and so intensely bad that the feelings of the great majority of the people would revolt against them. In such cases no action which had to wait the slow procedure of Jaw would be sufficient, and I am quite sure the people would sustain the executive in taking prompt measures. The danger of speedy action is that it may proceed on improper grounds, but if it is provided, as proposed by the Prime Minister, that the very tribunal which has to decide whether the offence has been committed can award damages to the newspaper proprietor if the Postmaster-General is wrong, then I think we shall meet the best interests of the community, while we secure, at the same time, the rights of the newspaper proprietor. Another advantage of this provision is that it will deter the Postmaster-General from acting unless he is absolutely certain that the court will sustain him in his decision. Newspaper proprietors will also exercise greater care, and see that no matter that may bring them within this clause gets into their publications. I am perfectly sure that no journal, whether it disputes the propriety of an existing religion, or whether it desires to change our form of government in any lawful way, need ever fear this clause. It is only those journals which would undoubtedly publish seditious and blasphemous matter, about which there can be no question, that have cause to fear - and even 'those journals' have their remedy in the courts - so that I think we may safely adopt the course suggested by the Prime Minister.

Mr PIESSE

- I desire to support the clause as revised by the Prime Minister. I am not quite certain, however, whether-

the right honorable gentleman said just now that a newspaper* would be stopped prior to the institution of proceedings, under this clause.

Mr Barton

- Not unless insufficient cause is shown. The proprietor or publisher is called upon to show cause. If he shows insufficient cause the newspaper may be taken off the register, but subject, of course, to the right of appeal.

Mr JOSEPH COOK

- "But would the issue be stopped in which the objectionable matter 'appeared' ?

Mr Barton

- Not until the person, involved had had an opportunity of showing cause.

Mr PIESSE

- I am inclined to think that the clause goes further than that. It is only as to the removal of the newspaper from the register that there will be any delay. There is no restriction of the power of the Postmaster-General under subclause (3) to refuse to transmit or deliver any publication 'containing seditious or blasphemous matter.

Mr Barton

- Sub-clause (5) regulates all that.

Mr PIESSE

- The Prime Minister' is thinking of the stopping of a newspaper by removing it from the register. I hope he intends the clause to read, as I think it does, that any particular issue which, contains grossly indecent matter shall be stopped at once

Mr Barton

- I am quite content with that. I will make the clause read, " any issue of any publication," and so on.

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Mr PIESSE

- Some honorable members appeal- to argue as if the right of free speech and free printing were the same as the right of a man to distribute anything he likes through the Post-office. That is not what we intend. A man may say what he likes, and print what he likes, and circulate it in his own way, but- we impose certain restrictions, and say that his liberty of speech, and liberty of printing, shall not be extended to the distribution of anything that he pleases through the agency of the Post-office. We]]ave a right to say that the Post-office shall not be used to the harm of the community. We must put the administration of this power in the hands of some official.

Mr Reid

- It is hardly a principle to carry out without grandmotherly interference.

Mr PIESSE

- If the leader of the Opposition can give us any better method of dealing with this question than that hitherto found in every Postal Act, no doubt the committee will be pleased to adopt it. We are now dealing with the whole subject of whether we ought to control the delivery and circulation of certain publications. We have an officer who is intrusted with the administration of the Postal department, and to him, it seems to me, must be left the duty of deciding whether or not any particular publication is unfitted by reason of the matter which it contains to be transmitted through the post. If we provide that a person who suffers injury through any unwarrantable action on the part of the Postmaster-General can obtain compensation for such injury, I think we shall have done all that can be reasonably expected of us.

Sir WILLIAM McMILLAN (Wentworth). - If any stranger had listened to the remarks of the Prime Minister he must have concluded that those who differed from him in regard to this matter desired that any kind of publication should be allowed transmission through the post.

Mr Barton

- I do not think that I Said anything tending in that way. If I did, I certainly did not mean it.

Sir WILLIAM McMILLAN

- The heat of the right honorable and learned gentleman was such that one might pardonably have thought that he was rebutting something of an opposite character, which was uttered from this side of the House. I acknowledge at once that a newspaper is different from a letter. The former is carried under certain specific conditions of cheapness. It is not closed like a letter, and there is no analogy between the

two. The Prime Minister's arguments as to what really constituted a seditious article proved strongly to me the great difficulty of deciding upon such matters. We do not desire to see the Postal department made a sewer, neither do we wish - if I may make use of the expression - to make fools of ourselves as legislators by attempting to prevent the transmission through the post of things which we cannot define. I am inclined to think that the amendment suggested by the Prime Minister will offer a solution of the difficulty:

Honorable members upon this side of the House were just as strong as he was against the circulation of seditious or blasphemous documents, 'but we wished to preserve the rights and liberties of the people at the same time. We were anxious not to put into the hands of the Postmaster-General the right practically to ransack all the newspapers which went through the Postal department. The whole difficulty with us was that, whilst the Postmaster-General should have some restraining power, there should not be relegated to him the judicial functions of a Judge. To a large extent, the dangers which we foresaw have been nipped by the suggested amendment of the Prime Minister. I understand that the process is to stop the issue at once and then ask the publisher to show cause.

Mr Barton

- The suggested amendment does not go so far as that. We call upon him, before the circulation is stopped, to show cause. That is, as regards the removal from the register, but not as regards the transmission of the publication through the Post-office. But we propose to amend subclause (3) by making it apply only to the particular issue in which the objectionable matter appears, so that any other issue may be transmitted through the post.

Sir WILLIAM McMILLAN

- The evil to be guarded against is the distribution of Offensive literature throughout the length and breadth of the country. We must be in the position to stop the issue, or else we had better leave the thing alone. The concession of the Prime Minister shows that he clearly grasps that our contention was right and that we were justified in talking up the position which we did.

Sir EDWARD BRADDON (Tasmania). - The Prime Minister has asked me to withdraw my amendment to enable him to move his. Of course I shall do so. But I am not quite satisfied as to what his amendment purports to do. I understood that no action would be taken until the newspaper proprietor had been called upon to show cause.

Mr Barton

- There must be an instant power to stop offensive matter from going through the post.

Sir EDWARD BRADDON

- I fail to understand how such a power could be applied to any particular issue of a daily newspaper.

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Mr Barton

- It seldom or never arises in the case of a daily newspaper.

Sir EDWARD BRADDON

- Obviously if it were to occur in the case of a daily newspaper the issue could not be stopped. I hold very strongly that the exercise of the very slightly mitigated authority which the Prime Minister proposes to confer might be a very grievous wrong to the proprietors of some journals. Pending a decision by the court upon the question of whether a newspaper contained blasphemous or indecent matter the issue of that newspaper would be stopped. In such a case the journal in question would be materially injured, if not absolutely ruined by this interference with its circulation.

Mr REID

- I must again express my regret that Bills of this character have in many important respects been so ill-considered. In the performance of my public duty I must call attention to the delays which have occurred in dealing with these Bills, owing to the excessive assumption of arbitrary power which is placed in the hands of the persons administering the departments. In every case the department is put in a position of almost impregnable authority, whilst the public are placed in a very different position. We have a right to expect the benefit of Cabinet deliberations over the more important clauses of a Bill, which are likely to raise a very considerable difference of opinion. When I look at this particular clause, I am astonished at the power which it confers upon the Postmaster-General. What does the removal of a newspaper from the registered list in the Post-office mean? It means practically the destruction of that paper. What does the stoppage of one issue mean? It means the infliction of an injury which, to its

proprietors, can scarcely be calculated. Do we not all know of the heroic efforts which newspaper proprietors make when a fire occurs upon their premises to issue their paper as usual, because it is considered that irreparable injury would be done to the publication if it missed one issue.

Mr Mahon

- It terminates all their advertising contracts, to begin with.

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Mr REID

- Yes. If a daily newspaper misses one issue, all its advertising contracts are broken. This is one of the most serious ways of interfering with a newspaper. Moreover, a newspaper is a kind of property which very frequently becomes obnoxious to the powers that rule. Therefore, it is a property which we must take under our protection to some extent. I am with those who wish to suppress the circulation of blasphemous or seditious literature. But just as in trying to suppress murder and burglary, so in regard to obscenity and blasphemy, we must exercise our powers in a perfectly fair and cautious way. We must not under the influence of any feeling, apply to one kind of offence a different treatment from that applied to another. The less we interfere the better, and the more we leave the determination of these matters to the authority of the executive the better. If a certain thing is an offence against the criminal law, why do not the Government take the responsibility of bringing the criminal to justice through the ordinary machinery of Courts of Justice, where a man can be tried by a jury of his countrymen. Very often juries give dissatisfaction by their verdicts, but as long as a man is to be tried by jury, the jury system must be upheld. So far as the individual is concerned, he should be punished not through a civil department such as a post-office, but by the proper means provided under the administration of criminal justice. I quite agree, however, that that does not settle this matter, because there are public interests involved quite apart from any punishment that may be inflicted upon the offender, and I wish to go as far as I can in assisting the Government to carry out the object they have in view. I would point out, however, that whilst, at first sight, the proposal which the Prime Minister has just made seems a reasonable one and such as we might all accept, if it is closely examined we shall see that it still leaves the matter in an unsatisfactory state. Let us first consider who is to be the authority who is in the first instance to consider that a particular newspaper is an obscene or an indecent publication - it is the Deputy Postmaster-General. The wording of the amendment, to the effect that the proprietor of a newspaper is to be called upon to show cause why his newspaper should not be removed from the register, suggests a proper judicial method of bringing the matter to a decision, but we find that he has to show cause to the very man who has already found him guilty. When a man is called upon to show cause why a certain stigma should not be attached to his character - because it is a stigma upon his character as well as upon the newspaper - he is to be called upon to show cause to a person who has already made up his mind that he has been guilty of sedition. Unless the Deputy Postmaster-General has so made up his mind, why should he call upon the proprietor of a newspaper to show cause, and why should he interfere with the transmission of the paper upon specific grounds unless he has made up his mind as to the guilt of the proprietor? Surely we are not going to allow such a loose condition of things that if a post-office official is merely suspicious and smells an offence he is to be allowed to drag a man up to show cause why his newspaper should not be struck off the register. I could understand it if cause had to be shown to some independent authority, but the Deputy Postmaster-General must have prejudged the case if he thought it necessary to call upon the proprietor of the newspaper to show cause. The amendment proposed by the Prime Minister is an improvement, because it involves a certain interval for consideration; but, if it is to become effective, cause should be shown to an independent authority, and not to the Deputy Postmaster-General.

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Mr Barton

- Whom would the right honorable gentleman suggest?

Mr. REID. - I am not here to suggest anything, but to scrutinize measures submitted by the Government and to point out their defects, if any. I am quite sensible of the abuses we have in our minds and which ought not to be encouraged, but, in dealing with these delicate matters, the House must be guided by broad sound principles, or else we may discredit the very object we have in view. I think it revolts natural justice to put in any measure a provision that the official authority, who is the first person to stop a paper, and who has to reach such a state of opinion with reference to it that he considers it necessary to call

upon the proprietor to show cause, should be the sole judge as to whether his action in calling upon the proprietor to show cause was right or wrong. If the Deputy Postmaster-General decided that the paper was not indecent or obscene, he would be passing a vote of censure upon his own judgment - he would be practically called upon to eat his own words. No judicial authority should be placed in that position if we can avoid it. Then the official of the Post-office becomes a judge who has power to attach a very serious stigma to a paper and to its proprietor, and that should not be. If the Government can suggest some method of procedure by which the opinion of a Judge can be obtained in a speedy way, I think it will be a distinct improvement. Under certain circumstances, persons can go before a Judge and obtain his decision without submitting to any of those long delays which are a scandal in connexion with the administration of justice, and I would suggest that the Government should endeavour to find some method of requiring cause to be shown before some independent authority. This would remove the main objection to the clause. Now, with reference to damages, I think that what is provided is a perfectly fair thing, but I would like to point out that it heightens the importance of the objection to which I have just referred. It is all very well to say that there is the right of appeal against the refusal of the Postmaster-General to transmit a newspaper through the post or against his action in striking a newspaper off the registered list. Now, the removal of a newspaper from the registered list would be a very serious thing for the owner of a newspaper, and it becomes all the more important that some judicial authority should decide these matters, because if a judicial authority had the decision of them I do not see where the damages would come in. If, however, an official of the Post-office should decide them on his own judgment, the country might be exposed to enormous claims for damages upon the reversal of the original decision on appeal. Instead of the round-about course that is proposed by the Prime Minister, which involves the risk of a possible mistake on the part of an official, the matter might be taken before a Judge in the first instance, and finally decided, and then there would be no claim for damages, because a decision would be given for which the public would not be responsible, in the same way as if it were given by mistake on the part of a post-office official. If the Government would make this change they would protect themselves against claims for damages, and would give greater confidence to the public. However anxious the public may be to suppress indecency, they are very jealous of official interference with the freedom of the press, and under these circumstances, we have to be doubly careful that the steps we propose to take are within the broad lines of judicial decision. Judicial decisions silence all clamour, whereas official decisions may be the subject of strong prejudice in the minds of certain persons. It might be said that an official was acting against a certain paper, because it bitterly attacked certain public men, but all criticisms of that kind are silenced when we proceed to the seat of justice. If decisions were given by an authority apart from the department concerned, the great body of the community would be perfectly satisfied that there had been no official meddling owing to some feeling or influence, and the more we keep these things free from suspicion, the better it is for the community generally, and for the Government of the day. The time taken up in laying the matter before a Judge in the first instance, would not be greater than that occupied in the case of an appeal to a Judge, and therefore, it is better to start with a Judge in the first instance, than to submit the matter to an official's decision, which might be reviewed before a Judge. The appeal would involve going into the whole matter over again, with the possibility of a reversal of the original decision, which might seriously prejudice the department. Then again, however excellent a post-office official might be, it would be unfair to put upon him the responsibility of deciding these matters. His competency does not rest upon his judgment regarding matters of obscenity or blasphemy - he is not there for that purpose - and it is unfair to make him a judge in such matters. The definitions read by the Prime Minister only show how difficult it would be to define blasphemy, and so far from simplifying the matter, the definitions he gave render the matter immensely more difficult. With reference to sedition and blasphemy I have very great difficulty as to the insertion of those words in the Bill. I think that we might regard the postal authorities in England, with the enormous experience they have had, as a very good guide for us in framing our new laws. I see that the words in the British Act are "indecent, obscene, libellous, or grossly offensive." I would rather have those words than the words seditious or blasphemous, although "grossly offensive" is pretty wide. I do not think our Bill is an improvement on that. My experience of these attempts to deal with what are called sedition and blasphemy is that they are the best ways that could possibly be devised of spreading sedition and blasphemy. The experience of the world has always shown that the worst cause only needs to be

persecuted to become a living cause and a powerful cause, and the aim of modern legislation is, whilst administering justice, to avoid anything which seems to fetter the absolute freedom of human expression. I would suggest in regard to the clause- which gives rise to these points-

Mr Barton

- I would meet the right honorable member for Tasmania, Sir Edward Braddon, by using the words in the English Act.

Mr REID

- I think that would remove a number of objections.

Mr Barton

- It would serve substantially the same purpose.

Mr REID

- Yes, and give us something: more. The terms used are really like red rags to some people, more or less worthy.. It is a glorious thing for some people to be' convicted of sedition. It makes heroes of insignificant individuals. I would ask the Prime Minister to seriously consider my other proposal that-

Mr Barton

- I see much more difficulty about the other suggestion.

Mr REID

- In some cases judges will deal -with a matter on summons at short, notice. I feel very strongly about moving the decision away from the department for the sake of the department itself and the public.

Mr JOSEPH COOK

--I think that a great deal of the debate on,, this question has taken place under a misapprehension. It has been suggested that, this clause is more stringent than anything; of the kind in the laws of other countries. So far as I have been able to ascertain,, however, similar, powers are contained in. nearly every Postal Act.

Mr Mahon

- Nothing of the kind.

Mr JOSEPH COOK

- I am only referring to the powers in regard to indecency,, and obscenity, and offensive libels.

Mr Mahon

- Queensland is the only State which has a similar law.

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Mr JOSEPH COOK

- No. At the-. Postal Convention, which governs the postal rules of the whole of the civilized world, there was an agreement to make provision of this sort. The English Act is much more arbitrary than the Bill. The Post-office in England may absolutely stop the postage of a newspaper containing indecent, obscene, libellous, or grossly offensive matter, and there is no such right of. appeal as we propose to give. The English Act goes on to say that the decision of the Postmaster-General in these matters shall be final. The proposal made by the Prime Minister will be to the advantage of the public. If a newspaper is stopped by a political authority there should be some redress for the proprietor who feels aggrieved.

Mr. REID. - If a Judge decided the issue there would be no ground for grievance.

Mr JOSEPH COOK

- But that would mean delay in certain cases.

Mr Reid

- As a rule the Government interferes only where the offence is habitual. It does not interfere in a casual case.

Mr JOSEPH COOK

- The Government interferes only on rare occasions. It has been suggested that this Bill is going to be administered to its full extent.

Mr Reid

- It would be administered more fearlessly if the postal officials knew they could go to a Judge instead of having to decide these matters themselves.

Mr JOSEPH COOK

- To go to a Judge in all these cases would almost render the Act nugatory.

Mr Reid

- The removal of a newspaper from the register should be allowed to stand over for judicial decision.

Mr JOSEPH COOK

- I do not object to that. This is not a question of interfering with a man's liberty of speech, but it is a question whether we are going to subsidize publications of the kind aimed at by the clause by carrying them through the post at a tithe of the rates charged for the transmission of books. That is the whole point of this debate. In all post-offices the Postmaster-General has absolute control over his department. With the safeguards suggested by the Prime Minister we need have no fear of hardship being inflicted on individuals from political or other motives. I think, however, that the words relating to " seditious and blasphemous " writing should come out. They are extremely difficult to interpret. The Post-office in America cannot carry any articles of an obscene or immoral character ; and I think it is right that this power should rest with the Postmaster-General. I do not consider that, as in England, the Postmaster-General should be able to despoil a man of his business, and, perhaps, for the time being, of his character, without incurring any responsibility. There should -be some right of appeal on the part of the person who feels aggrieved, and the Government should take the fullest responsibility for its action. There should be the fullest right of compensation, to be determined by the ordinary legal process. If that be provided for, the safeguard is only a reasonable one.

Mr MAHON

- I was inclined to accept the amendment suggested by the Prime Minister, until I had heard the interpretation placed upon it by the leader of the Opposition. If that interpretation be correct, I shall adhere to the amendment, which I moved a little while back. I naturally assumed that under the Prime Minister's proposed amendment the publisher of a newspaper would have the right to show cause to a Supreme Court Judge, and if he will amend his proposal in that direction, and also provide that a Supreme Court Judge shall decide the question whether or not an offending newspaper shall be removed from the register the committee should accept the amendment. Our desire is that in the event of the court refusing to indorse the action of the Postmaster-General, or of the Deputy Postmaster-General, then the proprietor of the newspaper in question should be entitled to recover damages and costs in respect to any interim damages accruing between the stoppage and the award of the court. The Prime Minister's amendment, however, comes after sub-clause (5), and it has been taken to refer only to damages accruing under the powers exercised by virtue of sub-clauses (3) and (4).

Sir William McMillan

- Would it not be better to postpone the clause ?

Mr MAHON

- I was just about to make that suggestion. If the clause is postponed we shall be able to see the alteration in print. It seems to me that it ought to be made clear in the amendment to sub-clause (5) that the provision with regard to the damages and costs applies also to any interim damage that may be sustained by the newspaper proprietor between the time he is called upon to show cause and the making of the award.

Sir Philip Fysh

- "Any person aggrieved by anything done by the Postmaster-General." Does not that cover everything ?

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Mr MAHON

- I think it is open to doubt. It might be said that the Postmaster-General was not responsible for the interim damages. I think it would be better to postpone the clause.

Sir PHILIP FYSH

- This particular clause will, at a later time, be subject to reconsideration. That has been promised already in respect of some other purpose. Therefore if we pass the various proposals which have been suggested by the Prime Minister, we shall see the clause in print in its amended form when it is recommitted. I would inform the honorable member for Coolgardie that it- is proposed to add, after the word " judge," the words - " And such justice or judge may decide whether the action taken by the Postmaster-General or a Deputy Postmaster-General under this section was justified in law or in fact and may award damages and costs at his discretion."

Mr CONROY

- I think that the amendment of the right honorable member for Tasmania, Sir Edward Braddon, ought to be accepted. Under the operation of this clause the Deputy Postmasters-General are the only persons who can really decide the question of what is seditious or blasphemous. The interpretation clauses do not say whether the Deputy Postmasters-General include the Postmaster-General. Therefore, although the former could exercise this authority the latter could not. In England there was only one Star Chamber, but under this provision we are to have six, because we are to have a Deputy Postmaster-General in each State, and the whole of whom are to be vested with power to determine what is seditious, blasphemous, indecent, or obscene. They are not subject to any controlling head, and can deal with the matter absolutely. An anomaly which might arise under this provision is that a publication might be refused transmission through the post in one State, but not in other States. I think that the further amendment proposed by the leader of the Opposition, in which he lays it down that the court should be the final arbiter, ought to be adopted. It has been said that similar clauses to these are to be found in the Victorian Postal Act. Upon looking up that statute I find that such is not the case, because if the Postmaster-General of the State of Victoria unwarrantably interfered with the free circulation of a newspaper, the person aggrieved would have the right of action against him.

Amendment, by leave, withdrawn.

Amendment (by Mr. Barton) proposed -

That the words " subject to appeal as hereinafter mentioned" be inserted after the word " time," sub-clause (1).

Mr. REID(East Sydney). - I would point out the danger contained in the proposal with reference to taking a newspaper off the list of registered newspapers. On the assumption that a newspaper is removed by the Deputy Postmaster-General from the list of registered newspapers, the person aggrieved may appeal to a Judge, and there must be an investigation. The result of that investigation may be the reversal of the act, and the giving of damages to the aggrieved person. It would be infinitely better, in the interests of the department, not to put the official in the position of an authority who can call upon the proprietor of a newspaper to show cause before a Judge in Chambers,, why his newspaper should not be taken off. Then the question of damages would not arise, because a Judge would "decide, and the official would be removed from a very invidious position. I feel so satisfied that the Government will adopt my suggestion that I am willing to allow the clause to pass in its present form, and to trust to them to reconsider it when it is recommitted.

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Mr Deakin

- We will do so.

Amendment agreed to.

Amendments (by Mr. Barton) agreed to-

That the words "remove therefrom," subclause (1), be omitted with a view to insert in lieu thereof the words : - " May- call upon the printer, proprietor, or publisher of. "

That the words "seditious, blasphemous," sub-clause (1), be omitted.

Mr. CROUCH(Corio) - I wish to point out that this clause says - " A posted copy of which, dc." The Postmaster-General is thus placed in a position to effectually damn any publication for all time, because by some accident a single copy may have contained something offensive of which its 'proprietor had no knowledge. Surely that is not intended.

Mr. O'MALLEY(Tasmania).- I wish to know the position which my speeches would occupy under this clause. If such a provision had been operating in Tasmania last year, this House would have been deprived of my services. Are these bigoted Chinese Deputy Postmasters-General to be the interpreters of what is grossly offensive? I have had to fight my way everywhere that I have. been. I have been charged with all sorts of crimes. Every man who has risen out of the ordinary ruck of social respectability and moral degeneration is offensive. It seems to me that nowadays everybody is trying to get a certificate of character from the ordinary intellect-decaying nonentities of the ranks of so-called respectability. I want to oppose that. I am opposed to the retention of the words " grossly offensive."

Mr.RE ID (East Sydney).- It is really a conundrum what the words " grossly offensive," can mean in such a connexion. " Indecent and obscene " matter must be " grossly offensive " to any well-regulated mind. I ask if it is wise to give this power to take a newspaper off the list of registered newspapers at the

Post-office, if it is not an indecent or obscene publication, but simply an offensive one 1 The association in which the words " grossly offensive " occur, suggests that they must mean something very nearly within the category of indecency.

Mr. BARTON(Hunter- Minister for External Affairs). - One of the reasons why we should adhere to this form is that the form used in the English Act - with the exception of the word "libellous," which I have omitted - was asked to be inserted in place of the words " blasphemous and seditious," which were originally in the Bill. It was in consequence of remarks which were made by the right honorable and learned member for East Sydney, in which he expressed a preference for the words of the English Act, that I said I would be equally content to adopt those words. That course having been followed, I think that what amounts to an implied arrangement ought to be carried out. The course which has been pursued virtually amounts to an understanding, 'and it would be only fair to insert these words which it was claimed would effect everything that the Government desired that the clause should effect. It was expressly said that what the Government aimed at in the clause could substantially be reached by adopting the form of the English Act. I am not going to discuss the enormous amount of latitude which exists in the interpretation of what is indecent, obscene, or grossly offensive. That is a matter which common sense can and does settle, and if it is to be subject to an appeal - whether with damages or not, but with damages if this form of the clause is retained - I feel perfectly sure that the provision will warrant the approval of the committee.

Amendment (by Mr. Barton) proposed -

That the words " or grossly offensive " be inserted after the word "obscene," sub-clause (1).

I do not wish to take up any more time at the present stage, but I think that what has happened really amounts, if not to a compact, to such an understanding that it will be only fair for the committee to accept the words proposed.

Mr. REID(East Sydney). - I quite agree with the Prime Minister, except that I think it was quite unnecessary for him to employ the language he used in a trifling matter of this sort. There was no compact, but I simply threw out the suggestion that I would rather have the words in the English Act than the others. I am acting up to the spirit of that view by not pressing any amendment, but I think it my duty to point out that I did not approve directly of the words now proposed.

Mr McDONALD

- I think that these words are likely to lead to a good deal of trouble. I remember a case which occurred in Queensland at a time when feeling was running pretty high in connexion with a leading financial institution there. One paper published a cartoon, and as a gentleman connected with the institution referred to regarded it as grossly offensive, he brought the matter before the Supreme Court. Although he was not successful in getting a verdict or suppressing the issue of the paper containing the cartoon, it cost the proprietors of the journal about £120 or £130 to defend themselves. The question is who is to decide what is grossly offensive. If a statement which was grossly offensive to any one man might be taken as bringing a paper within the reach of the law, I think that this clause would be very objectionable. It is all very well to say that we must trust to a little common sense being exercised, but we know that good old common sense often runs mad. I think the words ought to be left out.

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Mr V L SOLOMON

- I presume from the statement made by the Minister in charge of the Bill that honorable members will have an opportunity of reviewing the clause when it is amended, so that we may see what its full effect will be and make any alterations or additions that seem to us to be required. I think it is important that we should have this opportunity, because the amendments may be more far-reaching in their effect than the words for which they are being substituted. Whilst we are laying so much stress upon the desirableness of stopping newspapers containing obscene or indecent matter from passing through the post, we have overlooked the fact that the mere stoppage of a few hundreds or thousands of newspapers from passing through the Post-office will not in any way affect the distribution of similar newspapers all over the States by other means. This seems to point to the conclusion that a Postal Bill is not the right place in which to deal with a question of this kind. If we desired to suppress the distribution of obscene or indecent literature there should be a means of doing it by process of common law. We are attaching altogether too much importance to the mere prevention of this matter from passing through the post. A great deal of our

time might have been saved if this particular matter had not been introduced in this Bill at all, but had been dealt with separately under a law which would not only stop circulation through the post, but absolutely prohibit the publication of such papers.

Mr McCay

- Under which of the powers conferred on the Commonwealth would the honorable member introduce that Bill 1

Mr V L SOLOMON

- I am inclined to think that the States themselves have full power to deal with such questions, and, as far as the Commonwealth is concerned, the powers given under section 51 of the Constitution Act to legislate for the peace and good order of the Commonwealth, might be held to include the suppression of indecent publications in the same way as they have been held to include the suppression of gambling through the Post-office. I do not suggest that that is the proper way of dealing with the matter, but it seems to me that one course would be just as justifiable as the other.

Mr KIRWAN

- I trust that the committee will fully consider the meaning of the words "grossly offensive." They might be made to include almost anything in the way of adverse criticism. I know of a case within the Commonwealth in which a Deputy Postmaster-General is the subject of very severe criticism by the press. He is continually described as incapable, and he is often spoken of as stupid, and he would no doubt regard such criticism, which perhaps is very rude, as grossly offensive to him, at any rate. It has been pointed out to the Prime Minister that any one who had a cause of grievance against the Postmaster-General might appeal to the Law Courts, but there is no certainty as to the interpretation the Law Courts might place upon the words "grossly offensive," and as the insertion of the words in the clause might tend to restrict the right of free criticism, I think they should be omitted.

Mr POYNTON

- I think that the amendment would make the clause very much worse than it is. I have known a number of things published in newspapers which would have come under the definition of "grossly offensive." There is no end to such things, as articles appear in the papers every day that are grossly offensive to some individual. Where we see one case of obscene or blasphemous or seditious matter being published, there are hundreds of cases in which language which might be termed grossly offensive is used, and I shall vote against the insertion of these words.

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Mr FOWLER

- I protest against the proposed alteration of this clause, as I think the amendment is a step altogether in the wrong direction. The words proposed to be inserted are such as would permit a narrow - minded bigot to exercise a power which it would be altogether unwise to place in his hands. I intend to vote against the amendment.

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

Ayes 27

Noes 28

Majority 1

Question- so resolved in the negative.

Amendment (by Mr. Barton) proposed -

That, after the word "aforesaid," the following words be inserted: - "To show cause why such publication should not be removed from the register, and if sufficient cause be not shown, he may remove it accordingly}."

Mr ISAACS

- The first part of the sub-clause gives an absolute right to the proprietor of a newspaper to have it registered upon the payment of a fee of 5s., and the proposed amendment enables the Deputy Postmaster-General, after cause shown, to remove it from the register. Is it the intention 'that the proprietor shall be permitted, on payment of another 5s., to demand its re-registration on the day following its removal from the register 1

Mr Barton

- I have drafted a provision which I think will meet the objection, and which allows a Judge, on appeal, to

restore a newspaper to the register.

Mr ISAACS

- Then if the Judge is of opinion that the Deputy Postmaster-General was entitled to consider the matter indecent or obscene, and does not reverse the decision, the newspaper will be for ever removed from the register.

Mr Barton

- The clause is to be recommitted, and on recommitment I shall propose the insertion of the words " on such conditions and in such form as may be prescribed."

Mr ISAACS

- What I desire is that a person who is guilty of publishing indecent or obscene literature shall not go unpunished, and at the same time that an offender under the clause shall not be punished by the removal of his newspaper from the register for all time.

Mr FOWLER

- I would point out, too, that as a newspaper is identified by its name, the publishers may change the name of an interdicted publication, and re-register it on the following day. In Victoria, the authorities some years ago suppressed a newspaper called the Hawk, but it was published next day as the, Hawklet, and continues to be published under that name.

Amendment agreed to.

Mr BAMFORD

- In other Bills which have been put before the committee, the existing and accrued rights of mercantile and commercial people generally and of public servants have been jealously guarded, and I therefore point out that, as newspapers published in Queensland are already registered, it is unfair to compel them to re-register. The fee of five shillings is not much, but, as a matter of abstract right, they should not be compelled to pay it.

Mr BROWN

- Newspapers are also registered in the State of New South Wales, and I do not see why that registration should not be recognised by the Bill. Why should proprietors be put to the trouble and inconvenience of fresh registration?

Mr Barton

- Will the honorable member kindly bear the point in mind when the clause is recommitted t

Mr BROWN

- I think, too, that the words " seditious and blasphemous," in sub-clause (3), should be omitted, in accordance with a previous decision of the committee.

Minister for External Affairs

Mr BARTON

. - The words will not be omitted if I can help it. I move -

That after the words "deliver any" the words " issue of a " be inserted.

I intend, if the amendment be carried, to substitute for the word "containing" the words " if such issue contains." The object of the amendment is to allow the Deputy Postmaster-General to exercise his discretion in regard to a particular issue, but his determination in regard to that issue is not to apply to future issues, if they conform to what is reasonable and decent. «

Mr. JOSEPHCOOK (Parramatta).The clause gives to the Deputy Postmaster-General of each State the power to exercise control over the transmission of objectionable publications 1

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Mr Barton

- In my opinion the Deputy Postmasters-General should be allowed to exercise that power without interference by their political superiors.

Mr JOSEPH COOK

- But I would point out that all over the world it is the political head who exercises this power. Is it not worth considering whether the right of the Postmaster-General to control the transmission of these publications should be taken from him? I do not think that a Deputy Postmaster-General will be as wise in the exercise of his discretion - at any rate, I doubt if he will be as wide. If this power is put absolutely into the hands of Deputy Postmasters-General, it is more likely to be exercised than if it is allowed to belong

exclusively to the Postmaster-General. Although honorable members may wish to remove the exercise of the power from political influence, I would rather trust its exercise to the Postmaster-General than to the various Deputy Postmasters-General. All over the world it is the Postmasters-General who [have the power to interdict the transmission of objectionable literature. But, according to my reading of the clause, we are vesting the power exclusively in the Deputy Postmasters-General.

Mr SALMON

- These sub-clauses must be read in conjunction. We must all realize that the size of the Commonwealth renders it impossible for the Postmaster-General to have complete knowledge of everything that is transpiring in his department in each of the States. This discretionary power to refuse to transmit or deliver certain publications may well be left in the hands of the Deputy Postmasters-General. A Deputy Postmaster-General has something to lose, and is not likely to be swayed by any religious or political feeling. He will know perfectly well that his retention of office depends on the manner in which he administers his department. It would be impossible to have it otherwise.

Mr. HIGGINS(Northern Melbourne).I would respectfully suggest that we should give a little more consideration to the words proposed by the Prime Minister to be added to the clause before we decide to adopt the amendment.

Mr Barton

- They will be in print before the clause is recommitted, and honorable members will then have an opportunity of considering them.

Mr HIGGINS

- I think the words proposed to be introduced will defeat the object of the clause. The clause, if amended as proposed, will mean that a Deputy Postmaster-General may refuse to transmit any " issue " of a publication if that issue contains objectionable matter. It is not the practice of a Deputy Postmaster-General or his staff to read every issue of a newspaper going through his office. It is not till after an objectionable publication has been transmitted that the public begin to realize that it is indecent or obscene; then it comes to the Postmaster-General's knowledge, and he takes action. If the provision is that he may refuse to distribute a particular issue no good will be done. We might as well tell a boy to lock the door of a stable after he finds the horse has been stolen. I would suggest that the clause may be left as passed by the other House. I understand the Prime Minister does not approve of striking out the words " seditious " or " blasphemous."

Mr Barton

- Not after what has taken place.

Mr HIGGINS

- I believe that there is some reason for the Prime Minister's objection.

Mr Barton

- A suggestion which was made, and which, it was understood, would be acceptable to the committee, was afterwards negatived under peculiar circumstances which justify me in saying I will not put anything to such a risk in future.

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Mr HIGGINS

- I quite well understand the feeling of the Prime Minister in the circumstances ; still I think these words "seditious" and "blasphemous" are not necessary from the public stand-point. Experience has shown that the word " seditious " is oftentimes misunderstood. Within the last month the Victorian Government have treated as seditious an article which, however lamentable in tone and taste, had no more of sedition in it than this Bill contains. That shows that there is a complete misapprehension, even in the mind of responsible Ministers, as to the meaning of the word. These words have already been omitted from subclause (1), and to be consistent they should be left out of sub-clause (3). I think that the words "indecent" and "obscene" are quite sufficient to cover anything that is unreasonably blasphemous. The proposed amendment should not be pressed, and I would also suggest that we adhere consistently to what we have already done in committee, by omitting the words "seditious" and "blasphemous."

Mr. BARTON(Hunter- Minister for External Affairs). - I cannot consent to the suggestion' made by the honorable and learned member for Northern Melbourne. To my mind it is quite plain that there ought to be some greater safeguard, and there ought to have been in the first subclause some words more

comprehensive than those referring to obscenity or indecency. To stop the passage of obscene and indecent matter, through the post, or to stop the registration of newspapers containing such matter, and not to take similar action in regard to matter posted by those who, against all good faith and for perfectly injurious and wicked motives, attempt to overturn the form of government in existence, or to insult the religious convictions of their neighbours, which after all do them no harm, is a serious omission. As to the words "grossly offensive," we were repeatedly appealed to last night to use the words in the English Act. This afternoon the leader of the Opposition practically appealed -to me in the same way. Whatever he may have had in reserve in his mind, he created in my mind the belief that he would support the addition of these words. I was so careful that I should not take any word from the English Act, which was subject to too much question, that I did not move the insertion of the word " libellous," because I have been of opinion that it is not well to trust a political authority to determine- what is libellous and what is not. That is an objection which does not apply to matters which are not the subject of politics. The understanding on which I relied, rightly or wrongly, has led to the Bill losing, in my opinion, a certain portion of its effectiveness, and without making too much of a complaint about it, it will certainly cause me - and justly, I think honorable members will see - to be a little more thoughtful and cautious in the future, It may be that I have been precipitate. If so it is my own fault, but I do not mean to be precipitate again. As the words in the English Act were not adopted, I think the right course to pursue will be to adhere to the words in the clause originally. To stop one issue of a newspaper from going through the post is not so severe as to remove the newspaper altogether from the register. It may possibly be thought that a definition which is a little more drastic would be a little more applicable to this clause than it is to one which contains so severe a penalty as the removal of a newspaper from the register, subject, of course, to the approval of a Judge. The provisions of sub-clause (2) are subject to appeal, and when the appeal provision is arrived at, honorable members will see that I am proposing an amendment - partly because of the very thoughtful suggestion of the honorable member for Indi - even wider than I originally intended, so that a Judge on appeal may be able to do complete justice between the parties. As things stand, I feel that we ought to adhere to the words as they appear in the clause. I think seriously, and very seriously, about this question. I was almost going to say that it matters very little to me whether there is a majority one way or the other. It is a matter, however, of large extent to me in that I consider the good fame of the Commonwealth is largely involved in a decision of this kind. I am quite ready to make every allowance for the views of those who differ from me ; but, holding that view myself, I do think that this matter ought to be put to the vote. If these words were negatived without a division I should feel myself placed, as the leader of the House, in a very extreme position, because I should consider that for want of publication of a list of that division, I was implicated in a decision which I could in no circumstances approve. I ask the support of the committee in retaining these words, and that without for an instant impugning the equal patriotism of those who take a different view.

Mr REID

- I think that the Prime Minister is pushing too far something which occurred at a previous stage. The Prime Minister admits that there was no understanding.

Mr Barton

- I said there was an understanding, but not a compact.

Mr REID

- That is a grossly offensive way of putting the matter. May I suggest that when parties make agreements they should be scrupulously respected. I admit that some question was raised about the words of the English Act. Some of us said that we preferred those words to the words in the clause. But is that an agreement that we would vote for those words as the substantive words 1

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Mr BARTON

- The right honorable and learned member forgets that I suggested that I should move the words of the English Act.

Mr REID

- I think that the Prime Minister's recollection of this matter is twisted. It will not do for the right honorable and learned gentleman to make imputations, and then expect honorable members upon whom they are made to remain silent. I propose to show that this imputation is an utterly undeserved one. We were

discussing in a broad way these words when, of the two sets, I expressed my preference for the English words. But I was expressing my objection to the words " seditious and blasphemous " altogether. I wish the Prime Minister to remember that those words were absolutely disapproved of by many honorable members on this side of the House. I directed my remarks to showing that I thought it most ill-advised to insert those words. Under these circumstances the English words were mentioned, and I at once said that I preferred them to the words " seditious and blasphemous." But as to there being an agreement that honorable members would tie up their political consciences and vote against their convictions, that is a ridiculous position to assume. The Prime Minister will recollect that I pointed out the strange position which these words occupied in reference to those which went before. I think that a " blasphemous " publication might fairly be held to come within the category of an " indecent " publication, because if any publication is one which, shocks the moral sense of the community its circulation ought to be prohibited. As to words "or grossly offensive character," they could only include " sedition and blasphemy " if the word " in- decent " had a similar relation to them, because it is a well-known rule of construction that words of a general character which follow precise words are always to be construed with reference to those precise words. There is scarcely a word in our language with a wider meaning than the word " in decent." What the Prime Minister really wants to get in the Bill, it seems to me, is contained in that word. But if he has a fondness for the words " seditious " and "blasphemous," of course, after the appeal which he has made to his supporters, they are bound to rally round him. It is, therefore, highly probable that his view will be adopted. There will not "be the slightest consistency, however, in the Bill if this amendment be made. It will then wear the extraordinary aspect that the Federal Parliament has laid it down that if a newspaper is merely "blasphemous or " seditious," it cannot be taken off the file of registered newspapers, but if it is "indecent" or " grossly offensive," it can. I think that the words which we already have cover those which the Prime Minister desires.

Mr. BARTON(Hunter- Minister for External Affairs). - With regard to the long speech of the right honorable and learned member, I merely wish to say he has convinced me that I did absolutely wrong, and I assure him that I shall never commit the same mistake again.

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Mr WILKS

- It seems to me that the Prime Minister has taken up an altogether unjustifiable position in asking the committee to agree to retain in the clause words which he previously admitted were not at all necessary. He has stated that the good fame of the Commonwealth is at stake in this matter, but, really, I think he is making too much of this matter. No State postal law has ever contained the words which the Prime Minister says are necessary in this Bill, and, presumably, if they are necessary to prevent the fair fame of the Commonwealth from being besmirched, the fair fame of the States must have been besmirched right up to the present time. One definition of sedition that has been given by the Prime Minister is the promulgation of doctrines which are directed at overturning our present form of Government, but I would point out that we hear such doctrines preached in our parks and from, our platforms, and no one ever thinks of taking action, because it is recognised that free speech affords the very best safety valve for the feelings of the people. There is practically no difference so far as this matter is concerned between the promulgation of such doctrines by a newspaper and their advocacy from the platform, and I do not see that there is any necessity for any drastic legislation. According to the Prime Minister a paper that advocated republicanism would be a seditious paper, and that seems to me to be a very extraordinary position to take up, although personally opposed to the republican system of government. Our monarchical system of government ought to be strong enough to withstand any republican journals, and I do not for a moment suppose that any one would dream of stopping the circulation, either through the post or otherwise, of such a newspaper. In regard to blasphemy the position is very much the same. The religious convictions of the people ought to be proof against injury from any blasphemous publication. It has been suggested that now that the Prime Minister has used his whip, we may expect some honorable members who voted on this side in the last division to reverse their votes, but I shall have entirely mistaken the quality of the honorable members sitting on the Government side who voted against the amendment which has just been negatived if they yield to any such influence. I believe that those honorable members voted from conviction, which the mere expression of opinion from the Prime Minister 'will not make them reverse. With regard to seditious matter, it may be argued that a fit of hysteria may

come over the Postal department in the same way that it came over the Premier of Victoria recently when he took action regarding certain so-called seditious' matter that was published in a Melbourne paper. We know now that the right honorable Mr. Chamberlain advised the Premier of Victoria not to take the matter too seriously. With regard to all this so-called seditious literature, more injury will be done by any attempts to prevent its free transmission through the post than would be done by abstaining from interference with it. I would point out that the probability is that the attention of the Postmaster-General will not be called to the fact of a newspaper "containing objectionable matter until long after the paper has been transmitted through the post and has become public property. Therefore, any action that he may take will be absolutely futile to prevent the circulation of the objectionable matter. I do not see any reason for reversing the decision that the committee has already come to. The" vote which was given on the former division was a thoroughly representative one, and honorable members cannot reverse their votes now without completely stultifying themselves.

Mr BATCHELOR

- I regret that the Prime Minister has taken so much exception to the action of- the committee in striking out the words "seditious" and " blasphemous." I voted for the amendment, because I think it is well for us not to take wider powers under the Bill than the experience of the States has proved to be necessary. We have not had ' these words in our State Acts, and why then should we put them into this Bill ? If it could be shown that they were necessary, I should be in favour of retaining them, and I feel sure that if it is necessary at any future time to make more stringent provision, the Parliament will support the Government in making it. I take it, however, that the people of Australia are not more likely to send seditious or blasphemous literature through the Post-office in the future than they have been hitherto, and therefore [shall vote for the retention of existing conditions. But I have a right to act in that way without being accused, either directly or by imputation, of doing something which is likely to cause the fair fame of Australia to be besmirched. After all, the matter is not highly important, and the whole trouble has been caused by the endeavour of the Government to take greater powers than have hitherto been found necessary.

Mr SALMON

- I shall support the amendment. The honorable and learned member for Northern Melbourne has stated that, in his opinion, it virtually amounts to the closing of the stable door after the steed has been stolen but I would point out to him that this is not a penal clause, nor a clause to prevent the publication of indecent literature ; it is a provision to prevent a State institution from being used for the dissemination of such literature. As the dissemination of such literature cannot be prevented if we wait until an issue has gone through the Post-office, we must give the Deputy Postmasters-General power to stop it at once.

Mr Higgins

- My desire is that the Deputy Postmasters-General should be able to stop either the current issue or a future issue ; but the amendment provides only for the stopping of the "current issue, and that when it is too late.

Mr SALMON

- That is not my view. In most cases the Deputy Postmasters-General are as well . informed in regard to these matters as are any other members of the public, and will be as likely to have early information regarding the publication of newspapers containing indecent or obscene matter.

Mr Mauger

- But the newspapers may have been posted before they know anything at all about their contents.

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Mr SALMON

- I am with those who would punish any person convicted of publishing indecent or obscene matter, but, inasmuch as prevention is hotter than cure, I wish to see provision made in the Bill to prevent the transmission of such matter by the Post-office,

Mr Reid

- But the newspapers will go fresh from the press to the Post-office before the Deputy Postmasters-General can know anything of their contents. Mr. SALMON. - Although they may have left the General Post-office, it may be possible to prevent their distribution from branch offices. We can punish, under the provisions of another measure, persons who publish obscene, or indecent, or

blasphemous matter, but I object to such provisions overloading this Bill. We are giving certain postal privileges to newspapers, and we say to newspaper proprietors that, in order to have these privileges, they must keep their columns free from matter offensive to the general public or destructive to our system of government. I am strongly in favour of preventing the transmission of seditious matter through the Post-office.

Mr Conroy

- What is sedition tMr. SALMON. - I would look upon any man who was endeavouring to overturn the system of government of which I am in favour as seditious ; and I believe every honorable member, no matter what his principles, takes the same view. I shall vote for the retention of the words " seditious" and "blasphemous," and I very much regret that the committee decided on a previous occasion to alter the provision in any particular. I hope that the words will be retained in sub-clause (3), and that subsequently the clause will be recommitted to bring it in harmony with it. I deeply regret, however, that the matter has not been discussed without the introduction of party feeling, and I am sorry that honorable members, who have occupied high and distinguished positions in the other States, should bring into this Federal Parliament their old differences and disputes. I was one of those who looked for a higher and purer atmosphere in the Federal Legislature, and I am confident the community will regret the perpetuation of these old quarrels. I admit that the blame cannot be confined to one side of the House only; but I do hope we may not see a continuance of this practice.

Mr CONROY

- I think that the amendment limiting the action of the Deputy Postmaster-General, under sub-clause (3), is one issue of a newspaper is certainly one that should be adopted. The fact that a newspaper contains in one issue something which might come under the heading of sedition or blasphemy should not debar the issue of subsequent publications in accordance with law. I think, however, that we should place this power in the hands of the Postmaster-General instead of the Deputy Postmaster-General, and if the honorable gentleman in charge of the Bill will withdraw his amendment proforma I will move to that effect.

Sir Philip Fysh

- The matter has already been discussed, and we have got beyond it. I cannot, therefore, withdraw the amendment.

Mr CONROY

- I would ask the Minister to grant this concession. The Postmaster-General might shelter himself behind a Deputy Postmaster-General who took action under this clause, and say that he had nothing to do with it. We would then be told that under the Public Service Act we could not deal with the officer, and there would thus be no responsibility to Parliament.

Sir WILLIAM MCMILLAN

- On this side of the House we withdrew an amendment for the convenience of the Prime Minister. I do not think there is anything that could be called obstruction on the part of the honorable and learned member for Werriwa, and I think the Minister in charge of the Bill ought to grant the request made by him. Mr. CONROY(Werriwa). - I am sorry that this stand has been taken by the Minister, because it will not expedite the passage of the clause.'

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Sir PHILIP FYSH

- I do not suggest that there is any desire on the part of the honorable and learned member to obstruct business. For the benefit of some honorable members I would say that this matter was fully discussed before dinner, and there was a consensus of opinion, led by the leader of the Opposition, that it would be very unwise indeed to cast this duty upon the Postmaster-General, who might be permanently resident in Sydney, Melbourne, or Bombala. In deference to their own leader, honorable members of the Opposition gave up the objection which the honorable and learned member for Werriwa has resumed. I hope the honorable and learned member will not consider that there is any want of courtesy on my part. I would remind "him that the clause is . to be recommitted, and that it will then be in a form different from that which it now presents.

Mr. JOSEPHCOOK (Parramatta).There seems to be some misapprehension in the mind of the honorable gentleman in charge of the Bill as to 'what was the intention of those who supported the leader of the

Opposition in his attitude upon this clause. The point now raised was never considered. It was simply a question whether the Postmaster-General or the court should deal with these matters. The question raised by the honorable and learned member for Werriwa is a very important one. A Postmaster-General might bring pressure to bear in a secret way upon a weak deputy, and after that officer had taken action, wash his hands of the whole affair. He could say that he had nothing to do with it, and point out that he had no power to take action, inasmuch as that power was vested by the Act in the Deputy Postmaster-General. I believe that the Postmaster-General should be responsible for any action on the part of his deputies, whereas under the provisions of this clause he may come down to the House and disclaim all responsibility.

Sir WILLIAM MCMILLAN (Wentworth). - May I suggest to the Minister in charge of the Bill that my point has nothing to do with the question which the honorable member for Parramatta has been debating. The position is that as a matter of courtesy in debate, an amendment is always withdrawn, to enable an honorable member who desires to move a prior amendment to test the feeling of the committee upon it. It would save time, I think, if the Minister, as an act of grace, allowed the honorable member to do what he desires at this stage of the discussion.

Sir EDWARD BRADDON

- I would also urge upon the Minister that it is an accepted practice that when an amendment is moved in the latter portion of a clause, any honorable member who wishes to move a prior amendment is invariably given the opportunity of so doing.

Mr SYDNEY SMITH

- I would suggest to the Minister the wisdom of adopting the course suggested. We all recognise the difficulty in which the Government may be placed if any honorable member on this side of the House objected to an amendment being withdrawn. By resorting to such tactics, Bill after Bill could be absolutely blocked. We do not wish to bring about any such condition of things. We merely desire to have fair debate. I understand from the honorable member for Parramatta that he wishes to move an amendment in order to place this power beyond the Deputy Postmasters-General.

Mr JOSEPH COOK

- I wish to make it clear that the Postmaster-General shall accept the responsibility for the acts of the Deputy Postmasters-General.

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Mr SYDNEY SMITH

- Exactly. There is no party question in this matter, and I suggest to the Minister the advisableness of allowing the honorable member an opportunity to proceed.

Mr. ISAACS (Indi). - I wish to point out that in sub-clause (1) the word "deputy" still stands, so that the retention of that word in sub-clause (3) is merely carrying out a decision which the committee have already arrived at. If the honorable and learned member for Werriwa now excised that word from sub-clause (3) he would not have completed his object without deleting it from sub-clause (1). I suggest that when we come to sub-clause (5) - if a question of principle is involved - the honorable and learned member should then move to strike out the words "Deputy Postmasters-General." If that were carried by the committee, the Minister would, no doubt, take steps upon the recommitment to bring the rest of the clause into harmony with that decision.

Mr. CONROY (Werriwa). - As the Minister in charge of the Bill has no consideration whatever for honorable members upon this side of the House when they make a proposal, I do not see how he can expect us to fall in with any suggestion emanating from himself.

Mr. JOSEPH COOK (Parramatta). - I take it that the whole clause will be reconsidered when the Bill is recommitted. Therefore I think we may fairly let the provision go in its present form.

Amendment agreed to.

Amendment (by Sir Philip Fysh) agreed to - .

That the word "containing" be omitted, with the view to inserting in lieu thereof the words "if such issue contains. "

Sir EDWARD BRADDON (Tasmania). - I move -

That the words "seditious, blasphemous," sub-clause (3), be omitted.

The Prime Minister put to us a definition of the word "seditious," which only makes the question of its

interpretation by the Postmaster-General or the Deputy Postmasters-General more difficult than it was previously. He told honorable members, out of the mouth of Sir James Fitz-James Stephen, that the question is whether matter written with the object of upsetting a Government - which is sedition - is written in good faith or not. If this criticism of a Government, intended to subvert that Government, be written in good faith, then it is not to be deemed sedition. Therefore, it becomes a question not only of determining what is sedition, but whether the author is guilty of a dishonest intention in what he writes. There are no such words as sedition or blasphemy in the English Post-office Act, and to make a departure by inserting these words would have a very dangerous effect, in imposing on the Post-office authorities a responsibility which they should not be asked to bear, and which in all probability they would not be qualified to discharge.

Mr G B EDWARDS

- I rise to speak chiefly on account of a little misunderstanding which occurred this afternoon. I voted against the proposal to insert the words " grossly offensive " instead of the words "seditious and blasphemous " on what I conceived to be the good ground that the term "grossly offensive" was a most ridiculous one, and much more dangerous than those already in the Bill. I could understand how we might have a misdemeanour coming under the head of blasphemy or sedition, notwithstanding the difficulty of defining those terms, but I conceived that still greater difficulty would occur in defining such a vague term as "grossly offensive." Prior to the clause being considered in detail I stated that I had not the slightest objection to the retention of the words "blasphemous or seditious," but that I had a grave objection to putting such power as was proposed into the hands of the Post-office officials without safeguarding the rights of the people of the Commonwealth. The Prime Minister has now met my objection on that point to a certain extent by undertaking to safeguard the rights . of the public, and to give those who may consider themselves aggrieved by the action of the Postmaster-General a right of appeal, and also the light to recover damages. As I hold that there are such misdemeanours as blasphemy and sedition, I think the Commonwealth should be guarded against carrying blasphemous or seditious documents through its Post-office.. I could mention expressions which would be distinctly blasphemous, but which would' not be necessarily obscene or indecent, and I think we should have the power to deal with such blasphemous expressions, always on the understanding that the Bill contains provisions which would safeguard the rights of people who may be falsely accused.. I intend to support the Government in retaining the words. The honorable member for Tasmania, Sir Edward Braddon, pointed out that the words sedition and blasphemy were not in the English Act, but I think we must not be too closely guided by the English legislation, particularly when we find such a ridiculous expression as " grossly offensive " occurring in the Imperial Postal Act. Moreover we have to remember that England is a country self-governed, and that she can take action in some other form if she chooses to deal with cases, of blasphemy. The Commonwealth, however,, has not unlimited power in this respect,, and I do not know that we could take' action to prohibit the printing and publication of blasphemous or seditious documents.. AVe are now, however, dealing with the Post-office, and we are fully justified in taking action to prevent the Commonwealth Post-office from conveying, either free or at a low rate of postage, indecent, obscene,, blasphemous, or seditious writings. Although I cannot, without fouling my mouth,, give an illustration of what might be considered a blasphemous statement, which at the same time could not be construed as indecent or obscene, it would be easy to give an illustration of sedition that would be plain to us all. Imagine a strike, such as frequently occurs in coal mines or in connexion with other large industrial enterprises, and some man publishing a paper and telling the strikers that the only way they could obtain redress was by taking up arms:. That would be sedition.

Honorable Members. - No, no.

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Mr G B EDWARDS

- I say that any ' man who stirs up strife in a community in order to subvert the established form of government, except by such means as are constitutionally allowed, is guilty of sedition, and I do not think that any honorable member could prove the contrary. There is sedition against the State as much as against the Crown, and it is wise for us, to protect the Post-office against becoming a vehicle for the promulgation of seditious writings.

Sir PHILIPFYSH (Tasmania). - I do not wish to add to the discussion, but I rise, not in the interests of the

Government especially, but in the interests of honorable members themselves on both sides of the House, to ask whether we have not, in respect to these words, had a sufficient amount of discussion. If we have arrived at such a stage that we cannot add materially to our knowledge upon the matter, I would ask honorable members to come to a vote at once.

Mr O'MALLEY

- I regret that I cannot take the advice of the Minister in charge of the Bill. With me this is a matter of faith. We can look at the history of Ireland and read of the thousands of her peoples whose bones are sleeping in the silent bivouac of the dead, as the result of the laws enforced against sedition. Some of my ancestors in Ireland are now in graves which are not marked by tombstones, in consequence of the improper interpretation of these words "seditious and blasphemous." They had died fighting against a tyrannical Government that usurped the rights of the people. The British Empire has abolished the old antiquated ideas of blasphemy and sedition, and yet it is proposed that this enlightened Federal Parliament should put them into this clause, so that we may have a taste of tyranny in this Southern Hemisphere. Did any one ever hear of a man thinking with a sword over his head, or with a gun at his ear. If we want thinkers we do not want to shut people up, and we must not tyrannise over them. Blasphemy is what the dying call the growing. Sedition -is the expression of something which is opposed to generally accepted ideas. I hope the committee will stand firm on this question, and that they will not permit the freedom of the people to be taken from them, but that they will send blasphemy and sedition where memory forgets and oblivion remembers.

Mr KNOX

- I intend to support the clause as it stands, and I hope that we shall come to a speedy decision upon this matter, because we are not making the progress on this Bill that the public have a right to expect us to make.

Mr WILKINSON

- I shall vote for the excision of these words, because they are words of very wide significance, and capable of very diverse interpretation by those who may happen to be in charge of the various State branches of the Postal department. It seems to me that the matter with which we are trying to deal is one which should be dealt with in a measure relating to newspapers rather than in a Postal Bill. As the honorable member for Tasmania, Mr. O'Malley, has said, it is not the Age, the Argus, the Sydney Morning Herald, or the Brisbane Courier, that will be stopped under the clause ; it is the little papers which are fighting for the rights of the masses. When I was running a little newspaper which was fighting against the opinions of the powers that were, they raked up an obsolete statute of George III., or George IV., and compelled all newspaper proprietors to register, and to enter into a bond with Her Majesty, in the sum of £300, and to find two sureties for a like amount, against the publication of blasphemy or seditious libel. It was only when the labour papers began to spring up that this musty statute was taken from the shelves, because it was thought that the proprietors of small papers would not be able to find the sureties.

Mr Salmon

- No newspaper of any influence would be either blasphemous or seditious.

Mr WILKINSON

- What the honorable member might call blasphemy or sedition I might not. We might have a Mahometan or a Buddhist at the Post-office, and what he might consider blasphemy we might not. What is blasphemous, or libellous, or seditious is a matter to be determined by a court of law. I am not in favour of spreading sedition throughout the land, and I believe that there are constitutional means of remedying the ills from which we suffer ; but we shall not aid the cause of law and order by restricting the liberty of the individual or of the press, and I do not think it would be wise to put it within the power of any one man to say whether a certain matter is blasphemous or seditious.

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Mr THOMAS

- I had not intended to say anything upon the clause, but, after the definitions of sedition which have been given by the honorable members for Laanecoorie and South Sydney, I rise to say that I shall have no hesitation in voting against the retention of the words "blasphemous" and "seditious." We were told by the honorable member for Laanecoorie that sedition was simply attempting to subvert the form of government of which he was in favour. Personally I am not a republican, but if a man conscientiously

believes in republicanism, I think he should have a right to express his views. According to the honorable member for South Sydney, if there were a strike, and a person advised the strikers to arm themselves with revolvers, that would be seditious. I would, however, direct the attention of the honorable member for South Sydney to an incident which occurred some years ago in the House of Commons, when, after a member of the Irish party had been arrested in Ireland for a speech he made there, Mr. Coneybeare rose and told the Attorney - General or the Solicitor - General of the day that he intended to repeat the same speech in London on the following evening. The reply given to him was that, if the effect of his speech was the same as that of the speech of the Irish member, he would be arrested. He re-delivered the speech practically word for word, but I suppose the people whom he addressed took it as a joke, because he was not arrested. The decision of the Attorney-General was that it is not the words one uses, but their effect which constitutes sedition. I am not prepared to hand over the interpretation of the word sedition to the Deputy Postmasters-General. The definitions which have been given of the words to-night show that honorable members are not agreed as to what is sedition. What is sedition to one man is gospel to some one else.

Mr. BROWN(Canobolas). - Earlier in the evening, when this matter was discussed at some length, the Prime Minister agreed to the elimination of the words "seditious" and "blasphemous" from the previous sub-clause so that the words "grossly offensive" might be substituted; but the committee, seeing how ridiculous the proposal was, decided in favour of the omission of the words, but against the proposal to substitute something else for them. I consider that those words were very properly omitted. The Prime Minister quoted a lot of legal jargon, with a view to defining the meaning of the terms, and left us even more confused than we were before; and other honorable members have similarly failed to satisfactorily define them. As the honorable member for Moreton has shown, when liberal labour newspapers were started in Queensland, a statute of George III. or George IV., which in the old country was buried long ago, was dug up to harass them. If the law of the day had been cast in the same mould as the retrogressive piece of legislation which we are now considering, there would have been no necessity for the resuscitation of that Act. I regret that in this twentieth century, in the newest democracy that the world has seen, Ministers are disposed to go back to the Dark Ages, and to revive the anti-democratic legislation of the past. I hope that the committee will strike out the words, and bring the sub-clause into harmony with the earlier sub-clause that we have passed.

Mr. CONROY(Werriwa).- It ought not to be forgotten that these newspapers are not to be transmitted through the post in an open way. If there is anything seditious or blasphemous on the outside, clause 38 will deal with them, and I thoroughly approve of leaving that power to the Postmaster-General. I think, however, that the determination of what is seditious or blasphemous should be left solely to the Court. As the name of the publisher is on the newspaper there need be no fear of his escaping punishment. If he publishes anything that is seditious or blasphemous he ought to be punished by the Court in the usual way.

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

Ayes 26

Noes 27

Majority 1

Question so resolved in the negative.

Amendment agreed to.

Mr BROWN

- Sub-clause (5) provides that -

No action shall be brought against the Postmaster-General or any officer of the department for anything done under the provisions of this section.

I understand that the Prime Minister proposes, however, to give the right of redress to newspaper proprietors.

Mr BARTON

- Yes; by a summary application to a Judge, who will decide the question of damages if necessary.

Mr Brown

- Would it not be advisable to omit the words I have quoted ?

Mr BARTON

- No, because the procedure proposed is not by way of action, but by way of summary application to or motion before a Judge. That does not come within the general term "action." It means that there shall not be any long law suit about the question, but that the party aggrieved may come before a Judge and get redress at once.

Amendment (by Mr. Barton) proposed -

That the following words be added to subclause (5) : - " The Justice or Judge may decide whether the action taken by the Postmaster-General or a Deputy Postmaster-General under this section was justified in law or in fact, and may make such order as to restoration to the register or otherwise as to him may seem just, and may award damages and costs, or either, in his discretion."

Sir Edward Braddon

- Ought not the amendment to read "the Postmaster-General or an officer"?

Mr BARTON

- I would point out that nobody but the Postmaster-General or a Deputy Postmaster-General under this subclause can take any action whatever, and although the comprehensive words are used at the beginning - " No action shall be brought against the Postmaster-General or any officer of the department for anything done under the provisions of this section " - it is quite clear that the action would have to be taken against the Postmaster-General or his deputy. That being so, the only application which can be made to the court is against the Postmaster-General or a Deputy Postmaster-General. The honorable and learned member for Tasmania may accept my assurance that it is all in good order.

Mr REID

- I would point out that there is something in respect of which there may be a grievance which is not prescribed to be done either by the Postmaster-General or a Deputy Postmaster-General. I refer to the original registration of the newspaper.

Mr Barton

- That can be easily met. I do not see the use of having any conflict about it, and I therefore propose to make the amendment read as follows : -

The Justice or Judge may decide whether the action taken under this section was justified in law or in fact, and may make such order as to the restoration to the register or otherwise as to him may seem just, and may award damages or costs or either in his discretion.

Mr MAHON

- I understand that the Government have practically embodied in this clause the amendments of which I have given notice. Seeing, however, that the committee have not had an opportunity of studying the amendments in print, I ask the Prime Minister to postpone its clause.

Mr Barton

- I can do something better than that. The whole clause will be recommitted.

Mr MAHON

- I think that will meet the wishes of the committee.

Mr. REID(East Sydney).- I do not know that it is necessary to suggest that the word "justified" would cover everything, whether it be a matter of law or of fact ; but I do urge that as regards damages we should have no claims against the Government such as they have in some of the States.

Mr Barton

- We give the power here.

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Mr REID

- But there is nothing especially affecting the Crown in the language. Certain points may arise, and certain able lawyers may say that unless the Crown is specially mentioned it is not affected.

Mr Barton

- I will take that point into consideration on the recommitment of the clause.

Mr REID

- Damages maybe awarded to either party ; but there are difficulties about damages being awarded against the Crown.

Mr Barton

- I will see to that point before the clause is recommitted.

Amendment agreed to.

Clause as amended agreed to.

Clause 28-

The Postmaster-General shall with the approval of the Governor-General cause postage stamps to be made and sold indicating such amounts of postage or fees as may in that behalf be directed by the Governor-General.

Mr THOMAS

- I desire to move that the following words be added to the clause : -

And shall within six months after the passing of this Act issue Commonwealth stamps.

Mr Barton

- It cannot be done in that time.

Mr THOMAS

-One of the great advantages of federal union promised by its advocates was that we were to have a uniform stamp. Such a stamp would certainly be a great convenience to those who live in our border towns. Now that the Commonwealth Government have assumed control of the Post-office, surely it is time that we had a federal stamp. I venture to say that it has come as a very great surprise to the community generally to find that the Government are hesitating about adopting the course which I now suggest. "We have been told that the bookkeeping clauses will prevent the adoption of a uniform stamp for the Commonwealth, but I fail to see any substantial grounds for that objection. I am not asking that the postage should be uniform, because I recognise that a difficulty presents itself on account of Victoria having adopted the penny postage system. An interchangeable stamp would satisfy me.

Mr G B EDWARDS

- How could the accounts be kept?

Mr THOMAS

- It seems to me that every State could have credited to it the stamps sold within its borders. There will be very few stamps purchased in one State and used outside of that State. But if a person travelled from Sydney to Adelaide it would be a matter of convenience to him to be able to post a letter in Adelaide with a Sydney stamp, and vice versa, the difference which would be made to the revenue being very trivial indeed. It seems, indeed, from a controversy which has recently taken place, that the bookkeeping clauses are not the real difficulty in the way of the adoption of the course which I now suggest. The great difficulty is " Tattersall " of Tasmania. The Age, on Monday last, points out that the Postmaster-General in referring to some documents which he had received from Tasmania, says that the figures quoted by him in the Senate in this connexion had been exceeded by £4,000. He stated in the other Chamber that the result of introducing an interchangeable stamp would mean a difference of £10,000 to Tasmania. Owing to communications between himself and the Deputy Postmaster-General of Tasmania, he found that these figures were exceeded by £4,000. The Age goes on to state that but for " Tattersall's " it would be possible to introduce interchangeable stamps much sooner than there now seems any prospect of doing. I cannot say whether that is Senator Drake's opinion or the opinion of his interviewer ; but it reads as if it were Senator Drake's opinion. To me it seems playing pretty low down to suggest that the Commonwealth Government have to depend on " Tattersall " to the extent of saying whether they will introduce an interchangeable stamp or not. It is rather an added argument why we should destroy " Tattersall's " sweeps. One of the telegrams stated that "Tattersall" was to be consulted. It is rather humiliating that he should be consulted before an answer can be given in such a matter. I am not at this particular stage asking for the adoption of a uniform telegraphic rate; but that is a thing which most certainly ought to follow. I understand it is possible for the bookkeeping period provided for in the Constitution to be renewed at the end of five years. If that be so we may have to wait ten, fifteen, or twenty years before we can get this very necessary reform. I venture to say that the people generally expected that as soon as the Federal Government took charge of the Postal department, we should have the advantage of a uniform or interchangeable stamp.

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Mr REID

- If we look at this matter with a microscope, there may seem to be some technical difficulty about having a uniform stamp, but when we come to consider the operations of business, there would be a very slight variation in the results, as compared with what they are under the present system. There are very few people who trouble themselves about postage stamps when they are moving from one State to another, and certainly great inconvenience is experienced, now that the Commonwealth is united, in having six different kinds of stamps. It is an unnatural state of affairs, and it should not be allowed to prevail longer than necessary. I do not wish to see anything put into the Bill to bind the Government, but I would rather make my observations in the form of an appeal to the Prime Minister, that the difficulties about bookkeeping, should not be allowed to stand in the way of making this change.

Mr Barton

- That will not stand in the way.

Mr REID

- I think I am right in saying that the Postmaster-General indicated that the bookkeeping difficulty was the principal obstacle in the way of the proposed change.

Mr Barton

- It makes some sort of an obstacle, but not an insuperable one.

Mr REID

- Then I do not see the necessity for mentioning it; We do not intend to keep our Commonwealth accounts as a grocer would keep his books. Our accounts ought to be kept on a "give and take" principle, and a few pounds one way or the other should not be worthy of the consideration of the Commonwealth Government or of a Commonwealth State. I hope, therefore, that the Government will give themselves the pleasure and satisfaction of making this change. I would look upon it as a great distinction if I had an opportunity of initiating a Commonwealth stamp. I do not think that a Bill is the proper place to deal with a matter for Executive action, but I strongly support the object that the honorable member for the Barrier has in view, and I hope the Government will speedily bring this change about.

Minister for External Affairs

Mr BARTON

. - I would ask the honorable member for the Barrier not to press his amendment to the vote. He may rely perfectly upon the desire - more than that, the determination - of this Government to issue Commonwealth stamps as soon as we can get over any preliminary difficulties that may stand in the way. There is one difficulty, as has been pointed out, in connexion with the bookkeeping clauses of the Constitution Act. For my own part, although that matter has been referred to a good deal in conversation and in press paragraphs I do not think that it forms such an insuperable obstacle as some people suppose. But, dealing quite fairly with the matter, I do admit that it rests considerably upon the "Tattersall's" clauses in the Bill. Investigation has shown that the stamps which are forwarded in letters and which are placed on letters sent from Tasmania in connexion with "Tattersall's" sweeps, amount in value to £14,000 a year. If the "Tattersall" sweep clauses of the Bill are not carried in their present form the revenue will be ear-marked, and will, therefore, have to be put to the credit of the revenue of Tasmania. If, however, the clauses are carried, we may be able to do something in the direction indicated by the honorable member at a very early date. I would ask my honorable friend not to put his proposal to the vote, because I do not think it is a kind of provision that ought to be in a Bill of this character, which should be composed of enactments of law, and not mere directions to the Executive. If the honorable member will take my assurance that - assuming the difficulty which now arises in connexion with "Tattersall's" sweep to be got rid of - as soon as departmental action can be taken it will be taken, for the issue of Commonwealth stamps, I think the general sense of the committee will be with me in asking him to refrain from pressing his proposal.

Mr Poynton

- Does not the Prime Minister think that federal postal notes are of much greater importance ?

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Mr BARTON

- I hope the federal postal notes will be in the same position, but I do not know how they may be affected by the bookkeeping clauses. I have, however, looked into this matter of the stamps, and I think that we may very soon make a Commonwealth stamp issue if the clauses of this Bill go as we expect them to go

in reference to "Tattersall's" sweeps. Pending a decision upon that matter, I think it is better not to press the amendment.

Mr. REID(East Sydney).- I do not know now how we stand with regard to the clauses the Prime Minister has referred to. I understood the Prime Minister to say that he regarded the clauses relating to "Tattersall's" sweeps as vital, and therefore I do not understand how he can contemplate their being rejected.

Mr Barton

- Supposing that to be so, that does not affect the declaration I have made. .

Mr. THOMAS(Barrier).- If I have the assurance . of the Prime Minister that if the "Tattersall's" clauses are carried we shall have these interchangeable stamps within this year I shall be quite satisfied.

Mr Barton

- My belief is that probably it will be well within this year when the change is made.

Mr THOMAS

- I do not wish to say anything discourteous, but at the same time the Government seem to shilly-shally on most matters, and I would like a distinct statement upon the question.

Mr Barton

- I cannot tell the honorable member more than any one can know.

Mr THOMAS

- I do not place much reliance in promises that things will be done when it is possible and so on. We have seen a good deal of reference in the press and elsewhere to the difficulty arising from the bookkeeping clauses.

Mr Barton

- The Postmaster-General does' not set up the bookkeeping clauses as a very great difficulty.

Mr THOMAS

- I am very glad to hear it, because there was an impression that it was the bookkeeping clauses that created the difficulty. The Federal Government ought to be able to deal with this matter irrespective of "Tattersall's," and an important change of this kind ought not to depend upon whether the Post-office is to be used for conducting racing sweeps. I will withdraw my amendment as it seems to be the general wish of the committee, but I am rather glad that the question has been raised, because we know now the full importance of the clauses dealing with "Tattersall's" sweeps. If it comes to a question as to whether we are to allow sweeps to be conducted through the Post-office, or to have interchangeable stamps, I will vote in favour of having interchangeable stamps. I think the committee will take it that the Prime Minister has assured us that if the "Tattersall" clauses are passed, there is a strong probability that before the year is out we shall have an interchangeable stamp. I am not asking for a uniform stamp, because there might be a difficulty about that owing to the large loss that might be incurred under a penny postage system.

Mr Barton

- If the Bill takes the direction we expect it will, I believe that within six months it will be possible to issue these interchangeable stamps, and if it is possible, it will be done.

Sir EDWARD BRADDON (Tasmania). I hope the honorable member for the Barrier will not be moved to take any particular action with regard to clause 55 by reason of the perfectly beautiful Machiavellian suggestion that the issue of a new stamp depends upon the passage of that clause. I hope the honorable member will not be fooled by the suggestion which is based on utter moonshine, and is about as ridiculous as can be.

Mr E SOLOMON

- I would like the Government to consider that each State is to be held responsible for any loss upon the working of its post and telegraph system, and I hope that he will take into consideration the possible effects of the issue of an interchangeable stamp upon the States of smaller populations as compared with those that have large populations when reviewing the matter. .

Mr JOSEPH COOK

- I would like to know from the Prime Minister whether there is any objection to making the stamps interchangeable at once. When we are in Melbourne why should we be compelled to use a Victorian stamp when we have a New South Wales stamp in our pocket. The suggestion, if carried out, would be a great convenience to travellers.

Mr PIESSE

- Subscribers to newspapers published in the larger States are found in the smaller States, and even at the present time subscriptions are in some cases sent in stamps, which the proprietors of the newspapers have to arrange to transmit to the 'State of issue. By this; arrangement no harm is done, but if the stamps were made interchangeable a considerable difference would be found in the revenue derived by the States from the sale of stamps.

Mr Reid

- It will work both ways.

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Mr PIESSE

- The Prime Minister should not be asked to pledge himself before he has consulted the State Treasurers, who are especially interested in the terms of the bookkeeping sections of the Constitution.

Mr. BARTON(Hunter- Minister for External Affairs). - I was not on the point of giving any pledge in a difficult matter of the kind, because it is quite obvious that the Postmaster-General and the Treasurer will have to be consulted about the financial incidence of the proposal. If stamps were made interchangeable there would be difficulty in assessing the portion of the revenue that would flow into the States as postal revenue. That difficulty might be got over, but in the meantime it is impossible to make any promise.

Mr G B EDWARDS

- We should all desire to adopt a uniform stamp to-morrow if we could, but the difficulties are even greater than the Prime Minister has contemplated. Three or four of the States might adopt a uniform stamp on reciprocal terms ; but it is inevitable that there must be one or two of the States which would meet with a distinct loss, and there would at once be a cry raised that there had been an invasion of the State rights and of the Constitution, which preserves to the States their postal revenue for a series of years.

Mr Barton

- That is what I hinted at.

Amendment, by leave, withdrawn.

Clause agreed to.

Clause 29 (Postmasters to keep sufficient" supply of stamps).

Mr MAHON

- Power is taken under clause 93 to prescribe the form and mode of issuing licences for the sale of stamps, and the commission to be allowed. In remote towns where there are no post-offices, or in1 cases where the post offices are some miles away, it is a great convenience to the settlers that the local storekeepers should be licensed to sell stamps. In Western Australia licensed vendors are not permitted to buy stamps from the local postmaster, but are obliged to send to the General Post-office in Perth, pay the postage each way and the cost of registration, and take all the risks of the stamps being consumed by fire or lost in transit, all for the mere pittance of 6d. in the £1. Why should local postmasters not be allowed to keep sufficient stamps in hand to supply licensed vendors as well as the public? There is no reason for the idiotic practice which prevails in Western Australia, and I ask the Prime Minister to see that is is not continued under the Commonwealth. Owing to losses sustained under the practice in Western Australia, storekeepers, who do not go into the business for the purpose of making money by it, but solely for the convenience of their customers, have given up selling stamps-

Mr. BARTON(Hunter - Minister for External Affairs). - If matters are as the honorable member describes, all I can say is that it seems to be a very inconvenient mode of doing business, and I shall certainly have the matter looked into.

Mr Mahon

- Why not remedy it on this clause?

Mr BARTON

- I would ask the honorable member not to deal in this clause with a mere matter of administration. We cannot encumber the Bill with details, and, in any case, an amendment would more properly come under clause 93. The proper way is to move the Postmaster-General to make regulations, and I shall make representations to him on the subject.

Mr Mahon

- It would be a simple matter to add to the clause words directing postmasters to sell stamps to any

licensed vendor.

Mr BARTON

- The clause says that every postmaster shall sell stamps to "any person," and unless some strong reason is shown to the contrary, a licensed vendor can get as many stamps as he wants without premium.

Mr. MAHON(Coolgardie).- But who is going to buy stamps at their full face value from the local postmaster and retail them at the risk of loss? I suggested that an amendment be made, simply because I find that a matter of administration is already introduced into the clause.

Clause agreed to.

Clause 37 verbally amended.

Clause 38 -

Every postal article received in a post-office -

On the outside of which any profane blasphemous, indecent, obscene, offensive, or libellous matter is written or drawn, shall be deemed to be posted in contravention of this Act.

Mr MAHON

- By the interpretation clause "postal article" includes newspapers, and my reading of the clause is that if a newspaper has a cartoon on the outside sheet which offends the susceptibilities of a Deputy Postmaster-General he can destroy it, as posted in contravention of the Act.

Mr Barton

- This clause does not deal with the destruction of articles, but with a contravention of the law which is subject to penalty.

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Mr MAHON

- If that is the case, it is evident that the proprietor of any newspaper, having a cartoon on its front page which chances to offend a Deputy Postmaster-General, may be subjected to a penalty.

Mr Barton

- He would not be subject to a penalty if it merely offended the Deputy Postmaster-General.

Mr MAHON

- In some of the States newspapers are posted without wrappers, so that virtually any newspaper having a cartoon on its front page would come under this clause. We have had some difficulty this evening in regard to the words blasphemous and seditious. Here we have the word " profane " introduced. AVe are also giving the Postmaster-General the power of saying what is libellous.

Mr Barton

- Oh, no ; because a penalty cannot be recovered without going to the court for it. ,

Mr MAHON

- As the Postmaster-General has the right to stop the article going through the post, is he not the judge at any rate at the outset ?

Mr Barton

- As the Bill stands he can only stop obscene or indecent matter from going through the post. This provision, has no tiling to do with the stopping of matter going through the post.

Mr MAHON

- Clause 41 gives the Postmaster-General power to destroy any postal article having anything profane, blasphemous, indecent, obscene, offensive, or libellous in it.

Mr Barton

- The clauses are for different purposes altogether.

Mr MAHON

- That may be, but this clause will have to be administered by men who are not so well up in the law as the Prime Minister, and they may make mistakes. I do not wish to move an amendment, but I submit that the clause should be modified. If it is necessary, as I think it is, to give the Postmaster-General power to stop anything which is manifestly obscene or indecent from going through the post, let the power be given in such a way that it will not include matter that may be held by the court to be innocent, and not used to punish any one not deserving of punishment.

Mr V L SOLOMON

- What is the meaning of the words " any other Act " in paragraph (V).

Mr JOSEPH COOK

- I take it that they refer, for instance, to, the Customs Act. There is provision in that Act enabling a Customs officer to go to the Postmaster-General and ask him to intercept correspondence.

Sir EDWARD BRADDON

- Paragraph (d) provides that any postal article which has on the outside of it these offensive matters shall be deemed to be posted in contravention of the Act, and clause 39 provides that every postal article which is posted in contravention, of the Act, is to be transmitted without delay, by the postmaster receiving it, to the General Post-office. Then clause 41 goes on to say that blasphemous or obscene letters may be destroyed. There is considerable room in this paragraph for amendment. Unlike a newspaper, a letter, such as is referred to here, will convey libellous matter to the one person to whom it is addressed, and will affect that one person only. The difficulty of interpretation is aggravated by the fact that we have more new terms here. "Blasphemous" has added to it here the word " profane," which means really very much the same thing, and we have also the word " libellous." I maintain that a letter, even although it is said to contain libellous matter, ought to be transmitted without hesitation on the part of the postal authorities. Possibly it would not come within the ken of the authorities permitted to judge under the Bill. It would be dealt with hurriedly by some person unqualified to form an opinion, and who would be incompetent to give definitions of terms so difficult to define. I do not wish to assist in any way in making the Post-office a channel for anything which is infamous. I am quite prepared to accept in this paragraph anything which is capable of definition by ' the meanest, capacity. I think that anything obscene or indecent, but not anything that is libellous or profane, is capable of such definition. The Minister in charge of the Bill ought to pursue the course which the majority of the committee have already adopted, and strike out the words "profane" and "blasphemous" and " libellous." If we do that, we shall have done very well in safeguarding the public generally from demoralization through the Post-office. °

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Mr McCAY

- I hope the Government will let the clause stand as it is. A man sends a letter or a newspaper, or a post-card through the Post-office; but instead of writing only the address on the cover he writes on it something insulting or libellous. He thus deliberately misuses the Post-office for some purpose of his own. I do not think we ought to be particularly anxious to protect a person of that kind. If I write a letter and put on the envelope, in addition to the address, something obscene, libellous, profane, or blasphemous, I think I should be prepared to take the chance of having the clause interpreted liberally against myself. I do not think this refers to cartoons. It does not include printed matter. It means something drawn by the hand, and a printed cartoon is not a drawing.

Clause agreed to.

Clause 41 (Blasphemous and obscene letters, & c, may be destroyed).

Mr O'MALLEY

- This eternal word "blasphemy" occurs here again.

Mr Barton

- What is the Postmaster-General to do with such letters but destroy them when they are forwarded to the General Post-office ?

Mr O'MALLEY

- I think that word "blasphemous" is the production of a humanity suffering from ossification of the heart and softening of the brain. It is a word I am afraid of, but in the circumstances I will let it go.

Mr. WINTERCOOKE (Wannon).What purpose can be served by taking an appeal to the court under this clause, after the document in dispute has been destroyed? There is no remedy that I can see which the court could give.

Mr Barton

- I do not see any great necessity for it, but it is better for the person affected to have the right of appeal. He may get damages. .

Mr Ronald

- Or clear his character.

Mr KIRWAN

- I do not object to the use of the words " blasphemous," "obscene," or "libellous ": but I think that the word " offensive " is rather objectionable.

Mr Barton

- It refers to the sending of

. . . abusive and insulting communications upon post-cards, which are open to all the world, and which wound the feelings of those to whom they are delivered.

Mr KIRWAN

- But a " postal article " also includes a telegram, and this provision, therefore, places it within the power of a postmaster to consider whether he shall transmit any telegram which he may deem to be offensive.

Mr Barton

- A postmaster cannot destroy anything of this kind.

Mr KIRWAN

- Would not this provision apply to a telegram ?

Mr Barton

- Yes, if it contained anything of an offensive description. It would be sent under clause 39 to the General Post-office, and the Postmaster-General or the Deputy could have it destroyed.

Sir EDWARD BRADDON (Tasmania). - I think that the Prime Minister should see that some sort of redress is afforded to any one who is injured by this provision, otherwise where is the sense of declaring that he shall have a right of appeal to the Supreme Court after his letter has been destroyed ? What is the redress to be accorded to a man if the Supreme Court be appealed to, and if that tribunal sees that there is cause for the giving of redress ?

Mr Barton

- There is a question as to whether this sub-clause, as drawn, does cover the whole ground. If it does not, I will have the matter reconsidered.

Mr Reid

- I would also suggest to the Prime Minister that he should consider the question of damages.

Mr Barton

- That is another thing which I will consider.

Clause agreed to. Clause 44 (Unclaimed letters, &c, to be kept certain periods, and then sent to General Post-office). Mr. MAHON (Coolgardie). - I think that this clause will work very awkwardly. It requires that any " postal article " which remains undelivered at the General Post-office beyond the prescribed time shall be returned to the General Post-office. Now, a newspaper is a " postal article." If the various post-offices throughout the Commonwealth are to send to the General Post-office all the newspapers that remain undelivered, their return mail-bags will undoubtedly be fairly full. At election time, for instance, in some of the States the various electors are inundated with newspapers containing the addresses of candidates. I have seen as many as 300 or 400 of these undelivered newspapers at a post-office. This provision would, therefore, thrust an unnecessary amount of work upon the local officers.

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Mr CROUCH

- I venture to suggest that the sender of any letter should be allowed to prescribe the particular period within which he desires his communication - in the case of its not being claimed - to be returned to him.

Clause agreed to.

Clause 45 (Telegrams, letters, &c, at hotels remaining undelivered for one month to be returned to the Post-office).

Mr. MAHON (Coolgardie). - I do not wish to object to this clause, because I consider it a very useful one. I would point out, however, that the average boarding-housekeeper does not read Acts of Parliament, and it will be necessary for the Postmaster-General to cause instructions to be issued to these people informing them of the provisions of this Bill. At any rate notices should be posted up at every post-office giving the effect of this new provision.

Sir EDWARD BRADDON (Tasmania). - This is no doubt a very wholesome provision, although it does not exist in any of the State Acts except that of South Australia. It is very desirable that we should have some clause of the kind, to insure the delivery of letters to people who have been stopping at hotels, and who

have left them before their correspondence arrived. I hope that some steps will be taken by the Postmaster-General to insure a warning being given to hotel-keepers and boarding-housekeepers of the provisions of this clause.

Sir Philip Fysh

- We will give some public notice of these provisions.

Clause agreed to.

Clause 53 (Letters of insolvents to be delivered to official assignee).

Sir EDWARD BRADDON (Tasmania). - I think that this is a clause which requires some consideration. I know that honorable members are procuring information as to the bankruptcy laws operative in the various States in order that they may be the better able to deal with this particular matter. This provision exists only in the Postal Act of South Australia.

Mr Crouch

- It is in the Victorian Insolvency Act almost word for word.

Mr F E McLEAN

- I should like some assurance from the Government that there is adequate provision made in the Insolvency Acts of the various States giving the courts power to make such orders, because obviously if the courts have this power, the Postmaster-General should be empowered under this Bill to comply with them.

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Sir PHILIP FYSH

- I am not in a position, on the spur of the moment, to say what Bankruptcy Acts in the various States contain such a provision, but I am aware that this proceeding can only be taken by the assignee obtaining an order from the court, and that the court prescribes the period within which the bankrupt's letters shall be handed over to the official assignee. Remittances may be coming to a bankrupt, and these naturally are the property of the court. I believe that we have a similar provision in Tasmania. If so, it is the transcript of English legislation. Surely when a man's property is within the purview of the court, and there is reason to fear that it is being misapplied, every opportunity should be given to the official assignee to protect the creditors in the estate. If it is found that letters, which are delivered up in accordance with an order of the court, do not contain property, it is to be assumed that they will be returned. Section 104 of the Insolvency Act of Victoria provides that letters may be readdressed and sent to the Judge, and I think that we should have some similar provision in this Act, because the sole object is to protect the creditors, and see that an insolvent does not escape from the just directions of the court, but there is no intention to inquire into his purely private affairs.

Sir EDWARD BRADDON (Tasmania). - The clause makes no distinction between letters which may contain property and purely private correspondence, and one would naturally object to the receiver opening private letters, on the ground that he thinks they may possibly contain money. Under the clause' the letters have to be delivered up irrespective of their character, and something ought to be devised to protect private correspondence. Every one of us must necessarily resent the idea of having private correspondence opened, even if it is for the protection of creditors.

Mr. F.E. McLEAN (Lang).- There is provision in the Victorian Insolvency Act for cases such as those dealt with in the clause, under a procedure which safeguards the bankrupt. I think with the honorable member for Tasmania, Sir Edward Braddon, that the clause is somewhat harsh, because no direction is given to the Postmaster-General as to returning correspondence. He is simply ordered to hand up certain letters, and no provision is made, either in the insolvency law or in the Bill, to protect an insolvent's private correspondence from confiscation. I think the Post-office should regard the correspondence of private citizens as sacred, and that we have no right to insert a provision of this kind without knowing what is to be the ultimate fate of the letters.

Mr ISAACS

- No State has any power to order the Postmaster-General of the Commonwealth to do anything in his official capacity ; but this clause assumes to give that power, and the Postmaster-General would have to act under the direction of this Parliament, and of this clause, which imposes an obligation upon him. If it were not for the clause I doubt if a bankruptcy court would have the power to direct him to forward letters. But the clause will require considerable modification. In the first place I would like to know if the Minister

has considered whether the word "adjudged," in the first line of the clause, includes cases of voluntary sequestration as well as compulsory sequestrations. Again, further on, two different "orders" are referred to. There is the order of the court, and then the order of the Postmaster-General, and which order is referred to in the following line it is difficult to say.

Sir Philip Fysh

- I will take a note of the points which the honorable and learned member has mentioned, and, if necessary, will have the clause recommitted.

Sir EDWARD BRADDON (Tasmania). - The clause seems to me to require considerable amendment, but the point mentioned by the honorable and learned member for Indi would seem to me to be met by substituting the word "direct" for the word "order," following "the court may."

Mr JOSEPH COOK

- There is a section in the Postal Act of New South Wales - and I am not sure that the provision is not a wise one - to the effect that before the Postmaster-General can intercept a letter he must obtain the warrant of the Governor, and I think we might insert that provision here as an additional safeguard.

Sir EDWARD BRADDON (Tasmania). I move -

That after the words "the court may," the word "order" be struck out, with a view to insert in lieu thereof the word "direct."

Sir PHILIP FYSH

- Seeing that there have been three or four suggestions made which I would like to look into, it would perhaps be better to postpone the clause. I should be prepared to accept the amendment of the honorable member for Tasmania, Sir Edward Braddon, but I do not know whether it would actually meet what is intended. My reading of the clause is that there is no discretion left to the Postmaster-General, but that he shall act when called on to do so by an order of the court. If there is any doubt on the point, I should like it set at rest.

Mr. JOSEPH COOK (Parramatta). Why not make the clause mandatory?

Mr Barton

- If the Postmaster-General is directed by the Court, he must act.

Mr JOSEPH COOK

- But the clause simply provides that if directed by the court, the Postmaster-General "may" act.

Mr Barton

- We know what a man has to do when the court directs him.

Mr JOSEPH COOK

- But not if he be clothed with the statutory right to disobey the order of the court. Two discretions are given by the clause, which I should say is intended to be mandatory, though the language conveys the idea of option only.

Amendment, by leave, withdrawn.

Mr. THOMSON (North Sydney). There are different insolvency laws, and different provisions as to examinations in the various States, there being no examination in some cases; and, as to the option which this clause apparently gives to the Postmaster-General, would it not be better to allow the court to fix definitely up to what period it shall be necessary for the Postmaster-General to so act.

Mr Piesse

- The date is to be specified in the order.

Mr THOMSON

- But the clause says "such date not being later" and so on. Why should we try to limit the court's power as to time, when we do not limit the court's power as to the actual deed itself? Is the court not the proper body to decide?

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Minister for External Affairs

Mr BARTON

. - It is to prevent the bankrupt being deprived of his letters after a certain time, when he has passed his last test by way of examination. I think, however, that the honorable member is quite right, and that the words he has referred to ought to be omitted. The suggested amendment is a perfectly reasonable one, and will get rid of certain difficulties between State and State. I think all the objections which have been

raised to the clause can be met by making it read as follows : -

Whenever any person becomes or is adjudged bankrupt or insolvent by any court of competent jurisdiction within the Commonwealth the Postmaster-General if so directed by the order of the court shall until a date to be specified in such order cause any postal article addressed to such bankrupt or insolvent to be delivered to the official receiver or other person named in such order.

Clause amended accordingly, and agreed to.

Clause 54 -

Postal articles addressed to deceased persons may be delivered to the executors or administrators of such deceased person on production of the probate or letters of administration : but in the event of there being no legal representative the Postmaster-General or a Deputy Postmaster-General may open or cause to be opened such postal articles and deliver the same to some near relative of the deceased person.

Mr McCAY

- This clause might be amended slightly to meet cases that frequently arise. It provides at present that postal articles addressed to a deceased person may be delivered only to the executors or administrators on the production of the probate or letters of administration, and in other cases the articles have to be opened. It frequently happens that letters addressed to a deceased person arrive between the time of death and the actual granting of probate or letters of administration. There is a very proper practice in the Victorian Post-office to deliver these letters to near relatives sometimes on official information or verba] statement, or on the making of a statutory declaration by the persons to whom the articles are delivered. In the case of many estates it is not worth while to take out probate or letters of administration, and why should letters in these cases have to be opened ? I suggest that the words " as may be prescribed " should be added, in order that the sensible practice of delivering these articles where it is perfectly clear who is entitled to them may be carried out on the making of the statutory declaration, or as may be prescribed.

Mr Barton

- If the honorable member will propose the insertion of the words " cause such postal articles to be delivered as may be prescribed " after the word "may" in line 7, I will support that.

Mr McCAY

- I think that something else may be wanted also to prevent letters being delivered to some one else where there is a legal representative.

Mr Barton

- 'Instead of saying "in the event of there being no legal representative " we might say " if there be no legal representative."

Mr McCAY

- I think it would be better to leave the words " but in the event of there being no legal representative" out altogether, and say "The Postmaster-General or the Deputy Postmaster-General may cause such postal articles to be delivered as may be prescribed."

Minister for External Affairs

Mr BARTON

. - What the honorable and learned member for Corinella wants to cover is the period between the death and the grant of probate or administration. That period ought to be covered, and I suggest that we should leave out the words " in the event of there being no legal representative," and use the words " if there be no legal representative." The clause would then cover both periods, that between death and the grant, and also the ulterior period when no legal representative could be found.

Mr Isaacs

- We should say " until the issue of probate or letters of administration." There may be a legal representative who has not got probate.

Mr BARTON

- I think it would be better to leave the larger phrase "if there be no legal representative." After the issue of probate all property by law passes into the hands of the legal representative, and he can demand all communications addressed to the deceased.

An Honorable Member. - What about the Curator of Intestate Estates ?

Mr BARTON

- That would be covered by the regulations made under the words " as may be prescribed."

Mr. McCAY(Corinella). - I think the use of the words " if there be no legal representative" would not meet the case. There is a legal representative in the case of a will before probate is granted, the executor being merely short of the proof of his representation. I think the words "in the event of* there being no legal representative" should be left out altogether, and we should say that the Postmaster-General or the Deputy Postmaster-General may do so and so as prescribed.

Mr Barton

- How would it do to say " until such grant is made, or if no grant be made."

Mr McCAY

- " Until such grant is made," seems to apply to a case in which a grant is to be made.

Mr BARTON

- It does not matter ; it covers the whole time, if a grant is never made.

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Sir EDWARD BRADDON

- If these words are to be struck out and no other words inserted, the Postmaster-General, or the Deputy Postmaster-General, would have no protection in the delivery of these articles. The clause at present provides that in circumstances stated -

The Postmaster-General, or the Deputy Postmaster-General, may open, or cause to be opened, such postal articles, and deliver the same to some near relative of the deceased person.

What near relative? If there be a legal representative, and the Postmaster-General, or the Deputy Postmaster-General, delivers the property to some near relative who is not the legal representative, he will be placed in a very false position. The clause says that if there be no legal representative the Postmaster-General, or the Deputy Postmaster-General, may exercise his knowledge of the family of the deceased, and deliver the property to some near relative. . If we withdraw the qualifying portion of the clause, then in the event of there being no legal representative the Postmaster-General may quite innocently be led into a trap. He may deliver this property to some near relative who is not the near relative entitled to receive it.

Mr Barton

- That would be a difficulty.

Amendments (by Mr. McCay.) agreed to-

That the words " in the event of there being no legal representative," lines 4 and 5, be omitted, with a view to insert in lieu thereof the words " until such production."

That the Words open or caused to be opened such postal articles and deliver the same to some near relative of the deceased person " be omitted with a view to insert in lieu thereof " cause such postal articles to be delivered as may be prescribed."

Clause, as amended, agreed to.

Clause 55 (Power in certain cases to refuse to register or deliver letters, &c).

Sir EDWARD BRADDON (Tasmania). -Will not the Government report progress now I have a good deal to say upon this clause, but I feel that it is too late to speak to-night.

Mr KNOX

- I presume it is not intended to proceed with the consideration of this clause to-night. Such a large number of petitions relating to it have been presented to the House from all parts of the Commonwealth that I think a direction should be given for the preparation of a list for the consideration of the committee, showing the places from which these petitions come, and the number of subscribers to them.

Mr Barton

- I am sure there is no time to do that.

Mr KNOX

- Most of the petitions indicate on the face of them the number of subscribers, and therefore I do not think there would be any difficulty in preparing a list by to-morrow afternoon. I understand there will be further additions to-morrow. These might also be included in the list.

Mr Barton

- How can we include them in a list which is to be the subject of debate to-morrow?

Mr KNOX

- I think it is only just to those who have taken the trouble to get up the petitions, both for and against the clause, that the committee should have a knowledge of their number and extent.

Mr. BARTON(Hunter- Minister for External Affairs). - I think that the clerks at the table will be able to tell us whether the course proposed by my honorable friend would not involve a good deal more labour than would enable us to have this list prepared and circulated among members by two o'clock to - morrow afternoon. The difficulty about it is that the information to be of any use would have to be circulated amongst honorable members. That means that it would have to be-printed, or in other words prepared some hours before our sitting tomorrow. Those who are conversant with the duties of the clerks at the table know that to-night they must be some hours at work after we part, and how they are to do the necessary work devolving upon them, find out all the signatures to these petitions, and count them up before to-morrow afternoon, I cannot conceive.

Mr Thomson

- Many of the petitions are signed by two or three people on behalf of large bodies.

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Mr BARTON

- Exactly ; and that would make the counting of noses quite fallacious. Another ground upon which I . would request my honorable friend not to press his recommendation is that I do not think we ought to be guided by any test so fallacious as the mere number of names attached to petitions. The number of signatures that can be got to petitions depends upon the circumstances, the energy, and the motives with which they are got up. That being so, I am sure that honorable members can attach due weight to all these petitions without having the noses counted. I am going to ask my colleague, Sir Philip Fysh, to report progress now, for the reason that we have made a good deal of progress to - night, although within the last four nights we have not made progress of which we ought to be proud. But -the respect which I bear to the right honorable member for Tasmania, Sir Ed ward Braddon, the extent to which I know he is interested in this question, the period which he has represented his own State, and the position which he holds in it, all induce me, when he makes a request of this kind, to agree to it.

Progress reported.

ADJOURNMENT

Order of Business: Uniform Patents Law

Minister for External Affairs

Mr BARTON

. - I move -

That this House do now adjourn.

To-morrow the Government propose to continue the consideration of the Postal Bill.

Mr F E McLEAN

- I wish to ask the Prime Minister to give attention to a matter which seems to me of considerable importance. A great many people are enjoying provisional protection under the patents laws of the various States, and in view of the very great expenses attached to perfecting their patents and getting letters patent throughout the whole of the States, I would ask the Prime Minister to consider whether it is not possible, before a general patent law is passed, to pass a short Act giving these people full protection until Parliament can deal with the whole question. It may be impossible to do so, but I should like the Prime Minister to give his very earnest attention to the matter. The people interested would be put to very great expense to perfect their patents, and in view of the fact that uniform legislation must take place shortly, I think that we should, as far as we possibly can, protect and help them.

Mr. BARTON(Hunter- Minister for External Affairs). - I am fully sensible of the difficulty which arises in that respect, and I hope that something may be done to prevent it. But I must point out that the wheels of legislation may move with reasonable rapidity or may move very slowly. Whether it is possible to do things of this kind depends upon the extent to which those wheels are clogged.

Question resolved in the affirmative.

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22:55:00

House adjourned at 10.55 p.m.