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1901-10-09

Senate.

The PRESIDENT 1 took the chair at 2.30 p.m., and read prayers.

PETITION.

Senator PLAYFORD presented a petition from 222 persons in the State of South Australia, praying the Senate to take measures for placing the sale of intoxicating liquors in the Federal capital under the exclusive control of the Commonwealth. Received, and read.

QUESTION

INTER-STATE FREE-TRADE

Senator MILLEN

- In view of the statement made that from to-day Inter-State duties would cease, I desire to ask the Vice-President of the Executive Council, without notice, if he is aware that the Customs officers at Wodonga are still searching passengers' luggage 1

Vice-President of the Executive Council

Senator O'CONNOR

- I was not aware of the fact; but now that the honorable member has mentioned it to me, I shall refer it to the proper authorities.

PAPERS

Senator DRAKE laid upon the table

Return to an order with regard to telegraphic rates.

Ordered to be printed.

Proposed Federal Tariff as laid on the table of the House of Representatives.

Index to statements in the Tariff.

Percentage of estimated revenue to value of estimated imports, fee.

Index to free goods.

Kates of duty under Federal Tariff ; also rates of duty in the several States of the Commonwealth, and in Canada and New Zealand.

Papers distributed by the Right Honorable Sir George Turner on the occasion of opening the first Federal Budget.

Estimates of expenditure for the year ending 30th June, 1902.

Estimates of revenue for the year ending 30th June, 1902.

STANDING ORDERS COMMITTEE

<page>5745</page>

The PRESIDENT

- I beg to lay on the table the third report of the Standing Orders Committee, the minutes of its proceedings, the proposed new standing orders, and a memorandum by the chairman stating what it has endeavoured - I hope, successfully - to do. I ask the Clerk to read the report.

Report read by the Clerk as follows -

The Standing Orders Committee have the honour to report to the Senate as follows : -

That they have held eleven meetings, and have very carefully considered the draft standing orders referred to them by the Senate.

That they have re-arranged the original draft of the proposed standing orders, and have redrafted several of the chapters.

That, pursuant to leave granted, they have communicated with the Standing Orders Committee! appointed by the House of Representatives, with a view to secure uniformity, so far as possible, to the standing orders of the two Houses ; and this result has been arrived at in most cases.

That they recommend the Senate to agree to the proposed standing orders as finally settled.

R.C. Baker, Chairman.

Vice-President of the Executive Council

Senator O'CONNOR

. - I move-

That the documents laid on the table by the

President be printed.

I do not propose at present to give notice of any particular day for taking further action. I think it is better that the Senate should have time to carefully consider the standing orders, and then at a later date, when the state of public business permits, I intend to give notice of a motion which will give the Senate the opportunity of adopting the standing orders, after such discussion and in such way as it may think fit.

Senator Sir FREDERICK SARGOOD

- In the meantime we can give notice of any proposed amendments.

Senator -O'CONNOR.-That may be done as in the case of a Bill.

ASSENT TO BILLS.

Royal assent to the following Bills reported -

Excise on Beer Bill.

Distillation Bill.

Excise Bill.

BILL FILES.

Senator HIGGS

- I desire to ask the Vice-president of the Executive Council, without notice, whether he does not think that the Government has exposed itself to a little quiet sarcasm in supplying the Chamber with Bill files made in Holland, when similar files might have been obtained of Australian manufacture?

Senator O'CONNOR. - I do not know anything about it. That is a matter which somebody else will attend to.

Senator Sir JOSIAH SYMON

- If this is the proper time I desire to make an observation on a matter of the very first importance, and which probably the Senate will agree with me, ought not to be passed over in silence, and to put myself in order I shall conclude with the usual motion. I need hardly say that I refer particularly to the advent of Inter-State free-trade. There is no necessity for offering any explanation or apology for calling attention, in fact inviting, a recognition in this Chamber, even in this formal way, of the accomplishment of that great end, because the step which few minutes ago was taken by the Postmaster General accentuates the new position of the Senate in relation to all these financial questions. My honorable and learned friend has laid on the table, of what stands - if I may use the expression for this occasion only - in the position of an Upper Chamber certain papers thereby recognising, for the first time in history, its absolute, active power in relation to the financial ways and means of the Commonwealth, and of its interest in the taxation of the country. A remark that was made in my hearing, and in the hearing of Senator O'Connor at lunch, struck me very forcibly. A gentleman said - "I feel this morning that with the legal termination of border duties I am for the first time on Australian ground." That remark expressed a perfect truth. Whilst undoubtedly the people of Australia have united in a great Commonwealth, based upon freedom and equality over all its vast territory, that union in itself is merely the first step to the fulfilment of the national destiny which we all look forward to. It is in itself merely the outcome of the Australian aspiration to be one people. The assembling and the opening of Parliament was, so to speak, the first outward and visible sign of that union. But, after all, the Parliament is merely the instrument created by the people to work out their material and moral welfare, which is the harvest we all hope to reap, and the first fruits of that harvest I regard as Inter-State free-trade. It is the first of the absolute material advantages which we hope to enjoy under federal union. Therefore, I think it behoves us to recognise the initiation of that great policy for which the Australian people hope to derive so much, and that from this day forth, I hope so long as the Constitution endures, we shall have free and unrestricted interchange throughout all these States. I think we can do no less on this occasion than congratulate the Ministry, as I do most sincerely, so far as that matter is concerned.

<page>5746</page>

Senator Higgs

-Protection against the world!

Senator Sir JOSIAH SYMON

-I am sure that my honorable friend will not expect me to assent to the latter part of his interjection; but what has been done today is a matter to which I think we may all assent without any reservation, so far as controversial views are concerned. I may also, as Senator Higgs has made that remark, congratulate the

ree-traders upon the triumph of their policy and their principles, and upon the culmination of struggles in the past -quite irrespective of federation -for absolute free-trade within our borders. Whilst congratulating the Ministry, I may say that I have never doubted myself that the introduction of the Tariff and the collection of duties under it, constitute an " Imposition "within the meaning of the Constitution, so as to bring in its train InterState free-trade.Iam veryglad,indeed,that the Ministry have followed that view,andthat they have discarded what I venture to think was the narrower and more technical contention, that there could be no imposition without a legal enactment. We have had controversies on minor matters, and shall have controversies on greater matters in the future. The Tariff, to which reference has been made, affords a wide and rich field for controversy. But this particular matter of Inter-State free-trade is not, it seems to me, open to controversy; and I believe that it will be acclaimed everywhere and by all men as, using the expression I have already employed, the first fruits, materially speaking, of our union.To , put myself in order, I move -

ThattheSenateat its rising adjourn until half past 10 o'clock a.m. to-morrow.

SenatorO'CONNOR (New South Wales Vice President of the Executive Council). - Perhaps it would not be quite courteous on my part if I were to allow the observations of the honorableand learned senator who has just resumed his seat, to pass -without some comment. I desire to say at once that I accept, on behalf of the Government, his congratulations in the same spirit in which they have been offered. Probably honorable senators that recognise the difficulties that beset the Government in establishing Inter-State free-trade from the very commencement of the collection of the duties under the proposed new Tariff. We were placed in the position of either having to forego what we believed to be the universal desire of Australians, or to omit many of the technical precautions for the protection of the revenue which are generally adopted in similar cases.We have trusted to Australians of every shade of opinion to support us in carrying out what we have rightly interpreted to bethe desire of Australia,and we shall in the legislation which has to be passed expect - and I am certain we shall have - the full support of my honorable friends opposite of every section of fiscal opinion in giving us those powers which are necessary for the protection of the revenue in the face of the step which we have taken. Before I sit down I should like to say that I al together object : to the suggestion - perhaps implied - -in the honorable and learned senator's observations that the : free-traders of Australia have had a monopoly of the desire to bring about Inter-State free-trade. It has been one of the strongest desires on the part of those who advocate a protectionist policy for Australia,thatitshouldbeaccompanied by f ree-tradeamongst the States themselves ; and they have never advocated protection with any other than the one object of securing the whole of Australia for : the Australian (producer and manufacturer, and placing such duties as we may think necessary for the protection ofourindustrriesand producers upon the foreigner who sends goods to us for sale. I do not desire, in saying this,toin anyway throw the apple of discord into this assembly, or to detract in any way from the gracious words my honorable and learned friend has made use of ; but I think it necessary to say now that the policy of Inter-State free-trade is just as much a part of our policy as of the policy of honorable senators who sit opposite.

Senator WALKER

- Before Senator -Symon's motion is put to the Senate, I should like to ask the Vice-President of the Executive Council whether it is to be understood that Inter-state freetrade includes free intercourse between one part of the Commonwealth and another?

SenatorO'Connor. - I should like to understand what the honorable senator means.

<page>5747</page>

Senator WALKER

- For instance, are Chinese to be at liberty to come into Victoria from New South Wales without let or hindrance?My reason for asking the question is,that at the time of the elections for the Federal Convention, I was waited upon by a deputation of Chinese who I wished to know whether after federation was accomplished any Chinaman who came into Australia at one port would be at liberty to travel all over the Commonwealth. I see that some correspondence has appeared in the newspapers on the subject, and it seems to me that this is a good opportunity for asking for an explanation from the Government in regard to it.

Vice-President of the Executive Council

Senator O'CONNOR

. - I have seen in the newspapers the suggestion that under one section of the Constitution immediately on the imposition of uniform duties by collection under the Tariff just announced there is absolute freedom for Chinese and other coloured aliens to pass from one end of Australia to the other. That contention appears to my mind to be absolutely ludicrous. There is no ground whatever for it. On the contrary, my opinion - and it is also the opinion of" my colleagues - is clearly this : that the State Acts now existing with regard to alien immigration remain in force until the Commonwealth displaces them by legislation covering the same field.

Senator Sir JOHN DOWNER

- As this matter has been brought up I desire to say that I also am pleased with the course the Government have adopted - a course which I fancy I was the only member of this Senate to suggest, though I never consulted a member of the Government about it. Contentions have been raised as to the legality of the procedure that has been followed by the Government. I always thought that the whole position, although unconstitutional, was constitutionally unconstitutional, and had become so recognised by long usage as to be as much a part of our law as if it were written in our statute-book.

Senator DOBSON

- I only rise to call attention to a small point which, if neglected, may perhaps derogate from that absolute Inter-State free-trade which our Constitution gives us. I understand that it has been brought under the notice of the Government, and that no notice has been taken of it. I feel it to be necessary on behalf of the producer of Tasmania to mention the matter, as, unless attention is given to it, that freedom of trade which we have a right to expect under the Constitution, will not be effected. I am referring to the question of the wharfage rates which are now charged in Victoria and in other States of the Commonwealth. If Melbourne charges no wharfage whatever upon potatoes coming from Warrnambool, and 6d. or 1s. a ton upon those coming from the NorthWest Coast of Tasmania, there is a slight restriction upon the free interchange of goods. The people of Tasmania will, I am quite sure, think that they have no right to be taxed 1s. a ton wharfage on their potatoes if the potatoes from, any other port of Victoria are charged nothing. All the States are now one under the Commonwealth, and I hope we shall always remain one and indissoluble. I therefore hope that the Vice-President of the Executive Council will see to this point, and arrange in some way that wharfage charges shall not be an exception to Inter-State free-trade.

Senator O'Connor

- Are not the wharfage dues levied by the States ?

Senator DOBSON

- I- believe that in Victoria part of the dues go to the Melbourne Harbor Trust and part to- the State.

Senator Best

- One-sixth go to the State of Victoria, and the balance to the Harbor Trust.

Senator DOBSON

- It appears to me that if that condition of things is allowed to remain we absolutely derogate from freedom of trade between the States. I think my honorable friend, Senator Symon, was right in moving the adjournment of the House to mark this historic occasion, and on behalf of my State I reciprocate the gracious words which have fallen from him. I hope that what has been done this day will inaugurate an era of wonderful prosperity for the whole Commonwealth of Australia.

Motion, by leave, withdrawn.

QUESTION

COMMERCIAL TREATIES

Senator DOBSON

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

Whether any correspondence has taken place between the Prime Minister and the Secretary of State for the Colonies as to the position the Commonwealth will be placed in with regard to the most favoured nation clauses of commercial treaties between Great Britain and other nations, if the Commonwealth, in framing a Tariff, give a preference in the rate of duty to goods imported from Great Britain over goods imported from foreign countries ?

<page>5748</page>

Senator O'CONNOR

- The answer to the honorable member's question is as follows : -

Yes, such correspondence has taken place, from which it appears that the result of the action of Canada in giving fiscal preference to British goods has been to deprive Canada of her former most favoured nation treatment by Germany, though this is still enjoyed by Great Britain.

Senator DOBSON

- I should like to point out that I have seen it contended most strongly, from a legal point of view, that the British Government were not quite correct in giving way to the German contention that Canada had lost her claim to the benefit of the most favoured nation clause by giving preference to Great Britain.

FEDERAL ELECTIONS BILL

Senator HIGGS

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

Do the Government propose to first introduce the Federal Elections Bill in the Senate ?

Will the Minister please state the probable date on which the Bill will be introduced ?

Senator O'CONNOR

- The following are the answers to the honorable senator's questions : -

Yes.

As soon as the state of business will permit.

SUGGESTIONS FOR CUSTOMS DUTIES

Senator MILLEN

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

With reference to the statement made by the Vice-President on 31 st May, that suggestions for fixing Customs duties had been received from several quarters, and that " there will be no objection to laying the suggestions named on the table as soon as the Tariff resolutions have been introduced in the House of Representatives," will the Vice-President take the necessary steps to enable him to lay these suggestions on the table?

Senator O'CONNOR

- The answer to the honorable senator's question is as follows : -

Some 300 of these suggestions have been received, and are now being arranged with the view of laying on the table all those which can be of any public interest.

COMMONWEALTH FLAG AND SEAL

Senator PEARCE

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

. Whether it is the intention of the Government to officially recognise the flag and seal to which prizes were awarded at the recent competitions as the flag and seal of the Commonwealth ?

Before such recognition, will the Government give the Senate an opportunity to give an opinion as to the suitability of such flag and seal ?

Senator O'CONNOR

- In answer to the honorable senator, I have to say -

The Imperial Government, through the Secretary of State for the Commonwealth, requested this Government to suggest designs for the flag and seal. With the view of suggesting such designs, the recent competitions . were held. The prize designs, and possibly others, will be forwarded to the Imperial Government. The final decision does not rest with the Commonwealth.

ELECTIONS AND QUALIFICATIONS COMMITTEE

Special Report : Chairman's Vote

<page>5749</page>

Senator Sir JOHN DOWNER

- In accordance with the contingent notice I have given, I move -

That in the opinion of the Senate, the Chairman of the Elections and Qualifications Committee is entitled to exercise a deliberative, and not a. casting vote.

The Committee of Elections and Qualifications have sent up to the Senate the following special report : -
The committee of Elections and Qualifications, to whom the petition of Henry John Saunders against the return of Alexander Percival Matheson as a Senator for the State of Western Australia has been referred, have the honour to report that, at a meeting of the committee held on Thursday, 3rd October, 1901, a division of opinion having taken place as to whether the chairman had a deliberative vote or only a

casting vote, the following resolution was adopted, viz. : - " That the question as to whether the chairman of the committee is entitled to a deliberative vote, be referred to the Senate. "

The committee, therefore, respectfully submit the question contained in the resolution for the decision of the Senate.

That, as I take it, is the only matter that is before the Senate, but of course it may incidentally involve also the question of the position of the chairman of other committees which might more properly than this, I think, be called select. The point before us is whether or not the South Australian standing order referring to select committees and to the chairmen of such committees has application in this case. That standing order provides that in the case of select committees the chairman shall have a casting and not a deliberative vote. My motion is, that in the opinion of this Senate, the chairman has a deliberative and has not a casting vote. When we adopted the standing orders of South Australia, except so far as they did not conform to the Constitution, we excepted amongst others this particular case, in which I am going to submit to the Senate that the provision is not conformable to the Constitution. I look upon this as a question of privilege concerning us very much, and it is for us to say whether by any power of our own we are able to deprive any member of the Senate of the vote which the Constitution gives him. The Constitution in this connexion makes different provisions in the case of the Senate and House of Representatives. In neither case, so far as I know, is there any provision at all recognising committees or referring to them. The Constitution refers to the House and its President, and to the House and its Speaker accordingly as it deals with the Senate or with the House of Representatives ; but as far as all subsidiary machinery, taking the form of a committee of the whole House and select committees, is concerned, the Act is silent, leaving that to be worked out by the Houses themselves; but, as I submit, to be worked out so as to do justice under the Constitution and to sacrifice the right of no honorable member. My submission is that under the Constitution we have no power by any standing order to interfere with the right of any honorable senator to vote in any place in which he is exercising legislative functions under the Constitution, whether these legislative functions come from a direct grant under the Commonwealth Act, or through the delegation of authority from the Senate to a committee of the whole House, or to a select committee. From all I can read the rule is invariable committees of the House and select committees follow the rule of the House. If the Speaker of a House has a casting and not a deliberative vote, so the Chairman of Committees has a casting and not a deliberative vote, and the chairman of any select committee, who is only the nominee of those whom the House has appointed, has ; also only a casting and not a deliberative vote. On the other hand, if the gentleman presiding in the chair has a deliberative and not a casting vote, so the Chairman of Committees has a deliberative and not a casting vote, and, following right through, the chairman of a select committee has a deliberative and not a casting vote. There seems upon the face of it to be, as there always does in my experience, a good deal of reason and sense in the authority which is so well established. In the history of the Imperial law we all know what has occurred. It is an unwritten law, not depending upon standing orders, but depending on constitutional usage. When, in Queen Elizabeth's time, I think, it was determined by the House, there being a division in the House of Commons of 65 against 66, and the Speaker, proposing -to vote with the 65 to make the numbers equal, it was held that he could not do that, and Cecil then said that, although he did not like it at all, yet he was afraid they would have to submit to it and say no more about it. So the rule has run right through the history of the House of Commons from then until now. It has never been disputed, and it is the rule that the Speaker has no original voting power but only a casting vote. So also they have carried the rule through to the subsidiary divisions of -the House, extending it to the Chairman of Committees of the Whole, and to the Chairmen of Select Committees. On the other hand, the Lords' view is entirely contrary. The Lord Chancellor never had anything but a deliberative vote. The Chairmen of the Lords' Committee, following that analogy, never had anything but a deliberative vote. The Chairman of any Committee of the Lords, following the same analogy, never had anything but a deliberative vote. We shall go now to America to find out what they do there. In America, even in the House of Representatives, the Speaker's vote is deliberative when essential. The position in America is that the Speaker is not bound to vote unless in the case of equal voting or unless in the case where his vote will make the voting equal, and in which case the motion fails. Then let us go to Canada - because this matter is in a nutshell, which ever way we decide it -let us go to Canada, where the Constitution is more akin to our own, although of course I admit there are differences, because the Senate is not elected in the same way as

here.

Senator Sir JOSIAH SYMON

-Norwith equal representation.

<page>5750</page>

Senator Sir JOHN DOWNER

-But in Canada the same rule prevails. They all lay down the same rule whether we take May or Bourinot. It matters not what authority we take we always find this invariable principle laid down, that committees, whether of the whole House or select committees, always follow the rule of the House. And surely that is logic? I do not want to discuss the 'reasons for the difference between the Houses on the question of the President being able to vote deliberatively in one place and not in another. I think they are the most haphazard sort of statements, and are not capable of a moment's very serious argument. The only thing we can say is that they have been sanctified by time, and have become a sort of common law by continual usage. But as for any reason in them, I have never been able to find any substantial reason why the Speaker of the House of Commons, because he sits in the chair, should lose his deliberative vote, or why the gentleman who sits under him as Chairman of Committees should lose his vote. "Still that is the law, and we have to take it as it is. So we have made a law that in the House of Representatives the Speaker shall only have a casting, and not a deliberative vote. No doubt another place will, not because it is in any statute, but by mere analogy flowing from precedent, adopt the same rule with regard to the Chairman of Committees of the Whole, and of select committees. But with us it is exactly the opposite. We are, from this point of view, identically in the position taken by the House of Lords. The President has no casting vote, but he has a deliberative vote, and if the President voting makes the voting even, then everything is presumed in favour of the negative.

Senator Glassey

-They have no standing, orders in the House of Lords.

Senator Sir JOHN DOWNER

- No.

Senator Glassey

-Just so. That makes all the difference.

Senator Sir JOHN DOWNER

- I cannot talk about more than two or three things at a time.

Senator Millen. - It is a bit awkward.

Senator Sir JOHN DOWNER

- It may be awkward, but I hope we are discussing this question fairly, and in order to arrive at a just conclusion, as it is a question affecting the government of the House. No doubt the House of Representatives in America has a standing order providing for it. In Canada they have not. There it is usage. But the standing order in America is only the writing down of that which was law already. The Commons' practice arises from no standing order; for greater certainty they reduced it to a standing order, but it is like an immense number of statutes which are simply the affirmation of common law, and which, for greater certitude, and so that the people should know where to look for the law, have been reduced to writing and passed in a statute. The position was no different, and the result was the same. Senator Glassey says, "Yes, but here we have in standing order." True, we have a standing order that provides that the President shall not have a vote.

Senator Sir Josiah Symon -No ; that was excepted. It is not one of our standing orders.

Senator Sir JOHN DOWNER.- It was not excepted in words.

Senator Sir Josiah Symon

- Yes ; excepted in words.

Senator O'Connor

- And there is also a general exceptance.

Senator Sir JOSIAH SYMON

- It is inconsistent with the Constitution.

Senator Sir JOHN DOWNER

-There was certainly no exception : so far as the Chairman of the Committee of the whole Senate is concerned.

Senator Sir JOSIAH SYMON

-He is excepted by the standing order itself.

Senator Sir JOHN DOWNER

- If outlaws are made by discussion not ending in resolution, then they are upon a very uncertain basis.

The acceptance of the standing orders of the South Australian House of Assembly was done in a very hurried manner . There was very little discussion about it. The recommendation was for -

The temporary adoption by the Senate of the standing orders of the House of Assembly of South Australia, with the necessary verbal alterations, with the exception of Orders Nos. 2 to 3D, 214, and 402 to 404, and such other order or portion of orders as are inconsistent with the Constitution.

The test is whether this standing order is inconsistent with the Constitution. My contention is that it is. We have without any argument, absolutely ignored the standing order with regard to the Chairman of Committees.

Senator Sir JOSIAH SYMON

-That matter is in the same standing order.

<page>5751</page>

Senator Clemons

- It is all provided for.

Senator Sir Josiah Symon - In Standing Order 385.

Senator Sir John Downer.-Is it excepted ?

Senator Sir Josiah Symon

- It expressly provides that the matter shall be decided in the same way as in the Senate.

Senator Sir JOHN DOWNER

- I thought Standing Order, number 385, was not excepted. These standing orders were accepted hurriedly - but without any intention of curtailing any constitutional rights that we possess - at a time when we wanted to get something certain to work upon, and with a view of adapting them to our needs, so far as we could. Although we used the words, " so far as are not inconsistent with this Constitution," we did not mean to go so far. We meant to say - " So far as the same are applicable to our Constitution." And we meant no more. We showed that on the first occasion that the question whether the Chairman of Committees was to have a deliberative or casting vote came up, for we did not decide the matter at all. We ignored the standing order ; we said it was not applicable to the Senate, as compared with the House of Assembly, and we went on as a matter of course, without passing any resolution about it. The chairman has exercised his deliberative vote, as a matter of course.

Senator O'Connor

- The question was raised, and the chairman gave his decision which has not been appealed against.

Senator HIGGS

- The President agreed with the chairman.

Senator Sir JOHN DOWNER

- Of course, we did not mean to tie ourselves hand and foot under the standing orders. We were working under a new machine, to which numbers of the standing orders were inapplicable, and honorable senators did not dream for a moment that they were adopting anything else than standing orders that were suitable to the altered conditions of the Senate compared with those of the South Australian House of Assembly. We meant to go no further, and on the first occasion that we considered the matter the chairman said - " I propose to exercise a deliberative vote." That was assented to, although entirely against the standing orders.

Senator Clemons

- The chairman exercised a casting vote, which was against the standing orders, and it was corrected at my suggestion.

Senator O'CONNOR

- It was not a casting vote.

The PRESIDENT

- Perhaps it would be more convenient to refer to page 58 of the Journal where honorable senators will find the actual decision.

Senator Sir JOHN DOWNER

- The minute is -

A question of order arising, Senator Harney objecting to the chairman having given a casting vote, and stating his objection in writing, viz., - "I raise as a point of order that the votes having been declared to be equal, the question should have passed in the negative, and that the Chairman of Committees had no power to determine the question by a casting vote, and in so doing, acted contrary to the Constitution,"

The Senate resumed, and the President took the chair.

And the Chairman of Committees having made his report,

The President ruled that the Chairman of Committees had voted in a way which did not conflict with the Constitution Act. and so on. Since then the chairman has exercised a deliberative vote in all cases.

Senator Clemons

- He must do so. He cannot be in the Senate without exercising it.

Senator Sir JOHN DOWNER

- Very well, we are agreed on that point. The chairman has always exercised a deliberative vote, and it has never been suggested that he should exercise a casting vote. I do not know whether he has had the chance of doing so or not.

Senator Pearce

- Yes, there was one occasion when the votes were equal.

Senator Sir JOHN DOWNER

- When we were considering the South Australia Standing Orders, we considered them in reference to the Constitution to which they are applied. Anything in them which would have the effect of negating the right of any honorable senator to vote on any occasion on which he may exercise his legislative functions is essentially an attack on the Constitution, and an invasion of our rights. This is a question that concerns our rights and privileges equally, and it should be considered quite apart from feeling or prejudice. It is a question of absolute constitutional right. In the Standing Orders Committee, of which I was a member, and of which the President was chairman, the chairman always exercised a deliberative, and never a casting vote. Not that that can prove anything. I only mention it-

Senator Clemons

- For what it is worth.

Senator Sir JOHN DOWNER

- I mention it as one of the circumstances showing inconsistency.

<page>5752</page>

Senator Sir Josiah Symon

- There is no inconsistency.

Senator Sir JOHN DOWNER

- I mention it because it is worth very much.

Senator Clemons

- The honorable and learned senator said a moment ago that it was worth nothing.

Senator Keating

- No; that it was not conclusive.

<page>5753</page>

Senator Sir JOHN DOWNER

- I said it was inconclusive. I never expect Senator Clemons to quote me exactly. I am arguing a pure question of law; but it is of very great importance to us, because it may be some time yet before we get our standing orders carried through. Really it comes to this, that having declared by the Constitution that there shall be no casting vote for the President, and having declared that, in spite of the standing orders, that applies not merely to the President but to the chairman as well, we are going to make the majority a mere matter of accident in select committees, depending on whether one honorable senator or another is voted to the chair. Why do we refer matters to select committees? Why do we appoint honorable senators on select committees? We do so because we have confidence in them. We ask them to inquire, but we do not necessarily ask them to agree. Their disagreement may be more creditable to them than too intense a concurrence. We ask them simply to inquire into the matter referred to them, and to give us the best of their opinion. If they cannot agree, and there is an equal division, then they should send the matter up to us and ask what is to be done. We can discharge a jury just as well as a Judge, if it cannot

agree. We do not insist upon an improper verdict being given in order that a conclusion may be arrived at. AVe want them to advise us as to a right conclusion, but failing that, to give us the next best thing to it. I am treating this matter purely from an abstract point of view. I care not what the result may be. I cannot find any reference to it in May, but all the American and Canadian writers state that if a committee are evenly divided, it is their business to refer the matter to the House, It may be as much their business to be equally divided as to be agreed. There is no compulsion on them to arrive at a conclusion. They might be very dishonest members if they did. If they are unable to agree, they must report to the House from whom all their power is derived, and without whom they have no authority. If this rule is to apply, when we have by our Constitution so emphatically laid down the cardinal principle that we will not follow the practice of the House of Commons, or the House of Assembly of any colony, but that the President shall have a deliberative and not a casting vote ; if we are to refuse to recognise that principle, as running right through the Constitution, in each and every form in which the House may be resolved, by delegation or otherwise, whether in committee of the whole or a committee of a few, then we are going, by the incidental adoption for purposes of convenience, of standing orders inapplicable to our Constitution, to defeat the very first principle of the Commonwealth Act w^l rich distinguishes the position of the two Houses. That Act provides that in one House the presiding officer shall only have a deliberative vote, whilst in the other the vote shall be a casting one. I have the authorities here. I will quote them if necessary, but they merely state the proposition I mention. The point seems to me to be not a very difficult one, but it is a highly important one in considering whether under any circumstances, where the Constitution has so clearly laid down that every senator shall have his right wherever he is - the very position of dignity conferred incidentally on a senator should prevent the committee from having the advantage of his vote. I ask the Senate to remember the cardinal principle on which it depends. Are the resolutions of the committee to be dependent on the accident of what man is in the chair? Put one man in the chair, and there is a majority one way ; put another man in the chair, and there is a majority the other way. And so this committee appointed to inquire into, and give its most serious attention to this business, and to advise the House carefully and deliberately, is to have superadded by its own initiation and its own internal dealing among itself, the wiping out of one of its number, and the man who happens to be selected for the position of greatest dignity in that particular meeting. Supposing that the chairman of the committee, finding himself in a position like this, should say - " I resign ; perhaps you will appoint somebody else." I do not know anything to prevent him from resigning or from saying - " I shall not act any longer, appoint some one else." We might have a pretty pitch and toss sort of business, an up-and-down sort; of thing, dependent upon which chairman insisted! upon remaining in his post.

Senator Playford

- You should have had a committee of seven.

Senator Sir JOHN DOWNER

- It is a great pity that we did not appoint a seventh member the other day, and it would be a good thing to do it now. I hate to be in the position I am in. It has been very painful to me all through. I should be very glad to have a committee of seven.

Senator Clemons

- Why did not the honorable senator suggest it before ? He approved of my amendment.

Senator Sir JOHN DOWNER

- I did not:.

Senator Clemons

- The honorable senator did not oppose it:

Senator Sir JOHN DOWNER

- I am very glad that my honorable and learned friend mentions that, because he must have seen what occurred. He was not so far from me as not to see Senators Drake and O'Connor speak to me, and he must have heard me say - for I said it loudly - "my position is judicial."

Senator Clemons

- I heard nothing

The PRESIDENT

- I think it would be better if Senator Downer took no notice of interjections.

Senator Sir JOHN DOWNER

- So far as the authorities are concerned May's proposition is clear enough:

Every question is determined in a Select Committee in the manner of the House to which it belongs. He gives the different instances of the Lords and Commons. Bourinot, speaking of the Canadian rule, which is analogous to ours, says -

Every question is determined in a Select Committee in the same manner as in the House to which it belongs. . . The rules that govern the conduct of the members in the House should govern them in committee. . . It is the rule of the Lords that in their committees the chairman votes like any other Peer, and if the numbers be equal on a division, the question is negatived. *Semper presumitur pro negante*. It is the rule of the English Commons that the chairman of a select committee can only vote when there is an equality of voices. The practice of the English Houses prevails in the Senate and Commons. The same rules in fact obtain with respect to divisions in committee and in the House itself. The Chairman signs the report only by way of authentication.

In the United States it is done by a special standing order, which was made so long ago as 1789, but in which they followed the analogy of the place from which they came: It provides - and they have acted on it up to the present time - that the Speaker is not bound to vote except in elections by ballot; or except where the numbers* are equal, or except where his vote would make the numbers equal, supposing that he voted with the minority. We have the precedent of the constitutional practice of every English - speaking nation under any circumstances in the least degree analogous to our own. We have the fact that we have adopted the usage of the House of Lords, that is in giving the President a deliberative and not a casting vote. We have the authority of every text writer, that that rule when established runs right through every committee from top to bottom - that is, that delegates are just in the same position as those who delegate. We have above all the high and true principle of justice to support us, and we have the strong common sense view that where we refer any inquiries to a committee, we should have - the opinion' of every member of it; and not' allow the opinion of any one of them, however unworthy, to be shelved by some rule made by that body. The Senate cannot deprive me of my vote; it has no authority. The committee of the Senate cannot deprive me of my vote; it has no authority. In the same way a select committee is in no different position. Under these circumstances, I submit that the motion should be agreed to.

<page>5754</page>

Senator Sir JOSIAH SYMON

- This question, which was referred on my motion to the Senate is one which Senator Downer quite truly said is not very difficult, but is highly important. It is to me as plain as the daylight. It really seems to me on the material which he has very carefully and with great industry submitted, not to be arguable: He has argued it on' general principles as though we have no standing' orders, and as though there are no rules governing this question. With a great deal of what he said theoretically we may agree, and it satisfies me - and I think this is the conclusion which most honorable senators would draw from his speech - that it is a matter entirely to be dealt with by standing order. have no doubt that, when we come to deal with the standing orders, we shall find that the subject is dealt with expressly. We have a standing order which does expressly deal with it, and which has been acted upon by the Senate and by the committee itself during the long months it has existed This is really an endeavour to repeal or to suspend the operation of that express standings order by an indirect motion which in terms - I do not know whether it is intentional or not - seems to confine it to this particular committee.

Senator Sir John Downer: -This is not a select committee - that is what I mean.

Senator Sir JOSIAH SYMON

- My honorable and learned friend has not suggested that, but he has said that incidentally it may involve the chairmen of other select committees, and the expression used in the motion: confines its operation to this committee. That, of course, is not what we are discussing, and I wish to confine the matter as closely as possible to the settlement of the question which is remitted to the Senate for determination. Senator Downer said quite truly that it may be the duty of the select committee to disagree. Undoubtedly it may. He said - What do we send matters to select committees for? Matters are sent to select committees in order that they may investigate, and, to the best of - their conscience and judgment; determine them by inquiry and report. My honorable and learned friend said that disagreement may be an advantage. Undoubtedly it may. He also said that if there is disagreement the Senate may discharge the jury as well

as the judge. With that I agree, but we are not to invite disagreement. The Senate, undoubtedly, would have no recourse but to discharge the order appointing the committee after there was hopeless disagreement, and inasmuch as the committee has positively disagreed if the claim of the chairman to a deliberative vote and his exercise of that deliberative vote is maintained, it may be the duty of the Senate to settle the dead-lock. I say that is a serious consideration. A committee has been acting for months and months, making patient investigation into matters of very great difficulty and importance ; and the question underlying this motion is whether at this stage it is to serve any useful purpose or not. That is the difficulty in which we are placed, and it led to our respectfully coming to the Senate - because the motion which embodies the question on which we are soliciting the direction of the Senate was my own motion, proposed in order, if possible, to extricate ourselves from this position of dead-lock. If this position had not arisen, we might ten days ago have furnished a report on which the Senate would have been asked to express its opinion, and to finally determine the issues which have been under investigation by the committee. That is the situation. I agree with my honorable and learned friend that it may be the duty of a select committee to disagree ; but there would have been no disagreement resulting in dead-lock had it not been for Senator Downer's contention which we first became aware of when the committee deliberated. So far as I am concerned I should gladly have withdrawn my own vote if that would have facilitated a settlement. But that would have produced no result, because if I had done so there would have been no report. The question has only arisen in regard to one committee, although there is another committee of the Senate sitting in addition to the standing committees. The question will no doubt be settled finally by the Senate in regard to all committees at a later stage.

Senator Playford

- Did the chairman of the committee ever ask for a deliberative vote ?

Senator Sir JOSIAH SYMON

- Never. Perhaps my honorable friend will allow me to deal with that point now. The first time that the chairman suggested that he had a deliberative vote was on or about the 10th September, when my honorable and learned friend proposed a motion which would have resulted in a report being brought up, with reasons. On the 13th August we had this very question discussed.

Senator Sir John Downer

- I rise to a point of order. I purposely discussed this question simply from the point of view of whether or not I was or was not entitled to a deliberative vote, and I purposely avoided all reference to everything that has taken place in the committee. There is a report of the committee before the Senate, but my honorable and learned friend is going into something which is not before the Senate.

<page>5755</page>

The PRESIDENT

- I think the point of order is well taken. I am of opinion that Senator Symon should discuss the question that is before the Senate. We have not before us the proceedings of the select committee; The committee has not reported its proceedings ; and allegations from one honorable senator contradicted by another certainly will not conduce to the elucidation of the question which we ought to consider.

Senator Sir JOSIAH SYMON

- I of course accept, as it is my bounden duty to do, the ruling of the President, with the greatest pleasure; but I would point out that the statement I made was in answer to a question put to me by my honorable friend Senator Playford.

Senator Playford

- It is rather important.

Senator Sir JOSIAH SYMON

- It is of vital importance. I did not once interrupt my honorable and learned friend Senator Downer, when he was addressing the Senate, because I did not wish to have any element introduced into this discussion that would cause irritation. But I think honorable senators may well ask themselves whether, in the case of a committee appointed in June, it is not remarkable that this point has not been raised until the middle of October.

Senator Charleston

- The necessity for it never arose before.

Senator O'Connor

- Surely that is the question on which Senator Symon has been ruled out of order.

The PRESIDENT

- My ruling was that the honorable and learned senator should not refer to the proceedings of the committee.

Senator Sir JOSIAH SYMON

-I think Senator O'Connor is mistaken in saying that what I have been referring to is the same matter. I ask the Senate - is it not a singular thing that in the case of a matter remitted to the committee on the 27th June, this question has never arisen until the middle of October?

Senator Charleston

- Not at all; because the committee consisted of six at one time, and of seven at another.

Senator Sir JOSIAH SYMON

- Exactly so ! I leave honorable senators to draw the inference from that sagacious interjection. The committee now consists of six ; it consisted of seven before. Consequently no dead-lock could have arisen before. Does not my honorable friend Senator Charleston see the position in which he places himself by that interjection ? My honorable and learned friend Senator Downer said that a chairman might say - " I decline to remain any longer in the chair ; I am going to insist upon the decision of this committee being given the other way." That situation took place in connexion with a committee of the House of Commons on one occasion. Honorable senators will find the instance recorded in a foot-note on page 3S9 of the 10th edition of May.Mr. Horsfall, the chairman of the committee, had prepared the report, which was negatived by a majority of one. Mr. Cardwell then prepared a report embodying the opinions of- the majority. But, says May -

At the next meeting of the committee, Mr. Horsfall declined to resume the chair, and proposed that Mr. Cardwell should take it, his object being to obtain a majority in favour of his own views. The matter being referred to Mr. Speaker, he expressed an opinion that the course proposed was contrary to the spirit of parliamentary proceedings ; whereupon Mr. Horsfall dropped his contention and resumed the chair. If Senator Charleston says that the point could only arise when there were six members of the committee, the position in which he puts the matter is one from which I leave him to draw the inference he suggests. For two months or more the committee have been doing very little.

Senator Sir John Downer

- I again rise to a point of order. Has the honorable senator the right to refer to any matter relating to the committee which is not now before the Senate 1

The PRESIDENT

- I do not know that the point Senator Symon is making is very relevant, but I cannot say that he is out of order in saying that the proceedings of the committee have not been brought before the Senate for two months.

Senator Sir JOSIAH SYMON

- I am sure . that I am arguing the point with all moderation. I am not seeking to reflect on Senator Downer in any way whatever. I am endeavouring to point out that for two months the committee has not been very much in evidence. By this motion, submitting a point for the consideration of the Senate, . the committee undergoes a process of resurrection.

The PRESIDENT

- Does the honorable and learned senator think that is relevant ?

Senator Sir JOSIAH SYMON

- I do ; and it will be a very improper thing if this committee should die by its own resurrection.

<page>5756</page>

Senator Playford

- Would not the committee be in a position of absolute dead lock if this motion were carried 1

Senator Sir JOSIAH SYMON

- I tell my honorable friend that there will be an absolute dead-lock. We shall die. I am accepting the view which our respected chairman puts when he says that it may be the duty of a committee to disagree. While accepting that view absolutely, I am pointing out that the effect of the motion would be that, in the very act of bringing ourselves into daylight once more, we should expire for all useful purposes.

Senator Charleston

- Then the Senate will deal with the committee.

Senator Sir JOSIAH SYMON

- It is like discharging the jury and the Judge as well. I understand the suggestion has been made that the Senate should discharge the committee, and bring the matter to an end.

Senator Dobson

- Is it not contrary to the Constitution to take away the chairman's deliberative vote ?

Senator Sir JOSIAH SYMON

- I am clearing away the points referred to by Senator Downer before I argue the main question, pointing out those arguments with which I agree and those from which I dissent. The question to be determined is whether the chairman has the deliberative vote which he claims to have, or only a casting vote.

Senator Sir Frederick Sargood

- The standing orders cannot override the Constitution.

Senator Sir JOSIAH SYMON

- I do not say that they can. If the Constitution contained a provision for the creation of select committees, and provided that the chairman of a select committee should have a deliberative, not a casting vote, the matter would be at an end. But, unfortunately, the Constitution does not prescribe for the condition of things which exists, whereas the standing orders do prescribe for that condition of things. We should abide by them, not play fast and loose - or, as Senator Downer expressed it, pitch-and-toss - with standing orders under which we have been working for nearly six months.

Senator Dobson

- Then the honorable and learned senator would make the standing orders override the Constitution ?

Senator Sir JOSIAH SYMON

- No, indeed. If my honorable and learned friend will follow me, he will see that it is not so at all. First of all, is there a standing order bearing upon this question? Undoubtedly there is. What does it say ?-- Every committee previous to the commencement of business shall elect one of its members to be chairman, who shall only have a casting vote.

Now, I say that that standing order is absolutely decisive of this question.

Senator Higgs

- If not inconsistent with the Constitution.

Senator Sir JOSIAH SYMON

- I wish to deal with the matter as fairly and exhaustively as I can. It is a matter of indifference to me which way the question is decided. I do not feel any irritation at all in regard to it. It is not as on a former occasion, when there were in the discussion certain elements which do not arise here at all, and which certainly do not suggest themselves in the same way to one's mind.

Senator Dobson

- We all like to win.

<page>5757</page>

Senator Sir JOSIAH SYMON

- I tell the honorable and learned senator that I should like to win, but simply for the reason that I believe the view I take is right. I believe that this standing order governs the case, is decisive of it, and is not inconsistent in any respect with our Constitution. First of all, Standing Order No. 354 provides that the chairman of a select committee shall only have a casting vote. That was adopted on the report of the special committee chosen for the purpose of recommending to us a form of standing orders, in which they excepted standing orders that were contrary to the Constitution, and one in particular, Standing Order No. 214, to which I call the special attention of honorable senators. It provided -

In the case of an equality of votes, the Speaker shall give a casting vote, and any reasons stated by him shall be entered in the votes and proceedings.

That, of course, was absolutely in conflict with section 23 of the Constitution, which expressly states -

Questions arising in the Senate -

Honorable senators will mark the expression "in the Senate." It is not in committees - shall be determined by a majority of votes, and each senator shall have one vote. The President shall in all cases be entitled to a vote.

Of course a standing order which said that the Speaker, and by analogy the President, should not have a

vote, but should only have a casting vote, was wholly contradictory, of the Constitution, and the committee who recommended the adoption of these standing orders excepted Standing Order 214, giving the reasons " because it would give the President a casting, and not a deliberative vote, and it is contrary to the Constitution."

Senator Dobson

- Then we have grafted the spirit and practice of it into the proceedings of Committee of the Whole.

Senator Sir JOSIAH SYMON

- My honorable and learned friend is right, and with his quickness he anticipates the next point to which I wish to refer. There is no getting over that standing order, but there are two ways in which it is attempted to be got over. First it is said to be inconsistent with the Constitution, and, secondly, the practice laid down in May - not with reference to the House of Commons, but with reference to the House of Lords, a totally different institution from this - is said to be applicable to our procedure. Let us deal with these propositions one by one. Is it inconsistent with the Constitution? Two instances are given which my honorable and learned friend says are parallel, and if they are there is a great deal of force in the honorable and learned senator's argument. The first is the case of the President, but I have read the section of the Constitution in regard to the President, and it is as clear as language can make it that the President shall have a vote, and therefore, as my honorable and learned friend admitted, any standing order which overrules that provision of the Constitution is absolutely so much waste paper. It is for that reason that the committee to which these standing orders were referred expressly excepted it, on the ground that the President was given a deliberative vote by the Constitution. In addition to that, the honorable and learned senator will observe that section 23 provides for voting in the Senate.

Senator Keating

- That matter was discussed when the position of the Chairman of Committees was considered.

Senator Sir JOSIAH SYMON

- My honorable and learned friend is just as quick as Senator Dobson, but he is not dealing with the point with which we are now concerned. We get no light thrown upon this matter by the fact that the President, under section 23, is given a deliberative vote, and a deliberative vote "in the Senate." The provision, it has been agreed by most of us, is probably due, not to any analogy with the House of Lords, but because in this Senate and in deliberations here each State has equal representation, and it would be fatal to that equal representation in the Senate, and, by analogy, in the Committee of the Whole, if every senator did not have a vote.

Senator Dobson

- And, by analogy, in a select committee.

Senator Sir JOSIAH SYMON

- Why? A select committee consists, not of equal representation of the States, and not of representation of the States at all under these standing orders; it is unequal representation. Take the case of a select committee of seven members. Senator Keating presides over a committee of seven members, appointed by this Senate, and including, two members from Tasmania. Is that equal representation?

Senator Fraser

- It is not attempted.

<page>5758</page>

Senator Sir JOSIAH SYMON

- I have disposed of the position of the President. There is no analogy there. There is an express section in the Constitution which says that questions shall be determined in the Senate by a majority, that each member shall have a vote, and that the President shall have a deliberative vote. That rests probably upon the principle of equal representation of the States in the Senate, and not upon any analogy with the House of Lords. Then the Chairman of Committees of the Whole has a vote. We have recognised that. The Senate, through the exponent and custodian of its procedure, Mr. President, subject to the decision of the Senate, has decided the vote which the Chairman of Committees gives. But that is absolutely in conformity with the standing order under which we are working. The standing order under which we are working gives the _ Chairman of a Committee of the Whole a deliberative vote. The standing order is No 385, and it says -

Every question in committee shall be decided in the same manner as in the House itself.

Is not that conclusive enough ? That is the controlling part of the standing order, because that incorporates section 23 of the Constitution. The standing order says " the chairman having only a casting vote," but that is dominated and controlled by the part of the standing order which says that the question shall be determined " as in the House itself." There are no such words in Standing Order 354, which deals with select committees. There is no statement there that questions shall be decided in the same manner as in the House itself. The difference is clear. In the one case the standing, order expressly incorporates the provision of the Constitution giving a deliberative vote to every member of the Senate including the President, and applies it also to the Chairman of Committees of the "Whole. Standing Order 354 omits all these words necessary to incorporate the procedure in the House itself in dealing with the proceedings of the select committee, and establishes a rule, perfectly consistent with the Constitution, that the chairman of a select committee shall only have a casting vote. Where is there anything inconsistent with the Constitution in that standing order. Is there a word in the Constitution dealing with select committees ? Is there a word from beginning to end of this Constitution of ours, of which, we are naturally proud, which declares that select committees must be constituted of one member from each State?

Senator Millen

- It would destroy the value of the committee.

Senator Fraser

- It might be a committee on small-pox.

Senator Sir JOSIAH SYMON

- In which case it ought to consist of men who have had small-pox, and not necessarily of representatives of each State.

Senator Fraser

- What has a State to do with that ?

Senator Sir JOSIAH SYMON

- Absolutely nothing. On a select committee we appoint the most competent men to inquire into a subject. They are not there representing the States, but as representing the best intelligence and experience which can be brought to bear upon the subject. Surely there is no principle of that kind involved. I appeal to the President himself. I am told to go to the House of Lords. I will have nothing to do with the House of Lords. I decline to recognise the House of Lords as having any procedure to govern us in this Senate. If I may use the expression, they are on an inferior plane to this Senate altogether. When I want guidance in procedure, I am willing to go to the House of Commons. I am willing to go to our own Legislative Assemblies, and willing even to go, Mr. President, to the Legislative Council, over which you presided with so much dignity and honour for a number of years.

17B2

In the Legislative Council of South Australia there is exactly the same standing order as to select committees.

Senator Dobson

- What about other Federal Constitutions ? Can we get any authority there ?

Senator Sir JOSIAH SYMON

- My honorable and learned friend knows that in America there are no committees like ours at all. The chairman of committees there is a sort of Minister. Canada has an imperfect so-called Federal Constitution. It is not really federal at all, because they have no equal representation in the Senate. The Senate as constituted is a kind of House of Lords. The members are nominated for life, and they have accepted the analogy with the House of Lords, and follow the House of Lords' practice.

Senator Dobson

- Does not equal representation run through everything, even to a select committee?

Senator Sir JOSIAH SYMON

- No; how can it ? Supposing it were a committee for the purpose of inquiring into an abstruse legal Bill, surely some honorable senators, my honorable and learned friend included, would be very suitably placed upon that committee, and why should the personnel of that committee be determined merely by the fact that there are six States in the Commonwealth ?

Senator Dobson

- I did not quite mean that; but in every case we give him a deliberative vote, and do not shut his mouth.

Senator Sir JOSIAH SYMON

- How do we shut his mouth 1 Take seven men on a committee for example. That suggestion might be all very well if we were dealing with the repeal of these standing orders, but it is as we lawyers say, when talking to a jury, a suggestion of prejudice, and it is inapplicable when we come to deal with the interpretation of the standing orders which we have got, and which depends not upon the question of how he shall vote, but upon, the question of what is the nature of the vote that the chairman has got. We have six instead of seven members. If there were seven the chairman would have no vote unless there was an equal division.

Senator Dobson

- That is what we say is contrary to the Constitution.

<page>5759</page>

Senator Sir JOSIAH SYMON

- All the members need not be present. If there were four present they could deliberate. Does not the same state of things exist in Legislative Assemblies? What about the Speaker ? He has no deliberative vote.

Senator Dobson

- There is no analogy there.

Senator Sir JOSIAH SYMON

- Surely, as Senator Downer has put it very forcibly, the fact that a man is raised to a position of dignity should not deprive him of his vote? We have in the case of every deliberative assembly, except the House of Lords, exactly the same position.

Senator Dobson

- This is not an ordinary committee, it is a kind of judicial committee with judicial functions.

Senator Sir JOSIAH SYMON

- I am glad my honorable and learned friend has said that. Not very long ago he gave his vote with the majority which decided that we were not a judicial body.

Senator Dobson

- Although the committee can only report to the Senate it is a twenty to one chance that, on a question of fact, we should accept their finding.

Senator Sir JOSIAH SYMON

- The strong language used by us on the occasion referred to, was due to the fact that that very point was raised. I accepted, with the utmost completeness, the decision of the Senate - I did not even question the smallness of its majority - in deciding that we were not a judicial body ; that we were a select committee to inquire and report, appointed by the Senate, not by ballot, but on the nomination of Mr. President. Mr. President placed a list of the names on the table, and the resolution was that, after the expiration of a certain time, that committee should be deemed to have been appointed by the Senate. I accepted the decision of the Senate on that occasion, although I fought and felt very strongly against it. In a select committee the same reasons do not in any respect apply. The principle which gives to an honorable senator a vote in the Senate, or in the committee of the House, does not apply at all either to the constitution of a select committee or to the method of its voting. It is drawing a subtle inference to assume that there is one word in the Constitution to the effect that a select committee appointed for special purposes, in order to inquire and report, is on the same footing as the Senate - whether in the House itself or in Committee of the Whole - which is supposed to exist on the footing of equal representation of the States.. We are here six representatives from each State. A select committee may consist of six representatives of one State, and only one from another. On this very committee, to put it hypothetically, or on any other committee, so as not to raise any personal element, we give two votes to one State and none to others, if we give the chairman a deliberative as well as a casting vote. On this very committee, while there are two representatives of South Australia, there are none from Victoria.

Senator Dobson

- The Victorian representative resigned.

Senator Sir JOSIAH SYMON

- I am aware of that. I am merely mentioning the fact. We are dealing with the position, and that is exactly how it stands.

Senator Dobson

- In the Committee of the Whole, where the votes are equal, the question passes in the negative. Why not follow that out in committee ?

Senator Sir JOSIAH SYMON

- We cannot apply that rule to a select committee, because in the Committee of the Whole the chairman has his deliberative vote given to him by the Constitution, and by Standing Order No. 385. That settles the question so far as regards the Chairman of the Committee of the Whole; but is there anything in the Constitution which gives the same right to the chairman of a select committee ? Is there one word showing that a select committee must consist of one representative from each State, and that it must be founded on the same rule as to representation of the States as the Senate is?

Senator Dobson

- Oh, no but no member of it must be deprived of a deliberative vote.

<page>5760</page>

Senator Sir JOSIAH SYMON

- The Chairman of Committees is not deprived of it, because the standing order gives it to him. Is Standing Order 354 inconsistent with the Constitution ? Even if we have done wrong - and I think we are right - the standing order clearly gives the Chairman of Committees a vote, because it says that questions are to be decided in the same way as in the Senate itself. So in cases of select committees. In the Senate we vote by States, or according to equality of representation of the States, on matters which affect the States. Then again, as I have said, it is distinctly a matter to be dealt with by standing orders. If the Senate chooses to give, as it has chosen to give, a casting vote only to the chairman of a select committee, we must be governed by it. If the Senate chooses to alter that standing order, when it comes to settle the permanent standing orders for the guidance of the Senate, it may do so.

Senator Dobson

- "We could alter it tonight or to-morrow morning if we desired.

Senator Sir JOSIAH SYMON

- Does that proposal reconcile itself with the honorable and learned senator's sense of propriety or justice?

Senator Dobson

- If it is wrong we should.

<page>5761</page>

Senator Sir JOSIAH SYMON

- But a wrong standing order might be altered to convert a minority into a majority. Is that a wise suggestion to make on an occasion like this? So long as there are seven members or a less number, and so long as our select committees are founded, as they must be, not upon equal representation of the States, but on the basis of the selection of the men who are supposed to be most familiar with the particular subject delegated to it - whether it be small pox or any other question - there is not the slightest reason why we should depart from the House of Commons practice. That practice is that the chairman has a casting vote, and not a deliberative vote. We are not, however, driven to the House of Commons. We have our own standing order, which is absolutely clear. The committee has existed all these months under this and other standing orders applicable to its procedure, without the slightest hint or question of their inapplicability. If we are to deal with this matter upon a large constitutional basis, and if we are to say this standing order of our Senate amounts to nothing, then we turn to section 48 of the Constitution Act, which provides that -

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

If we desire an analogy upon which we can rest the practice, supposing the standing order is not satisfactory, then, under our own Constitution it is the House of Commons by which we are to be guided, not merely in relation to the powers, privileges, and procedure of the Senate itself, but in relation to committees. Then my honorable and learned friend referred to May, giving the go-by to the standing order upon which we rely. First of all May, and the practice of Parliament in England, have nothing to do with this matter, because we have clearly standing orders of our own. Are we likely to put them on one side,

and to go rambling about in the mazes of other parliamentary practices when we have a distinct rule of guidance of our own ? The practice of the Imperial Parliament only applies, under the very first preamble of our own standing orders, to cases where we have no applicable standing orders. The standing orders are prefaced with this paragraph -

In all cases not provided for hereinafter, or by sessional or other orders, resort shall be had to the rules, forms, and practice of the Commons House of the Imperial Parliament of Great Britain and Ireland, which shall be followed as far as they can be applied to the proceedings of this House.

So that we have there a distinct declaration that we are not to go to the Imperial Parliament unless we find there is no standing order applicable to the matter in question. What is May quoted for ? Not for the sake of the House of Commons practice, which is exactly the same as our own - that the Chairman of Committees has a casting vote and not a deliberative vote - but for the sake of incorporating the practice of the House of Lords, which has no standing order at all. It is merely the practice of a House which bears no analogy to the Senate of which we have the honour to be members. I think these are the points, so far as they affect the interpretation of these standing orders. It seems to me that we have a sheet anchor in Standing Order 354. Are we likely, by some subtle and refined inferences drawn from the Constitution, to say that the standing orders under which we have been acting are not to be a guide to our proceedings ? Are we to arrive at that conclusion with the result of that praiseworthy - it may be, as my honorable and learned friend says - but unfortunate division of opinion which brings about an absolute dead-lock? That is the question with which we have to deal. Senator Downer has referred to the position of the committee and the fact that, on the resignation of Senator Fraser, it remained with six members. My honorable friend took no objection on that occasion, and I do ask him why he did not point out then the possibility of either this contention or this difficulty arising 1

The PRESIDENT

- Does the honorable and learned senator think that that has anything to do with this question ?

Senator Sir JOSIAH SYMON

- Yes, I do, with great, respect. My honorable and learned friend has alluded to it.

The PRESIDENT

- Only when he was drawn away by an interjection.

Senator Sir JOSIAH SYMON

- -No, he dealt with it after that by referring to the debate which took place.

Senator Sir John Downer

- Never, except in answer to Senator Clemons.

Senator Sir JOSIAH SYMON

- I do not want to elaborate for one instant, but Senator O'Connor, I think every one will admit, took a most wise view of the position when he said that he understood the chairman was not unwilling-

Senator Sir John Downer

- No.

The PRESIDENT

- I ask the honorable and learned senator to confine himself to the question, which is whether the chairman shall have a deliberative vote or not ? If we refer to a former vote it will lengthen this discussion, and really drag in a lot of matters of prejudice which really has nothing to do with the question.

Senator Sir JOSIAH SYMON

- I have no desire to do anything of that kind. Therefore I will not go into details. A reference has been made, as it has been made in several quarters, to the committee being a committee of six. I do not wish to make any suggestion, either as regards the raising of this question in that connexion or in regard to the contention that might be made on the other side. I entirely approved of the constitution of the committee for the reason that I believed it would save a great deal of time, and for other reasons which I recollect were then stated here. It was an awkward position, and so far as it affected members of the committee the stronger side, speaking of it numerically, was losing one of its members, and so had to take the responsibility of continuing the business of the committee with a reduced number. Of course the difficulty as to the equal division of opinion, and the dead-lock could not have arisen but for the fact that there are only five members and a chairman. The claim to exercise and the exercise of this vote have rendered it necessary that we should have a final direction from the Senate, not as to whether we should repeal the

standing order, but as to whether the chairman has a right, under Standing Order 354, taken in connexion with the Constitution and with all the other standing orders, to the deliberative vote which brings about this unfortunate and deplorable position of affairs. I shall be glad to see any way out of it. I should willingly have withdrawn my own vote if it would have brought about a report which could have come before the Senate to be dealt with, but to have done so would have prevented anything of the kind from happening. Therefore we are left in that serious and difficult position to which allusion has been made on both sides, and the first step at any rate to its solution is the determination of the point by the Senate. That the question may be clearly and distinctly raised, it is necessary that an amendment shall be moved. I move - That the word " not " be inserted before the word " entitled."

Senator Sir John Downer

- Negative the motion.

Senator Sir JOSIAH SYMON

- No, because that would still leave it open. If that amendment is carried I intend to move the omission of the words " and not " with a view to inserting in their place the words " but only."

"Vice-President of the Executive Council

Senator O'CONNOR

. - I do not think Senator Downer in any way overrated the importance of this discussion, and Senator Symon seems to me not to have quite realized the very broad scope and effect which our decision must have, because a deliberative body, when it has to pronounce itself solemnly on questions of procedure, especially when those questions have arisen for the first time, and they involve an interpretation of the Constitution, must be prepared to give a decision which it can stand by, and apply under similar circumstances. We are not dealing now with the question of whether the chairman of this particular committee should or should not have a casting . vote. The Senate, in pronouncing its judgment on this issue, will pronounce a decision as to whether the chairman of any select committee is to have, under the Constitution, a deliberative vote and not a casting vote.

Senator Sir Josiah Symon

- Under the standing order.

<page>5762</page>

Senator O'CONNOR

- I shall come to that in a moment. I am speaking now of what the decision to-day involves, and I believe I am not stating the matter one whit too strongly. I would point out to certain honorable senators, who by their interjections seem to think that the matter is one to be decided on the particular incidents of this committee only, that they are exercising a responsibility here of a very much wider application than anything connected with the immediate circumstances. Senator Symon seems to be confusing two things. The reason why matters in the committee have been brought to a dead-lock is not necessarily because this deliberative vote has been given, but because the committee is one short of its proper number. If the proper number is made up, there is no reason why a dead-lock should arise.

Senator Sir Josiah Symon

- Really, sir, I was stopped from dealing with the question of the reduction of the number to six.

The PRESIDENT

- I tried to stop the honorable and learned senator.

Senator Sir Josiah Symon

- And you succeeded, with great respect.

The PRESIDENT

- I did to a certain extent.

Senator Sir Josiah Symon

- I was going to quote what took place, and as I was stopped, I do not think the matter ought to be re-opened.

The PRESIDENT

- I gave two rulings - first, that the proceedings of the committee not having been brought up, could not be commented upon, and secondly, I asked Senator Symon to confine his remarks to the question at issue, which did not appear to me to depend on the particular manner in which the committee is constituted.

Senator Symon said he would bow to my ruling, but I think he did discuss the matter a little afterwards.

Senator O'CONNOR

- I do not propose to say anything as to the details of what took place in the committee. I was only referring to that argument for the purpose of showing that the remedy is not to do something that is against the constitution, but to appoint another member to the committee, and it is perfectly open to the Senate now if it thinks fit to rescind the resolution, which was come to at a time when I must admit I had not the least idea that any such position as this would arise, and I do not suppose anyone else had.

Senator Sir Josiah Symon

- Why did not the chairman point out this possibility?

Senator O'CONNOR

- We have nothing whatever to do with that ; I do not want to say anything about it, because it would be transgressing the ruling of the President. My honorable and learned friend has dealt with the matter in the light and practised manner of an advocate, though I do not mean to say that he did not believe every word he said.

Senator Charleston

- The honorable senator has no right to say that.

Senator O'CONNOR

- What have I said that is offensive in any way?

Senator Sir Josiah Symon

- It is taken by Senator Charleston as offensive to me.

Senator O'CONNOR

- I never intended it to be offensive. An argument may be conveyed in a suggestion, and the suggestion that the only way out of the difficulty is to carry the amendment only confuses things, because the real way out of that difficulty is to appoint another member of the committee.

Senator Sir Josiah Symon

- Discharge the committee.

<page>5763</page>

Senator O'CONNOR

- We are dealing now with quite a different question, and that is whether the standing order is or is not inconsistent with the Constitution. I would first of all draw the attention of the Senate to the motion adopting the standing orders which was carried on the 6th June. A committee which was appointed to inquire into the question of the adoption of standing orders made these recommendations - Your committee have not had time to inquire into and report on the relative merits of the various standing orders in force in the Houses of the State Parliament ; but, for the reasons hereafter set forth, they recommend the temporary adoption by the Senate of the standing orders of the House of Assembly of South Australia, with the necessary verbal alterations - Then they proceeded to pick out certain standing orders which were obviously contrary to the Constitution, and they picked these out because apparently they commended themselves to them at the time as rules which should be specially dealt with, and to show that they did not confine the resolution to them they said - with the exception of orders Nos. 2 to 35, 214, and 502 to 404, and such other orders or portion of orders as are inconsistent with the Constitution.

The standing order, therefore, seems to me not to stand necessarily in the position of a standing order which has been properly adopted after discussion by the Senate; but it is a standing order amongst a body of standing orders which it was contemplated might not all be applicable, and which were adopted by the Senate with the express reservation that if they turned out to be contrary to the Constitution they did not apply. That report was adopted without any qualification whatever. "Why am I putting this position to the Senate ? For this reason - that the standing order cannot be treated as having the same deliberate force as a standing order which has' been considered and adopted by the Senate itself. Of course, if it is applicable and consistent with the Constitution it has as much force as any other standing order, but it must not be taken to be the deliberate judgment of the Senate that it is consistent with the Constitution. Therefore, the standing order is to be treated just as if we were considering it for the first time. Is that standing order inconsistent with the Constitution 1 The answer to that question seems to me to be involved in a consideration of a very narrow compass. We start with the 23rd section of the Constitution itself. But, before I deal with that, I should like to get rid of the argument that was put forward strongly by

Senator Symon as to the application of section 49 of the Constitution. It appears to me that section 49 has absolutely nothing to do with this question. It provides that -

The powers, privileges, and immunities of the Senate and of the House of Representatives and of the members and the committees of each House shall be such as are declared by the Parliament, and until declared shall be those of the Commons House of Parliament of the United Kingdom, and of its members and committees, at the establishment of the Commonwealth.

In the first place my view is that the phrase, " powers, privileges and immunities " as used there, does not refer to questions of procedure at all ; but supposing that the words do refer to questions of procedure, they would not make applicable a standing order which was inconsistent with the Constitution. So that we come back to the question of whether or not the standing order in question is consistent with the Constitution. The only section of the Constitution we have to do with is section 23. The section is very short, and perhaps the Senate will pardon me if I read the whole of it.

Questions arising in the Senate shall be determined by a majority of votes, and each senator shall have one vote. The President shall in all cases be entitled to a vote ; and when the votes are equal, the question shall pass in the negative.

It is not an uncommon thing in Constitutions to provide such a method. For instance, the Constitution of the United States makes no provision as to the House of Representatives but there is a standing order of the House of Representatives itself which enables the Speaker to exercise a casting vote. It is rule 7 which says -

In all cases of ballot by the House, the Speaker shall vote ; in other cases he shall not be required to vote, unless the House be equally divided, or unless his vote, if given to the minority, will ' make the division equal ; and in case of such equal division, the question shall be lost.

There is a note to this rule by the editor of , Wilson's Digest of Parliamentary Law, from which I am quoting. He says -

The right of the Speaker, as a member of the House, to vote on all questions is secured by the Constitution. No Act of the House can take it from him when he chooses to exercise it.

So that the only effect of that standing order is to compel the Speaker to vote in all cases of ballot; and in other cases he is not compelled to vote unless the House is equally divided, in which case the question shall be lost. It does not take away provides that when he does vote the ques his right to vote as a member, but only gives that method of arriving at finality.. There are instances in other Constitutions which will occur to honorable senators, under which a casting vote is given by the chairman when the votes are equal, and in that case the motion is lost. That is what the Constitution has done in our case. It is a method of finality which is just as efficacious in the case of a select committee as the other method.

The Constitution has chosen to adopt this method. Coming to the interpretation of this section itself, I should think that if there is one thing more evident than another, it is that in the first place the interpretation of the section must be by the Senate itself ; and in the second place that interpretation ought to be in a broad spirit, and with a recognition, wherever possible, of the underlying spirit of the Constitution. We should not be tied down to a merely narrow and legal interpretation, but should wherever possible endeavour to carry out to the fullest extent the spirit of the Constitution itself. It is in that spirit that we have already interpreted this section, and under that interpretation we have been sitting for five months. If my honorable and learned friend Senator Symon is right, and we are to interpret this section in its literal meaning, it applies only to divisions in the Senate and not to divisions in Committee of the Whole.

Senator Sir J Josiah Symon

- Under Standing Order 385 it also applies to Committee of the Whole.

Senator O'CONNOR

- I am dealing with the interpretation of the Constitution, and if as I say that if we are to adopt the narrow legal interpretation put upon this section by my honorable and learned friend, the section will only apply to divisions in the Senate itself. The Senate has already decided the matter, not under the narrow use of the word Senate, but has interpreted it to mean the Senate, whether sitting with the President or with the Chairman of Committees in the chair.

Senator Playford

- There is no difference.

Senator O'CONNOR

- There is no difference as to the members, but there is a great deal of difference if we apply the narrow interpretation, when it means the Senate with the President in the chair. But if we employ the broad interpretation, it applies equally to committees of the whole. It will be remembered that when the section was previously raised a question had arisen in committee and was reported to the Senate, whereupon the President ruled that the Chairman was right. It was held by the President that, whether the vote exercised by the Chairman was called a casting vote or a deliberative vote, he had a vote, and certainly should not be deprived of it.

Senator Clemons

- The President ordered the Journals to be altered.

Senator O'CONNOR

- Senator Clemons very properly called attention to that matter at the time, and it is because he seemed to state, in a very few words, the constitutional position which then arose, that I am going to quote what he said. It is reported in Ilansard, page 2012 -

I wish to draw your attention to the Journals of the Senate for to-day, where you will see that it is stated that in committee last night "The number of the ayes being equal, the chairman gave his casting vote with the ayes." I submit, sir, that in accordance with your ruling on that question, the chairman did not give a casting vote. If this statement is allowed to remain on the Journals it may create a very bad precedent on the subject, which was thoroughly thrashed out and decided yesterday. I think you will agree with me that that vote - however it may have been designated by the chairman - could only have been such a vote as it was within his power to give, namely* a deliberative vote. Therefore, the statement in the Journals that the chairman gave a casting vote is not strictly accurate.

The "President. - I think the best way to avoid all difficulty will be to strike out the word " casting. " I will see that it is done.

It is necessary to have recourse to that, speech of the honorable and learned senator to show how it is that the record comes to be in its present form. Therefore, the Senate deliberately adopted a reading of section 23- of the Constitution that would apply not only to the sittings of the Senate, but to sittings in Committee of the Whole ; and that rule has been followed ever since.

Senator McGregor

- We could not do anything else.

Senator O'CONNOR

- I am glad to hear the honorable senator say that, because I hope I shall be able, with unanswerable force, to point out that exactly the same principle ought to drive honorable senators to the conclusion that the same rule should apply to select committees. In addition to that I would direct attention to another precedent, not of the same kind, but which I think is worthy of consideration. The Standing Orders Committee have met on many occasions and have done very important work.

Senator Sir Josiah Symon

- I submit that that has nothing to do with the question.

The PRESIDENT

- The Standing Orders Committee have brought up their report and laid it on the table.

Senator Sir Josiah Symon

- What has been done by another committee of this. Senate has no relevancy as a precedent or an illustration. I submit that it is quite irrelevant, because other honorable senators can not deal with it as it is not within their knowledge. We shall enlarge the scope of this question indefinitely if other matters are brought in.

The PRESIDENT

- As to whether the argument of the Vice - President of the Executive Council has any weight or not, I am not the judge. The only question for me to decide is whether the honorable and learned senator can quote from the proceedings of a select committee which has brought up its report and laid it on the table. I do not see that I can stop him from doing so.

Senator Sir Josiah Symon

- I submit that we have not seen the report.

<page>5765</page>

The PRESIDENT

- Are not quotations, constantly made from papers which the Senate has not seen 1

Senator Sir JOSIAH SYMON

- We cannot possibly debate this question of whether the Standing Orders Committee are right or not. They may have been perfectly wrong. We do not know whether or not they have so reported at all, except that the papers have been laid on the table, and a day has been fixed for their consideration. I submit that Senator O'Connor is anticipating a, debate upon the standing orders.

Senator O'Connor

- On the point of order I submit that I am fairly entitled to make this reference to a document which is before the Senate. Honorable senators are aware that the minutes of proceedings of the Standing Orders Committee were to-day laid upon the table of the Senate, and they are now open to honorable senators opposite, as well as to myself. I submit that I am in order in referring to passages in these minutes.

The PRESIDENT

- I do not think I can stop any honorable senator from quoting from a paper laid upon the table of the Senate, if it has anything to do with the question at issue. Whether it has or has not in this case I do not know, because I have not heard the quotation.

Senator Sir Josiah Symon

- I submit that the proceedings of another committee are totally irrelevant to the question before us, which is as to the power of this particular committee to do a certain thing. What we are engaged upon is the question of the interpretation of this standing order, and whether it is of is not inconsistent with the Constitution. That another committee has adopted a different interpretation of it cannot affect the judgment of the Senate at all. A decision of the Senate is a precedent for the Senate, but a decision of a select committee is not.

The PRESIDENT

- The honorable and learned senator will see that he is addressing his remarks to the value and weight of the reference intended to be made. I am not the judge of that. That is for the Senate to decide.

Senator O'CONNOR

- Of course it is quite open to the honorable and learned senator to argue that the precedent is of no value whatever. At the same time, I submit that we are dealing with the interpretation which the Senate is to put upon this section of the Constitution, and I am entitled to point out that the Senate has already adopted a certain interpretation of it in dealing with the Chairman of Committees of the Whole, and that it has adopted also a certain view by a select committee appointed to deal with this particular question.

Senator Sir Josiah Symon

- Another select committee has adopted another view.

Senator O'CONNOR

- Exactly, but if I could show that it had been the universal practice of committees of the Senate for, say, ten years - had the Constitution been in existence so long - the honorable and learned senator would admit at once that that would be a very strong argument indeed.

Senator Sir Josiah Symon

- But one swallow does not make a summer.

Senator Major Gould

- This is something which is suggested for future practice.

Senator O'CONNOR

- The honorable and learned senator has not understood. What I am pointing out is that the value of the precedent I am to submit is really that it is part of the transactions of the Senate by one of its committees. I find that on the 4th July votes were given on a question which arose in the committee by Senators Downer, Gould, and Higgs on one side, and by the President and Senator Dobson on the other. On the 5th September, a question arose on which a division was taken, and there were on one side Senators Best, Dobson, Gould, and Higgs, and on the other side the President and Senator Downer. On the 26th September there was a division in which Senators Best, Dobson, Gould, and Higgs voted on one side, and the President and Senator Downer on the other. There are other references, which honorable senators may find for themselves. These votes took place without any objection so far as I can find from any record of these proceedings. I say this is a circumstance which must and which ought to be

considered in the interpretation which we are to put upon this section 23. What is the reason 1 It is the reason which underlies this section of the Constitution itself, that this is the House which expressly represents, and whose chief function it is to represent, the interests of the State. Of what moment is it to tell us to-day that, on this particular committee, members may have been selected or may not have been selected as representing States or State interests ?

Senator Fraser

- Why should they be ?

<page>5766</page>

Senator O'CONNOR

- Or that, in dealing with some other questions, they need not be appointed as representing States ? But does Senator Fraser mean to tell me that we may not have questions arising in the future in which State interests will necessarily be involved, and in connexion with which it will be necessary to have an inquiry, and that on that inquiry every State should not be represented. We can quite understand that in these committees, as they will cover the whole field which the Senate itself will have cognisance of, cases may arise in connexion with which justice could not be done, and the public opinion of Australia could not be satisfied unless we had an equality of representation in the select committee reflecting the equality of representation in the Senate itself. We are setting a precedent, which is not to apply to this committee only, but to every committee which may be appointed.

Senator Sir Josiah Symon

- Only so long as this standing order prevails.

Senator O'CONNOR

- We have nothing to do with whether this standing order prevails or not.

Senator Sir Josiah Symon

- That is the essence of it.

Senator O'CONNOR

- I beg the honorable and learned senator's pardon, because, not only is this standing order ultravires, because inconsistent with the Constitution, but there can never be in a standing orders committee, or even in the Senate itself, any power to pass or approve of any standing order which takes away from any senator whether he sits in the Senate, in a committee of the whole Senate, or in a select committee of the Senate, the right of voting. That is the principle which underlies all this. It is idle to say that we are settling the question of this particular committee, because we are practically settling for all time the rights of members of the Senate, and we have to decide whether in this or in any other committee we may or may not have the States equally represented.

Senator Fraser

- That applies to the Committee of the Whole, not to select committees.

Senator O'CONNOR

- With all due respect to the honorable senator, his observation shows that he has not apprehended the position I am stating. It is this : we have no doubt about what applies to the whole House, but I say that in future, many questions may arise in which the States must be represented, even on select committees, in accordance with the numbers from each

State, and unless we have this principle of equality of representation of the States running all through our proceedings we shall not carry out the spirit of the Constitution.

Senator Fraser

- Then such matters should be dealt with in committees of the whole House.

Senator Sir Josiah Symon

- Or by a special standing order. .

<page>5767</page>

Senator O'CONNOR

- Senator Fraser's observation is rather a hasty one. After all, what is the reason for selecting the method of finality provided for in this standing order i Finality there is obtained by giving a casting vote to the chairman, a method which takes away a vote from a Senator of a State. The method which the Constitution provides in the Senate, in committees of the whole, and I say also in select committees of the Senate, is that a system of obtaining finality shall be adopted, which shall have regard to the very end for

which this Senate has been appointed, and shall take care that under no circumstances in any deliberations where members of the Senate are called together shall any member representing a State be deprived of his vote. In interpreting this Constitution we must have regard to the future. We must have regard, not only to this question, but to the wide questions which must be involved in many subjects which will come before us for discussion ; and we must always remember the end and object of this Senate, which is an equal representation of the States, and the end and object of the section of the Constitution we are dealing with here, which is that each State shall be equally represented, and no Senator shall be deprived of his vote. " I say that the principle must run through every sitting of members of the Senate, whether in the Senate itself, in Committee of the Whole, or in any of these select committees. I am not dealing merely with the question of expediency, I am dealing with the question of the interpretation of the Constitution. I say that interpretation should be no narrow one, and that it should be in accordance with the spirit of the Constitution itself. I say that if it is dealt with in that spirit the Senate can come to only one conclusion, and that is that this by-law is ultra vires, and that under no circumstances should this section 23 be interpreted so as to take away from any member of the Senate even in the proceedings of a select committee, the right, which it is intended by the Constitution he should have, of giving a deliberative vote upon any public question which comes before the Senate or any of its committees. I hope that the amendment will not be carried. I feel sure that if the importance of the matter is realized, and it is remembered that we are deciding now what will be a precedent for other occasions, perhaps more important than this, we shall come to the conclusion that the only sound and constitutional course to take is that which will follow not only this Constitution, but the precedent of all Constitutions ; and that is that where we have a committee of the House, it is a delegation of the House, and its powers and authorities, and procedure follow the powers, authorities, and procedure of the House which delegates it. Senator Symon made some reference to the House of Lords, as if we were asking honorable senators to follow a particular precedent, because it happened to be followed by the House of Lords.

Senator Millen

- It was Senator Downer who did that.

Senator O'CONNOR

- Then Senator Downer's argument was misunderstood. The honorable and learned senator never argued that.

Senator Symon

- Tes ; the honorable and learned senator expressly quoted "the House of Lords' practice.

Senator O'CONNOR

- I know the honorable and learned senator did, but for what reason I shall quote now, in order to put the matter beyond all doubt, from Cushing's Law and Practice of Legislative Assemblies - a book which is of high authority, and lays down general principles, illustrated by all Constitutions which are known. The general principle there laid down with regard to this question is this -

Questions are determined in select committees by the voices and by divisions in the same manner as in the House to which they belong. In the Lords Committees the chairman votes like any other Peer, and if the numbers on a division are equal, the question is negatived. In the Commons the practice is similar to what takes place in the House on divisions, the chairman voting only when the numbers are equal, and then giving the casting vote.

I do not cite that, nor was it cited by Senator Downer as being any authority upon this question whatever, but only in support of the general usage that wherever a committee sits by delegation of the House, it follows the procedure of that House.

Senator Sir Josiah Symon

- And where there is no standing order.

Senator O'CONNOR

- Of course if there is a standing order expressly in accordance with the Constitution, it is a different matter altogether, but where the committee sits by delegation of the House its procedure follows that of the House delegating it. I do not desire to attach any more weight to that argument than it is entitled to, and I am sure that Senator Downer did not do so. I think it is entitled to this weight, that if we were in any doubt as to the manner of interpreting this Constitution that would be a safe and constitutional rule to follow. I do not, however, put it upon that ground at all, and I make no use of that precedent, because I

say we can decide this matter entirely on the principles underlying the section of the Constitution, I ask honorable senators to come to the conclusion that Senator Downer's motion should be carried just as it is, because that is the only way in which we can preserve to every member of the Senate the rights which the Constitution has given him.

<page>5768</page>

Senator MILLEN

- I entirely agree with the remarks addressed to the Senate by Senator Downer, and those just uttered - with some unusual emphasis, may I say - by Senator O'Connor, as to the desirability of every honorable senator having a vote, whether in the Senate or in the Committee of the Whole. It has never been held, however, that because a law is undesirable or absurd that that is a justification for breaking it. Therefore the remarks made by the honorable and learned senators to whom I have referred, seem to me to constitute a magnificent argument for the repeal of the standing order, but not for a breach of it. I agree that it is extremely desirable that every member of the committee should have an opportunity to express his opinion, by voting, on the subject delegated to that body. It is quite another matter, however, to say that because it is desirable that he should have a vote, therefore he has it. The question we have to decide is whether the Senate has adopted the standing order which deals with the point, does that standing order bind the committee, and is it outside the Constitution? There can be no disputing the fact that if the standing order does not violate the Constitution it simply means that the Chairman of the Select Committee can only have a casting vote, but it remains to be determined whether or not that is within or outside the Constitution. Section 49 of the Constitution Act, which Senator O'Connor seemed to pass away from with rather suspicious haste, reads -

The powers, privileges, and immunities of the Senate and the House of Representatives, and of the members and the committees of each House shall be such as are declared by Parliament, and until declared shall be those of the Commons House of Parliament of the United Kingdom, and of its members and committees at the establishment of the Commonwealth.

Senator O'Connor

- If the honorable senator is right, then this standing order has no applicability at all, because it has not been declared by the Parliament.

Senator MILLEN

- I am quite prepared to meet that. I am thankful to the Vice-President of the Executive Council for his interjection. I was going to point out that Parliament consists of two Houses and not of one. If Senator O'Connor likes to take refuge in that, and we determine that the standing order is ultra vires, then we fall back on the practice of the House of Commons. That is not the only point on which we have to take the House of Commons as our guide. Either the standing order is good and valid or it is not. If it is not, we have to adopt the practice of the House of Commons, and no other, which means that the Chairman of the Select Committee is to have a casting vote only. Section 23 of the Constitution Act is a very proper provision to make in view of the fact that the Federal Constitution 'proceeds on the basis of equal State representation, but it did appear to me that it was almost unnecessary to refer to this question again after Senator Symon had spoken. We have Senator O'Connor returning to the charge, however, and practically affirming that because equal representation has been accorded, and because each senator is to have his vote, which means that each State is to have equal voting power, the principle is to be carried into select committees. Let us see how utterly impossible that would be. Our standing orders provide that select committees shall consist of seven members. Will some honorable senator who is a better arithmetician than I am, show how it is possible to get equal State representation on a committee composed of seven members, when there are only six States in the

Federation? Where is the equality of voting power if we give two votes to one State?

Senator Sir John Downer

- If the six States appoint seven representatives, those seven represent the six States.

Senator MILLEN

- I would ask Senator Downer to recall some of the splendid orations he made upon the question of equal State representation when the Constitution Bill was in the crucible.

Senator O'Connor

- Would it be possible to appoint a committee of six?

Senator MILLEN

- The Senate has made it possible by passing standing orders which provide that the committee shall consist of seven members, unless otherwise provided. It seems to me to be absurd to talk about equal State representation on the committee, or to suppose that any State interest is involved in a matter of this kind, or that members would vote from that point of view. If State interests are involved, then the sooner we abolish the idea of having select committees the better it will be. Senator O'Connor appealed to honorable senators to give the broadest interpretation to the Constitution, because the vote we were about to give on this question would not only determine the matter for this particular occasion, but for all time. I disagree with him. We are simply asked to determine the validity or otherwise of this particular standing order. If the Senate determines that it is a valid one, and that under it the Chairman of the Select Committee can give a casting vote it is open to ' the Senate by constitutional means to repeal the standing order tomorrow. It is idle, therefore, to say that our decision on this question to-day is going to be an interpretation of the Constitution for all time, or that it will bind us in any action we may choose to take at some future date.

Senator Sir Josiah Symon

- It will not bind us in the slightest degree.

<page>5769</page>

Senator MILLEN

- That is my opinion. Another argument put forward by Senator O'Connor was that the committee, being a delegated body, had the same power as that given by the appointing body. If I may say so, with all respect, I have never heard a more absurd statement. If I delegate a power to anyone, I delegate just so much power as I choose to transfer to that person, and not necessarily the whole power that I myself possess. The suggestion has been made that the appointment of a seventh member of this committee would overcome the difficulty.

Senator Playford

- So it would.

Senator MILLEN

- It would leave us in the same position. On the particular occasion in question, it might have prevented the difficulty, but it does not get rid of it. It is a mere ostrich-like method of procedure. Assuming that we had seven members on the committee, and the question came up, then it might be said at once " it does not matter whether you call it a casting vote or a deliberative vote." It would make all the difference, however, if one member of the committee were absent.

Senator Playford

- But a member of the committee never absents himself from a meeting when there is important business to be considered.

Senator MILLEN

- I have known very important matters to go through committee with only a bare quorum present.

Senator Sir Josiah Symon

- The quorum of this committee is four.

Senator MILLEN

- Exactly. There might be only six members present and thus the difficulty would still remain. By appointing a seventh member we do not get over it. The point we have to consider is whether the standing order is a valid one, and whether it proposes to give the chairman of a select committee a deliberative or casting vote. If we appointed one or 100 members the difficulty would still exist and might crop up at any time that an equal division of votes took place. I do not know whether the argument was put forward seriously or not, but I trust that the Senate will not agree with the view that that proposal would be a solution of the difficulty.

Senator CLEMONS

- It seems to me that this question must be decided either by reference to the standing orders, or, as Senator O'Connor prefers, by reference to the Constitution. If that honorable and learned senator thinks that the standing order quoted governs this case, then he can have no doubt as to how he should vote. But there is apparently very considerable doubt in the minds of other honorable senators who will not have this question governed by the standing order which seems so explicitly to meet the case. I want

them to see with what consistency they will be forced to vote. They ask for two things. They ask first of all that the chairman shall have a deliberative vote ; they also ask that the spirit of the Constitution shall be carried into select committees. They cannot join these two things. If they are going to have the spirit of the Constitution carried into select committee - and I do not see any reason why we should - they will admit at once that they must have in all select committees either six members or a multiple of the number six. There is no other way by which we could carry equal State representation into select committee. That, I think, is agreed. What then would be the position? The demand is first of all that the chairman shall have a deliberative vote, and secondly that there shall be six members of the committee. The chairman is to exercise his deliberative vote while the committee is six in number, and the obvious result of that will be a dead-lock.

Senator Drake

- Not a dead-lock.

Senator CLEMONS

- I mean to say that the obvious possibility that must arise from six persons forming a committee, and each having a deliberative vote, is a deadlock. I may anticipate the Postmaster-General's solution of the difficulty by saying that we might have a standing order providing that, when the voting is equal, the motion shall pass in the negative.

Senator Drake

- The Constitution provides that.

Senator Sir Josiah Symon

- No, it does not.

Senator CLEMONS

- Such a provision is not to be found in the Constitution. I recognise at once that the Postmaster-General might say we could get over the difficulty by providing that in such cases the question shall pass in the negative. Is that a position that we want to see ? Does not every honorable senator see that a position of that kind induces clever juggling; that as a matter of fact it would bring about a state of things in which the parties, being equally divided, would never move anything? Would not that be the inevitable result of having a committee of six, every member of which possessed a deliberative vote?

Senator Drake

- Would not the same thing thing apply to a Senate of 36 members ?

<page>5770</page>

Senator CLEMONS

- It may be the rule in a Senate of 36, but it is not therefore desirable on a select committee of six members only. I am sorry that Senator O'Connor is not present, but I shall have equal pleasure in pointing out to the Postmaster-General what that honorable and learned gentleman has done already. The contention that has been put forward is that we should carry into our select committee the spirit of the Constitution, which gives equal representation to every State. That being so, it is a deplorable thing that in every appointment of a committee the Postmaster-General and the leader of the Government have violated the spirit of the Constitution. I submit that not a single committee has yet been appointed which has carried out the spirit of the Constitution, which demands equal representation if it is to be demanded.

Senator Drake

- We put on one representative for each State.

Senator CLEMONS

- Even the Postmaster-General will be arithmetically capable of understanding this simple proposition that unless you appoint six, or a multiple of six, you do not carry out the spirit of State representation, which he says is absolutely necessary in the constitution of select committees. Those which have been appointed have been invariably committees of seven.

Senator Sir Josiah Symon

- And that gives at least two votes to one State.

Senator CLEMONS

- If honorable senators support the amendment, that is the position in which they will always be placed, and, difficult as it is, prima facie it is made more difficult in my opinion, and more objectionable still if you attempt to solve it by saying - " in terms of equality, the motion passes in the negative." Is there one

honorable senator who wants to see that sort of thing 1 Do we want to see select committees so formed that where there is an equal division of opinion, each side will be juggling and practically refusing to move a motion, because if they take the initiative, they will be defeated 1 We should never get finality. I happen, most unfortunately, to have taken some steps in connexion with the committee. For two reasons I moved that amendment that the committee should be deemed fully constituted without the President appointing a successor to Senator Fraser. One reason was because I regarded it - and I believe every honorable senator will concur with me in that opinion - as a most invidious thing for . you, sir, to have to select a member from the Senate, in which every one, to the best of my belief, had expressed himself by voice and vote on the question.

Senator Charleston

- No one expressed an opinion upon the subject the committee were investigating.

Senator CLEMONS

- I am going to meet this thing fairly and squarely, and not try to quibble. I know that every honorable senator felt very strongly and spoke with great force on the question. I shall now give my other reason for moving the amendment. I recognised that there had been a division, and that, if the chairman were to exercise a casting vote, we should be in no way doing an injustice, or interfering with the constitution of the select committee by leaving the vacant seat unfilled.

Senator Sir Josiah Symon

- Except that the majority suffered because they had lost one man.

Senator CLEMONS

- Precisely as I said at the time - if either party in the committee is to suffer, obviously it is the majority. But at the same time I frankly say, assuming that the chairman was going to exercise a deliberative vote -

The PRESIDENT

- I have allowed the honorable senator to proceed because he was discussing a personal question, but I must now ask him not to continue the debate any longer on those lines.

Senator CLEMONS

- The one thing we do desire is finality. '

Senator Sir Josiah Symon

- We want a report from the committee.

Senator CLEMONS

- Of course we do, and it is obvious to every honorable senator that if the chairman has a deliberative vote and not a casting vote, we shall not get finality. We shall only have finality under one of two circumstances. We shall only get finality either by discharging the committee or by adding one to its number.

Senator Sir Josiah Symon

- Would adding one to its number be a fair thing ?

Senator O'Connor

- Filling up the vacancy is a better expression than adding one to its number.

<page>5771</page>

Senator CLEMONS

- I am not going to quibble about words. I am not discussing the matter in that quibbling style. Which of these two methods does Senator O'Connor want t Does he think it desirable that we should fill the vacancy ? If we filled the vacancy,- we should be practically asking one man to decide a question of momentous issue.

Senator Playford

- No ; Senator Fraser might go back and take his old place.

Senator CLEMONS

- I do not know whether Senator Fraser would consent, and I am not going to ask him. If the vacancy were filled by the appointment of another ;senator he would be placed in a position of extreme importance - and a position which no honorable senator, in my opinion, would care to occupy. The other solution seems to me preferable. I -should prefer to see the committee discharged, and yet if it is discharged Western Australia, which has been five months without full representation, will in all probability be five months more, and the session will have ended. I remember the remarks which were made, especially by

Senator Drake, when leave of absence was asked :for Senator Matheson. He said the matter would be decided in a short time, and he laughed at the idea of granting six weeks' leave of absence. It is now three months since the last report was brought up. My contention is that if the Senate appoints a new committee the session will expire before Western Australia can be properly represented. In the interests of the Commonwealth and of the Senate, whatever else we do, we ought to do our utmost to enable the committee to bring in a report and to get this matter settled as soon as possible. I entirely disagree with the contention that the chairman has a deliberative vote. I think he has a casting vote, because I "believe the standing orders govern it, and if they do not govern it, I cannot see that the spirit of the Constitution is in any way carried into select committees. I am addressing my remarks now to those honorable senators who feel some doubt as to whether they are right or wrong in voting. To any one who has a doubt as to the issue here, I say - " If you have a doubt, you should do something to enable the committee to bring in a report, and the Senate to come to a final decision on a question of great importance to Western Australia." If you decide that the chairman has a deliberative vote, and not a casting vote, you will keep Western Australia without a representative for many months more.

Postmaster-General

Senator DRAKE

. - I do not think I have at any time expressed an opinion as to the length of time which would be occupied by the committee in investigating the matter at issue. Leave of absence for six weeks was asked for Senator Matheson, and when that notice of motion went off the paper, and another one was substituted asking for an indefinite time, I suggested that it would be as well that the term of six weeks should be restored, and if necessary further leave of absence obtained. I do not think I expressed any opinion as to the length of time which would be taken up by the investigation.

Senator Sir Josiah Symon

- Yes ; the Minister deprecated giving leave of absence to the end of the session on the ground that it might delay the decision of the committee.

Senator DRAKE

- That has nothing to do with what Senator Clemons said just now - that I made some forecast as to the time which would be occupied in investigating the matter. I think he will find that I said nothing o'f the kind. I wish to say a word on the question, which, very properly, has seemed to be of considerable importance to speakers on both sides, of the extent to which the representative character of the Senate extends to the Committee of the Whole, and also to select committees. I had a good deal to do with the selection of the names for the select committees, and each committee was framed with the idea of including a representative from each State. In the early days of the session the Vice-President of the Executive Council brought down certain standing orders, one of which provided that these committees should consist of five members. While the standing orders were lying on the table, waiting for adoption, certain committees were formed on that basis, but after the notice of motion was given, objection was taken by Senator Neild in these words, which will be found at page 678 of Hansard -

There are other proposed rules for governing the numbers on certain committees, and I find on the business-paper some proposals to appoint sessional committees under the standing orders.

The PRESIDENT

- I do not think that the Minister is, except by leave, entitled to refer to another debate of this session.

<page>5772</page>

Senator Clemons

- If the honorable and learned senator will look at the back of Hansard, where a list of our committees is printed, he will see that a representative of each State does not sit on each committee.

The PRESIDENT

- We have a standing order which distinctly says that no honorable senator shall refer to another debate of the present session. That standing order binds us, and unless the Senate gives leave to the Postmaster-General I do not think he can refer to the speeches of honorable senators delivered in another debate.

Senator DRAKE

- I can speak from memory. I remember that Senator Neild pointed out that it was very undesirable that a committee should be formed in such a way that each State would not have a representative upon it, and

he pointed out that under the standing orders, which had been laid on the table of the Senate, the number of members of a select committee was so restricted that it would be impossible for each State to be represented. Subsequently the standing orders which were submitted by the Vice-President of the Executive Council were not adopted, but those under which we are now working were adopted, under circumstances which have been mentioned this afternoon. A small committee was appointed to consider them, and bring up a report the next day. That committee, of which I was one, had very little time within which to compare the standing orders of the different States. We could only hastily prepare a report, and bring it down next day, proposing the adoption of these standing orders, with certain qualifications. That is to say, it was recommended that certain standing orders were only to apply if they were not contrary to the Constitution. One of the standing orders adopted was No. 345 -

All Select Committees shall, unless the House shall otherwise direct, consist of seven members, whereof one shall be the mover.

Senator Major Gould

- Is that a valid standing order?

Senator DRAKE

- Yes.

Senator Major Gould

- Is it in accordance with the spirit of the Constitution?

Senator DRAKE

- Certainly. The Vice President of the Executive Council being away at that time, I considered that it was open for me to agree to increase the number from five to seven. I consulted with one or two honorable senators and arranged deliberately that there should be a representative of each State on each committee. When the motions came before the Senate, I asked leave to amend them in such a way that each State should have one representative on each committee. Several honorable senators spoke on the subject, and, I think they all approved of the action I was taking. That shows very clearly that the number seven was adopted as a matter of principle - not as some honorable senators have insisted, that there should be an equal representation of each State upon each committee, because, there being seven members appointed, there must of necessity be one State with two representatives but the principle deliberately adopted was; that there should be one representative of each State on each committee, which shows perfectly clearly that at that time it was. the intention of the Senate that the representative character of the Senate should be continued not only as regards the committee of of the whole Senate, but also as regards select committees. That to my mind makes: it as clear as daylight that the principle of equal representation of the States, requiring that the President should have a. deliberative vote, and requiring also that the Chairman of Committees in committee of the whole should have a deliberative vote as a senator, was intended to be continued so far as concerns select committees. That principle Senator Clemons himself contended for, because when he asked that the Journals of the Senate should be amended, he did so on the specific ground that the vote given by Senator Best, as Chairman of the Committee of the Whole, was a deliberative and not a casting vote. Following out the same principle, the representative character of the Senate requires that any standing orders to the contrary should be overruled by section 23 of the Constitution Act ; and I think it is perfectly clear that the same principle applies not only to committees of the whole, but to select committees.

<page>5773</page>

Senator DOBSON

- The matter before the Chamber is of so exceedingly simple a character, that one almost wonders that we have been able to take up so much time in considering it. It seems to me that we should carry Senator Downer's motion, and should proceed to fill up the vacancy caused by the resignation of Senator Fraser. If that is done none of the dreadful consequences prophesied by Senator Clemons will happen. I think I have been slightly misunderstood by Senator Symon when I said that I thought the equal representation of the States in the Senate to some extent governed. this question. I fancy that when the Constitution builders put it in the Constitution that the President should have a deliberative vote, but made no provision for a casting vote, providing that if the votes were equal the question should pass in the negative, they had regard to the question of equal representation, and also had regard to the fact that each State should have the benefit of the representation of its six senators. The object was that no vote

should be lost to a State even if one of its representatives was put in the President's chair. Rightly and justly following out that principle of the Constitution, the same practice has been adopted with regard to the Chairman of Committees ; that no matter whether the Chairman of Committees - as was the case for some few weeks - came from Tasmania or whether he came from Victoria, his vote was never to be lost. Equal representation of the States is therefore carried out, and in every case the Chairman or the President has a deliberative vote and not a casting vote. The simple question is - Is it logical and just, or in accordance with the spirit of the Constitution, to carry out that practice which we have adopted with regard to the President and Chairman of the Committee of the Whole, so far as concerns chairmen of special committees? Nobody, I should have thought, could argue that that was not the only logical and rightful way of interpreting our Constitution. Let me put a case to Senator Millen and Senator Gould with reference to the large State they represent. Suppose one of their representatives was fighting for his seat in the Senate, and suppose that the side represented by the honorable senators was exceedingly interested in the decision. It might be that upon that decision might hang the fate of a Government. If we conduct the affairs of our select committees in the way honorable senators opposite wish there might be some amount of juggling - if I may use that word - in deciding an issue which ought to be decided as a judicial matter. It might be that one of the members of the committee was very ill, and could not attend the meetings. The members of the committee who wanted to secure a certain result might say - " We will put so-and-so in the chair, and then there will be three members on the one side and two on the other." In that way they would absolutely take away the vote of the Chairman of the Committee, which the Constitution has refused to do with regard to whoever may be President of the Senate. The point seems to me to be unanswerable; and I say at once that any standing order which shuts the mouth of an honorable senator in any position whatever is absolutely contrary, not to the letter, but to the spirit, of the Constitution. If there is the slightest difficulty about the matter, either the Ministry or Senator Downer should give notice of motion that the standing orders be suspended if necessary. If the words of any standing order override, the spirit of the Constitution, it had better be suspended than that we should shut the mouth of the chairman of a select committee. We ought not to be asked to violate the spirit of the Constitution. I think the difficulty can be got over in the way I have suggested, and that we can preserve intact the principle of equal representation which we have been contending for.

<page>5774</page>

Senator Major GOULD

- The speech of Senator Dobson has been addressed more to the point of what is desirable with regard to the duties and powers of the chairman than to the actual facts before us. In the first place, I should like to take the opportunity of observing that I think this is a most inconvenient time at which to raise a question of this character. The Vice-President of the Executive Council has - erroneously, I think, - sought to show that we may create a precedent in this matter, from which it will be doubtful if we can escape without a great deal of difficulty. I do not agree with the honorable senator in that respect ; but, certainly, this is a most inopportune time to decide the matter. It has been pointed out to us that the select committee are equally divided. There are three members of the committee who intend to vote one way, and three who will vote in another. If a deliberative vote is given to the chairman his vote will therefore determine whether the matter is to be carried one way or the other. We cannot really give a clear and unbiased vote on the matter as we have to look at the whole of the surrounding circumstances. We have adopted certain standing orders and in one of them we have dealt with this question of the chairman's vote. If that standing order is a good one there is an end of the whole matter ; but if it is not we should look to section 49 of the Constitution for guidance, because we are there told in broad terms that the powers, privileges, and immunities of a committee shall be the same as those of a committee of the House of Commons.

Senator Dobson

- That does not apply to practice.

Senator Major GOULD

- We will assume that it does not. Then I say that our standing order is perfectly valid. It cannot be ultra vires, because it is not in conflict with the spirit of the Constitution so far as the voting of the President is concerned. We clearly have power to regulate the proceedings of our own committees. We can regulate them as we think fit, so long as we do not violate the strict letter of the Constitution.

Senator Dobson

- Which we do by shutting the mouth of one member of the committee altogether.

Senator Sir Josiah Symon

- The mouth of the Speaker of the House of Representatives is not shut, although he has not a deliberative vote.

Senator Major GOULD

- The Speaker has only a casting vote.

Senator Dobson

- Did the honorable and learned senator compare the House of Representatives with the Senate? They cannot be compared.

Senator Major GOULD

-Under the standing order, if it is a good one, Senator Downer is entitled to a casting vote. It may be that the standing order is absolutely wrong, and ought to be repealed immediately, and that the honorable senator should have his deliberative vote ; but we have to recognise that there is that standing order staring us in the face, and we must decide according to that. If that standing order is ultra vires, it must be by virtue of some portion of the Constitution, and, so far, no part of the Constitution has been pointed out which will show that it is ultra vires. So far as equal State representation on these committees is concerned, the very proposal made in the first instance by Senator Drake to have only five senators on the committee shows that to his mind and to the mind of the Government it was not considered necessary to have equal State representation upon these committees. We did not carry out the spirit of the Constitution as laid down by the Vice-President of the Executive Council in the appointment of these committees. 17 c 2

Senator Sir Josiah Symon

- We gave one State two votes on this committee.

Senator Major GOULD

- We gave one States, two votes, but the reason why seven honorable senators were appointed to the committee was to secure that with an unequal number of members a dead-lock in the proceedings of the committee would be prevented. It is now suggested that we should make this a full committee, but I do not know that Senator Fraser, who retired from the committee some time ago, in consequence of ill health, will be prepared to go back to it again. I do not think any senator would care to take the position of seventh man on that committee at the present time, knowhow it is divided. We have nearly all formed some opinion on the matter already, and it would be an unfair thing to do to put another honorable senator on that committee. Personally I should bring to bear as impartial a mind to the consideration of the case as possible, but I feel that to a certain extent I might be regarded as prejudiced.

Senator Sir John Downer

- Why should the honorable and learned senator be prejudiced when he does not know anything about the case 1

Senator Major GOULD

- I do not ; but if I were appointed as a member of the committee, and my voice and vote happened to go in the same way as Senator Symon, it might be said that I was sitting on the same side of the House with Senator Symon, and had voted in the same way as that honorable and learned senator a little time before. It would put any honorable senator who took the vacant seat in an invidious position. So far as I can see it would be far better to accept the amendment proposed by Senator Symon in this instance, it being clearly understood that it is only in consequence that of the standing order that exists at the present moment, and not in consequence of our opinion as to whether it is wise or unwise to give the chairman of a committee of that kind a casting vote or only a deliberative vote.

Senator Dobson

- The Senate should pass an Act appointing a Judge to decide.

Senator Major GOULD

- I think it would be far better if a Judge were to determine matters of this kind connected with disputed elections.

Senator Sir Josiah Symon

- But that is not the question now before the Senate.

<page>5775</page>

Senator Sir FREDERICK SARGOOD

- By this time honorable senators must have come to the conclusion that it is very much to be regretted that the number of members of this committee has been reduced to six. I believe still that the simplest solution of the difficulty will be to increase the number by one, and ask Senator Fraser to again accept the position, which he had unfortunately to give up through- ill health. It has been stated that that would place the honorable senator in an awkward position. I do not think so at all, because honorable senators know nothing about the case up to the present. No evidence has been taken, and all that has been done is to have a discussion as to the mode of procedure in presenting petitions. There has been an expression of opinion from many honorable senators upon that point, but as to the merits of the petition I do not suppose there is a member of the Senate who knows anything about it. When I first saw this motion of Senator Downer's I thought section 49 of the Constitution governed it, and that we should have to follow the rules of the House of Commons. Looking more closely into the matter I do not think that section affects the question one iota. The section provides that until certain powers are declared by Parliament, a certain course shall be followed, namely, the practice of the House of Commons. But it does not, so far as I can see, relate in any way whatever to the order and conduct of business in each House. Each House, under the following section, has, of course the necessary power and right to deal with standing orders which do relate to the conduct of its business. We are then thrown back upon section 23, and the whole question is as to whether our Standing Order 354 is ultra vires or not. Before we can arrive at a conclusion on that point we must decide on what is the meaning of section 23, and whether every member of the Senate has an absolute right to a deliberative vote. If under the Constitution every member has an absolute right to a deliberative vote, no standing order, and not even the Senate itself, can alter that. It may be said that section 23 deals with the matter a little ambiguously, and I think a wrong interpretation of the section has been given by interpreting the phrase "in the Senate" as having the ordinary technical parliamentary meaning of the term "in the House." I do not think it means anything of the kind. The more I look at the section the more . I am convinced that the phrase "in the Senate" is used in the fullest and widest sense. The section provides that on all questions arising "in the Senate," each senator shall have one vote, and I say that that covers all committees, whether committees of the whole House or select committees, because they are part and parcel of the Senate, and in those 'committees under that section of the Constitution every member must have a deliberative vote.

Senator FRASER

- What about the Standing Orders Committee where there are nine of them ?

Senator Sir FREDERICK SARGOOD

- If there were 90 it would not alter my argument.

Senator Fraser

- It clearly proves that no State rights are involved in it.

Senator Sir FREDERICK SARGOOD

- I am not speaking of State rights at all. Section 23 says nothing about State rights. It simply says that every senator shall have a vote.

Senator Sir Josiah Symon

- "in the Senate."

Senator Sir FREDERICK SARGOOD

- That is where I think honorable senators go wrong, because the phrase is not intended to be read in the ordinary Parliamentary sense of "in the House," it simply means "in the Senate," in a committee of the whole House, which is part of the Senate, or a select committee which is part of the Senate.

Senator Sir Josiah Symon

- It is part of it, but it is not the Senate ; while a committee of the whole is the Senate.

Senator Sir FREDERICK SARGOOD

- I confess I am not able to agree with the honorable and learned senator in his reading of it. I think the honorable and learned senator's reading is too limited, and my conviction is that in a select committee of the Senate every man has an absolute right to a deliberative vote, and if my view be correct, no standing order can possibly override the Constitution. A great deal has been said on the subject of giving equal representative power to the States in each committee, but that, I think, has nothing whatever to do with this matter.

Senator Millen

- That is the only object of giving each senator one vote.

<page>5776</page>

Senator Sir FREDERICK SARGOOD

- I do not think so. On my reading of the section, each senator would have one vote, and no standing order could alter that.

We have been referred to the House of Lords, but we have nothing to do with the House of Lords or its practice. We can work within the four corners of the Constitution Act, and under any standing orders we may pass in accordance with that Constitution. Anything which is not in accordance with the Constitution is perforce ultra vires. It does happen that Standing Order 354 states that the chairman of a select committee shall have a casting vote "only." But for the use of that word I should have been inclined to say that the standing order was perfectly right, because we might have given a casting vote in addition to a deliberative vote. I am not certain whether we could not by a slight stretch strike out that word, and say that the intention of the Constitution is to give every member a deliberative vote, and that by the standing order we also give the chairman a casting vote. The matter has been fully debated, and I simply wish to call attention to the particular point to which I have referred. I again urge that, really, the simplest plan to follow would be to make the committee up to the full number of seven, if the honorable senator, who, unfortunately, had to retire, is willing to accept the position again.

Senator DE LARGIE

- I cannot understand honorable senators making use of the argument about equal representation of the States on committees, at the same time supporting the proposition of Senator Sir John Downer for a deliberative vote, because that proposition would give an unequal vote to the States on the committee. At present we have two South Australian senators there, one of whom has a vote, but it so happens that the other is chairman of the committee, and, according to the present standing orders, has a casting vote. That is about as near as it is possible for us to form the committee on the principle of equal representation of States. To depart from that, as Senator Downer proposes, is to get away from equal representation, and senators who are in favour of equal representation must vote against the motion submitted by Senator Downer. There is a very much graver aspect of this question than that. We must remember that this committee has been investigating this case for a very long time. At all events, it has been going about its business for a long time. When we have been under the impression that we had a certain basis of voting on that committee. No doubt (1:3 committee has had a somewhat chequered career, but surely there is no reason whatever for altering the basis of voting of the members of the committee. The very fact that it has not been a very happy family is the best reason for retaining the basis on which we set out. To alter it would be for the Senate to take sides, and if we do alter it, I hold that we shall stultify a decision which the Senate came to some time ago, when, on the retirement of Senator Fraser, we decided that we should have six senators on the committee. To alter the basis of voting on the committee now would be to set aside the mandate we had from the Senate at that time. The very fact of altering this would cause us to arrive at a dead-lock. There is no reason why we should make any variation.

Senator Sir John Downer

- That was because we did not go on.

Senator DE LARGIE

- If we did go on with the business of the committee, and carried out Senator Downer's motion, we should arrive at a dead-lock. The Senate has given us its mandate to proceed with the case, but Senator Downer's motion would put an end to our business at once I think the Senate would be acting unwisely if it departed from what has been the general understanding from the first.

Senator WALKER

- After the long debate which has taken place this afternoon, the Senate will have some sympathy with members of the committee. The whole House has been engaged for nearly four hours in considering this matter, and as similar debates take place on the occasion of the meetings of the committee which, as a rule, do not extend over a period of more than two hours, honorable senators will be able to form some idea of the great progress we are making. It seems to me to be a most extraordinary state of affairs, that the gentleman whom we honour by electing as the chairman of our committee, should have less power in dealing with the business of the committee than that possessed by any other member of it.

Senator Sir Josiah Symon

- What about the position of Mr. Speaker ?

<page>5777</page>

Senator WALKER

- I agree with Senator O'Connor, that that is not an analogous case. The members of the committee are delegated, not by the House of Representatives, but by the Senate. I trust that the Senate will support Senator Downer's motion, and that it will see its way clear, thereafter, to appoint a seventh member of the committee. At the present time the great State of Victoria is not represented on it, while the less important State of South Australia has two representatives. Curiously enough that model State has a plurality of representation on no less than four of the six committees appointed by the Senate. Fortunately, or unfortunately, its two representatives on the Elections and Qualifications Committee are lawyers. The remaining members are laymen and we defer to their professional knowledge. But when the two men of law only negative each others views what are we to do ? We must perforce rely upon our own judgment, and my judgment has always been that section 47 of the Constitution settles this matter. I hope that a seventh member of the committee will be appointed. Any honorable senator joining us now will not be placed at any great disadvantage, and I trust that Senator Eraser will see his way clear to return to the committee. I would only say in conclusion that in my opinion the chairman, Senator Downer, deserves very great credit for the excellent spirit he has shown light through.

Senator GLASSEY

- Some rather peculiar arguments have been put forward this afternoon upon this question. It has been contended that those who support the amendment moved by Senator Symon would practically silence certain members of this committee, and would deprive them of some of their constitutional rights. That has been urged with some degree of vehemence in certain instances. I do not share that opinion, nor do I think that the question involved is a constitutional one. It may be regarded with some degree of amusement that a layman should dare to venture an opinion on matters of this kind, but I say with all humility and sincerity that this question has in no way a constitutional aspect. It is merely a question whether the particular standing order, to which such frequent allusion has been made, has any existence in fact or is a dead letter. If it has no force, then the members of the committee should have been informed of that fact long ago. I have always acted with that degree of liberality which I think should actuate every honorable senator on the committee, and I should decline to take up any position which would deprive an honorable senator of his legitimate rights. If it is agreed that the chairman of the committee has a deliberative and not a casting vote as provided in this standing order, then that fact should have been conveyed to us. The matter has come before the committee on one or two occasions, and we have never had any doubt until quite recently that the chairman did not possess a deliberative vote. I have held that belief, and have been guided by it, from the first.

The PRESIDENT

- I do not think the honorable senator should refer to the proceedings of the committee until they report.

<page>5778</page>

Senator GLASSEY

- Very well, Mr. President. It has been contended that if the amendment be carried it will form a precedent for all time. I cannot view the matter in that light. Either we have these standing orders to guide us or we have not. I hope this amendment will be carried, not because I wish to deprive the chairman of the committee of any constitutional right he possesses, but because I believe he is setting up a claim to a right which the standing orders do not give him. I fail to see that if carried it will constitute a precedent, for I presume we shall have shortly a new set of standing orders, which will guide our future proceedings. It has been said by Senator Symon that if we had no standing orders the rules of the House of Commons would operate, but that we have for our guidance in this matter the standing order to which reference has been made. If the House of Commons procedure guided us, we should stand on exceptionally safe ground, because the chairmen of select committees of that House possess only a casting vote. So long as we have this standing order to guide us, however, I do not see that there can be any difficulty. I do not hold the opinion that it is inoperative. When was any resolution passed in the Senate providing that it should be silent ? If my memory is not exceptionally defective, hp such resolution has been passed, and if the rule remains good, the claim put forward by the Chairman of the Select Committee is one which

cannot be granted. I speak absolutely free from prejudice, bias, or partisanship. There is no partisanship or prejudice in this matter. I take my stand in defence of the standing order which has guided the committee during its existence. Either it has vital force, or it has not. If it is valid, as I believe it is, any resolution contrary to it will be entirely wrong. I know nothing of the merits of the petition. I know that some members of the committee are acting with perfect good faith, and with a firm belief that the standing order is binding. If it is binding, then the amendment ought to be carried, and the claim put forward by Senator Downer disallowed. I have the highest possible respect for the honor and the integrity of Senator Downer, but I certainly think that in this instance he is wrong in his view of the standing order.' In my opinion the amendment in no way involves any Constitutional question ; nor does it attempt, in the slightest degree, to silence any honorable senator. If it is carried the chairman of the committee will be able to talk with the utmost freedom, but he will be deprived of a deliberative vote. If there has been a tacit understanding that the standing order should not operate, there may be something said in opposition to the amendment, but I know of no such understanding. I have been fairly regular in my attendance, and I can remember no resolution being passed to set aside the standing order. I shall vote for the amendment, not to deprive any honorable senator of a right, but to vindicate and maintain intact the standing orders.

Senator MACFARLANE

- On the 25th July last, the Senate asked the committee to make further inquiry, and report. I hope that the blame of the delay will be put on the right shoulders. We have had a great deal of discussion, but have really made no progress.

The PRESIDENT

- I do not think the honorable senator ought to refer to what has been done in the committee.

Senator MACFARLANE

- I hope that the amendment will not be carried, and that the chairman will not be deprived of a deliberative vote. He has exercised that vote already. I do not think any reason has been shown for over-riding section 23 of the Constitution. I understand that "the chairman of the select committee on standing orders has exercised a deliberative vote several times. That is a Very good precedent for us to follow in this case. I have heard on good authority that we are not a select committee at all. We have not been appointed in the ordinary way by vote of the Senate, but under a warrant.

Senator Sir Josiah Symon

- No; the warrant nominated the members, but they were appointed by the Senate. The resolution says that it shall be deemed an appointment by the Senate.

Senator MACFARLANE

- I understand on good legal authority that we are not a select committee in the ordinary meaning of the term. If that is so, I think section 23 of the Constitution Act must apply, and our chairman should not be deprived of a deliberative vote.

Senator STANFORTH SMITH

- I have listened very carefully to the debate, and it seems to me very clear that we should be guided by the standing orders, which say that the chairman has only a casting vote. It has been argued very learnedly by many legal gentlemen that these standing orders are ultra vires, because they conflict with the Constitution. If that is the case, section 49 of the Constitution says that if the powers and privileges of the Senate are not defined, it has to be guided by the House of Commons procedure, and that, I think, is the general rule in the State Parliaments. If we refer to the procedure of the House of Commons, we shall find that the chairman has only a casting vote. Senators Downer, Dobson, and O'Connor have said that such a provision in our standing orders, if legal, would be most unjust ; that it was contemplated that every honorable senator should have a deliberative vote, and that it would be most unjust to give the chairman only a casting vote. Some honorable senators have endeavoured to insist that each State should be represented on the committee. With great respect, I think that argument is absurd. When we appoint a committee to ascertain certain facts we appoint those who we think are most competent to come to a correct decision, and there is no question of State rights at all. I have taken the trouble to turn up the draft, standing orders, which were introduced by the Government for provisional use.

<page>5779</page>

Senator Sir John Downer

- On a point of order, sir, I ask you to what extent the debate will extend if we have every document which has been laid on the table considered with the view of saying whether or not the chairman of this committee has a deliberative vote %

The PRESIDENT

- I think any honorable senator can quote from any document on the table which is relevant to the discussion. These proposed standing orders were laid upon the table, therefore I think Senator Smith is in order in quoting from them, but whether they have any bearing or not on the question at issue is another matter.

Senator STANIFORTH SMITH

- In these standing orders, introduced by the representative of the Government and settled after revision by the Prime Minister, I find the following rule : -

Every committee, previous to the commencement of business, shall elect one of its members to be chairman, who shall only have a casting vote.

These are the standing orders which the Government asked us to agree to instead of having the South Australian ones.

Senator DRAKE

- They were objected to on the ground of that particular standing order.

Senator Sir Josiah Symon

- No; we -adopted it in the South Australian rules.

Senator STANIFORTH SMITH

- I think Senator Drake is mistaken there. ""This rule was never discussed.

Senator Drake

- Yes it was, because it bore on the appointment of a chairman of committees.

Senator STANIFORTH SMITH

- "There is exactly the same provision in the South Australian standing orders which we adopted for temporary use.

Senator Sir Josiah Symon

- And it does not bear on the appointment of a chairman of committees.

Senator STANIFORTH SMITH

- The Government clearly contemplated that the chairmen of all our select committees should have only a casting vote. That was the Government proposal then ; but in this particular case it is exactly the opposite. However, it was not to discuss legal questions that I rose. What I want to speak about strongly is the great injustice which has been and is being done to Western Australia by this protracted discussion as to the qualifications of one of its representatives.

Senator Sir John Downer

- What does the honorable senator want to have done ?

Senator STANIFORTH SMITH

- I want the matter settled one way or the other ; I do not care which way it is.

Senator O'Connor

- Appoint another member to the committee.

Senator STANIFORTH SMITH

- I am not going to suggest how it can be done.

Senator Sir John Downer

- The committee have tried for four months to settle the matter.

Senator STANIFORTH SMITH

- Their efforts have been very ineffectual.

Senator Sir John Downer

- The committee do not know what the petition is all about yet.

The PRESIDENT

- I will ask Senator Smith not to be led away by interjections. Does he think his remarks are relevant to the question at issue as to the vote of the Chairman of the Elections and Qualifications Committee 1

Senator STANIFORTH SMITH

- I am speaking of the injustice of prolonging this discussion with a view of ascertaining whether some

means cannot be taken for settling the matter as quickly as possible. I think an argument to that effect is relevant. The Constitution clearly contemplates that very State shall be equally represented in the Senate. That is one of the basic principles of our Constitution, and yet, ever since this Parliament has been sitting, that principle has not been carried out. Western Australia, instead of having six representatives, has only had five. We have had many important questions before the Senate. Some of them vitally affecting Western Australia have been carried by narrow majorities, or lost by one or two votes. Yet we have had only five representatives from Western Australia instead of the six to which we are entitled. I do not care how the committee is constituted, or whether the whole committee is swept aside and the matter is decided by the Senate, but I say that a gross injustice has been done and is being done to Western Australia, and as a representative of that State I claim that we are undoubtedly entitled to have our six members, and should not be deprived of one of them in consequence of differences of opinion and bickerings amongst members of the committee. What will be the position if Senator Downer's motion is carried? We shall have three members of the committee on each side, and there will be all kinds of manoeuvring as to who shall propose the resolution, because the others will be ready to negative it.

<page>5780</page>

The PRESIDENT

- I must ask the honorable senator not to refer to what has been or what is taking place in the committee.

Senator STANFORTH SMITH

- I am only speaking of what might happen. If this motion is carried it will mean that there will be six members on the committee, each of whom will have a deliberative vote. As there is a dead-lock at present, that will be accentuated by the fact that if one member proposes a motion the others can negative it. The result will be that because of these dissensions in the committee Western Australia will continue in her present invidious position, and will not have the representation to which the Constitution entitles her. I am going to vote against the motion, simply because I believe it will perpetuate the present difficulty.

Senator Sir John Downer

- Because the honorable senator is sitting on that side of the Chamber, that is why.

Senator STANFORTH SMITH

- That is an imputation which the honorable and learned senator should not have made. I am not actuated by the fact that I sit on the Opposition side. If the honorable and learned senator cares to look at the whole of my votes throughout this Parliament, he will see that I have voted as often with the Government as with the Opposition. I am not actuated by party spirit in these matters, but I take the view which I think is the correct one. The point upon which I feel strongly is that as long as these bickerings continue, Western Australia will not have her full voting power. There are many important questions coming on, such as the Alien Immigration Restriction Bill, the Tariff, and other proposals.

The PRESIDENT

- The honorable senator should not refer to those matters, which have nothing to do with the question.

Senator STANFORTH SMITH

- On any of the important questions which will come before the Senate, Western Australia will have insufficient voting power. Therefore I trust we shall adopt some procedure by means of which finality may be arrived at, and speedy justice will be insured. It seems to me that, if Senator Downer's motion is carried, that injustice will be continued, and Western Australia will be imperfectly represented in the Senate.

Senator Sir John Downer

- There will be absolute finality within a month.

Senator STANFORTH SMITH

- If there is not, I hope the Senate will sweep away this committee as one which is not competent to decide the matter, and that the subject will be settled by the Senate itself.

Senator KEATING

- It appears to me that, during the course of this debate, though it started off so well, there has been a tendency on the part of several honorable senators who have addressed themselves to the motion to get away from the main question to a number of side issues. We are asked to deal with a question of principle, and we ought to endeavour to decide it in a judicial way. We should apply our consideration to

the matter without regard to any of the incidental consequences that may arise by reason of the personnel of the committee affected, or by reason of the position of the State concerned. I think the principle laid down by Senator Downer in support of his motion was agreed to by honorable senators on both sides of the Chamber, namely, that - standing orders apart - the case should be governed by the general principle that governs Legislatures in the United Kingdom, in the United States, in Canada, and elsewhere ; and that the procedure of a committee appointed by a House of Legislature should be analogous to the' procedure of the House itself of which that committee is a creature. As against that argument, Senator Symon has urged, with a great deal of force and emphasis, that we are not to determine the matter by the general procedure which governs the proceedings of Legislatures and committees of a House, but that it is a matter purely for the standing orders. I traverse that statement. We are, in my opinion, bound by the principle of section 23 of the Constitution, which says - Questions arising in the Senate shall be determined by a majority of votes, and each senator shall have one vote.

I doubt very much whether we can call our Elections and Qualifications Committee a select committee within the meaning of the standing orders.

Senator Staniforth Smith

- Another side issue !

<page>5781</page>

Senator KEATING

- It is not a- side issue, but an important point, as I think I shall be able to show directly. The argument which has been addressed most forcibly to this issue is that Standing Order 354 applies to the procedure of this committee. That standing order, governing the proceedings of select committees, is as follows - Every committee previous to the commencement of business shall elect one of its members to be chairman, who shall only have a casting vote.

It is contended that that standing order will override the principle which it is held by other honorable senators is contained in section 23 of the Constitution. But I wish to point out that Standing Order 345 says -

All select committees shall, unless the House shall otherwise direct, consist of seven members, whereof one shall be the mover ; clearly showing that select committees are to be the creation of the Senate, and are not to be appointed by warrant of the President, as this Elections and Qualifications Committee was. Standing Order No. 348 provides that -

Select committees shall be formed in the following manner :

I will ask honorable senators to pay particular attention to the manner in which these select committees are to be formed. The standing order says -

Each member present shall give to the Clerk a list of the names of any six members, not including the mover, whom he may think fit and proper to be upon such committee ; and if any list contains a larger or lesser number of names, it shall be void and rejected.

That is the procedure laid down by the standing orders for the appointment of select committees. Will any honorable senator say that in the appointment of the Elections and Qualifications Committee such procedure was adopted ? If that procedure was not followed, I contend that this committee is not a select committee within the meaning of our standing orders, and that clearly Standing Order 354, which governs the procedure of select committees, cannot be called in to assist those who say that the chairman of this committee can only exercise a casting vote. Of course I am not going to say that this committee is to be regarded as a committee of the whole House, but I ask honorable senators to pay particular attention to Standing Order 385, which governs the procedure of Committees of the Whole. It is as follows - Every question in committee shall be decided in the same manner as in the House itself, the chairman only having a casting vote, and 0113' reasons stated by him shall be entered in the Votes and Proceedings.

Honorable senators are well aware that under that standing order it was contended by the chairman of the committee, Senator

Best, on one occasion, that he was entitled to exercise a casting vote, and when his decision upon that matter was disagreed with, and the point was referred to the Senate, the President decided that the Chairman of Committees, notwithstanding the explicit terms of Standing. Order 3S5, had given a

deliberative vote. Ever since then the Chairman of Committees has exercised, not a casting vote, but a deliberative vote.

Senator Sir Josiah Symon

- But the standing orders expressly say that matters shall be decided in the committee in the same way as in the Senate.

Senator KEATING

- I am now directing attention to Standing Order 385. Does my honorable and learned friend wish to contend that we are to obliterate from that standing order the words "having only a casting vote"?

Senator Sir Josiah Symon

- Certainly.

Senator KEATING

- Then the words are not only unnecessary, but they are absolutely meaningless.

Senator Sir Josiah Symon

- They are dominated by the other words. No such words occur in Standing Order 354.

Senator KEATING

- That can have no application to this case, because I am contending that this is not a select committee.

Senator Sir Josiah Symon

- If it is not a select committee, there is an end of the matter.

Senator KEATING

- Will the honorable and learned senator contend that it is a select committee?

Senator Sir Josiah Symon

- Certainly.

Senator KEATING

- Then how was it that the committee was appointed in the way it was appointed?

Senator Sir Josiah Symon

- Because the Senate chose to have the committee appointed in that particular way.

<page>5782</page>

Senator KEATING

- The committee was not appointed in the manner prescribed by the standing order, but by warrant of the President. As I have already indicated Standing Order 355 sets forth -

All select committees shall, unless the House shall otherwise direct, consist of seven members, whereof one shall be the mover.

Clearly under that standing order the Senate has power to direct that a select committee shall consist of other than seven members. But under Standing Order 348 there is no such provision or reservation as "unless the House shall otherwise direct." It is absolutely mandatory that select committees shall be formed in the manner prescribed. We cannot go behind that order in the appointment of a select committee.

Senator Sir Josiah Symon

- Some of the other committees were appointed by nomination.

Senator KEATING

- Then they have not been appointed as select committees under these standing orders, which, therefore, are not applicable to them as select committees.

Senator Sir Josiah Symon

- That remark would apply to all committees.

Senator KEATING

- It would apply to all committees not appointed under Standing Order 348.

Senator Sir Josiah Symon

- Then what kind of committee would the honorable and learned senator call the Elections and Qualifications Committee?

Senator KEATING

- It is a committee appointed by warrant of the President. With reference to the power of the chairman of committees of the whole Senate to give a casting or deliberative vote, I should like to read from the ruling given by the President on that occasion.

Senator Sir Josiah Symon

- Can the honorable and learned senator quote from a ruling given in another debate 1

The PRESIDENT

- Several honorable senators have already referred to that ruling and have quoted it.

Senator KEATING

- I think, under the circumstances, I might be permitted to quote from the ruling of the President. He said - But the first question is - What does section 23 of the Constitution mean ? It says - " Questions arising in the Senate shall be determined by a majority of votes, and each senator shall have one vote. The President shall, in all cases, be entitled to a vote, and when the votes are equal the question shall pass in the negative." Does that apply to every committee appointed by the Senate? If it applies to a committee of the whole, it will also apply to a select committee ; because a committee of the whole is in no different position to a select committee. It is a committee appointed by the Senate.

Senator Fraser

- Does that apply to the Standing Orders Committee ?

Senator KEATING

- If it applies to a committee of the whole House, I hold, according to this ruling, that it will apply to every committee which is the creation of the Senate. There is no doubt about it that it applies to the Senate itself. I do not think any one says for a moment that in the Senate, as a Senate, any honorable senator is not entitled at all times to exercise a deliberative vote. That it applies to a committee of the whole Senate we all know. " Since that decision was given our Chairman of Committees has constantly exercised a deliberative vote, and not a casting vote. If that ruling applies to a committee of the whole it will apply to a select committee, or any other committee, because such a committee is in no different position from the committee of the whole. I contend that section 23 of the Constitution applies not merely to the Senate itself, but to every committee appointed by the Senate, and that the Elections and Qualifications Committee - call it a select committee or what honorable senators will - is accordingly governed in its proceedings by the principle of section 23. I cannot find myself in accord with some honorable senators, who have laid it down as a principle that we are to preserve not only in the Senate itself, but in every committee of the Senate, the principle of the equality of the States, and that for reasons of that kind we ought to be loth on the present occasion to accept the amendment of Senator Symon. I think that, seeing that section 23 governs procedure in the Senate, and - according to my contention - the procedure of all committees, any standing order in conflict with that section of the Constitution cannot be valid, but must be ultra vires. No standing order can override the principles of the Constitution. The Standing Order itself is an emanation from the Constitution through the medium of this House of the Parliament, which exists under the Constitution, Senator Symon has in his zeal been led a little away from the real issue before the Senate in this debate. The honorable and learned senator has pointed out that if Senator Downer's motion is carried, the constitution and personnel of the committee is such that it shall come to a deadlock. I do not see that that should enter into the consideration of this question.

Senator Staniforth Smith

- No. If there is a delay it does not matter to the State represented by the honorable and learned senator.

<page>5783</page>

Senator KEATING

- I say that that is absolutely beside the issue before us. AVE are not called upon here to ask whether an injustice is being done to Western Australia, but whether the chairman of a committee of this Senate has a deliberative vote or a casting vote.

Senator Playford

- The honorable and learned senator said it ought not to be called a committee. "

Senator KEATING

- I said the principles I was contending for would apply to this committee by whatever name we might choose to call it. This is not a question as to whether Western Australia or any other State is suffering injustice, but it is a question as to whether the chairman of a committee of the Senate has or has not a deliberative vote. We have to approach such a question as a Judge would approach a question of law coming before him on the bench, and upon which he would arrive at a decision which would be applicable

in determining hundreds of other like cases, whatever might be the accidental circumstances connected with the particular case upon which his decision is asked. There is, therefore, in this case no force in Senator Symon's contention that by agreeing to the motion we shall be creating a condition of dead-lock in the committee. These are circumstances which may or may not be purely accidental. It may be purely an accident of the occasion characteristic of this particular committee, but it should not in any way determine the vote we shall give upon the principle submitted to us. Similarly with regard to the contention put forward by Senator Smith, that by delaying the absolute determination of the matter before the committee Western Australia is suffering, that contention should not be taken into consideration. Western Australia is not suffering, nor will it suffer, by reason of the action of the Senate in deciding this question of principle, but it is suffering by reason of the inability or the reluctance of the committee to come to a decision. We have delegated to the committee the duty of reporting upon this matter. If they are not in the position to report to us on the matter, we are not upon a question such as this to take the whole matter out of their hands, and determining something apart altogether from the question of principle submitted to us, come to a decision with a view to forcing the committee to arrive at a conclusion. Senator Symon has referred to the circumstance that such a claim as this is of quite recent origin, and that although the committee have been in existence for a considerable time such a claim has not previously been put forward. A similar argument has been used by Senator Glassey, but I submit that it does not matter if it were twelve months hence, and the committee was still sitting, if the principle is correct no acquiescence in a wrong practice on the part of the chairman of the committee for any length of time can make the principle incorrect.

Senator Staniforth Smith

- Is it not against the principle of the Constitution that Western Australia should not be represented by six senators 1

<page>5784</page>

Senator KEATING

- I grant that, but the honorable senator must see that that is not the fault of the Senate, and it is not a question affecting the Senate. It is not because of any proceedings of the Senate. It may be the fault of the committee, or it may not, and we are now asked to determine a question of principle, and not the question which the honorable senator has raised. Are we to go beyond the question of principle, and go into the question of the personnel of the committee, and the possibility or impossibility of their arriving at a unanimous conclusion at an early date, in order to put the committee into such a position that it shall be forced to hurry to a conclusion? I think Senator Staniforth Smith has determined that he is not going to confine his attention to the principle, but to matters incidental and purely accidental circumstances connected with this particular case. What I have said with regard to the standing order, that it is out of harmony with and in conflict with section 23 of the Constitution, would apply equally well to the Other standing order referred to by Senator Symon - Standing Order No. 1 - which provides that in all cases not otherwise provided for in the standing orders the standing orders of the House of Commons should govern the procedure. If that Standing Order No. 1 is valid, its validity must be determined by precisely the same test as the validity of Standing Orders 354 and 384, and we must ask how far Standing Order No. 1 is, or is not, in conflict with the terms and spirit of the Constitution. If Standing Order No. 1, by what I should call its value of import, imports into these standing orders others - not written therein, but which to any extent are in conflict with the terms of the Constitution - it is protanto invalid. Any standing orders of the House of Commons which would be in conflict with the Constitution, could not be imported into our standing orders by Standing Order No. 1. The latter would be inoperative to that extent, and to that extent invalid, because it would be so far in conflict with the Constitution, and it cannot - any more than any other standing order - to any extent whatever override the Constitution. Another argument put forward is, that as the committee is at present constituted, we would have an actual equality of votes, and an absolute dead-lock. As I have said before, that is not a matter which should determine us in coming to a decision upon the principle involved in this question. The same consideration will apply equally well to the whole body of the Senate, as pointed out in an interjection by the Postmaster-General. There is only one other matter to which I should like to refer, and in that I have been anticipated to a certain extent by Senator Sargood. Senator Symon, and Senator Millen, following him, dwelt rather emphatically upon section 49 of the Constitution, which says : -

The powers, privileges, and immunities of the Senate and the House of Representatives, and of the members, and of the committees" of each House shall be such as are declared by Parliament, and until declared shall be those of the Commons House of Parliament of the United Kingdom, and of its members and committees, at the establishment of the Commonwealth.

I take it that these words " powers, privileges and immunities " do not cover procedure. They do not cover the practice and the order of business. They are simply intended to cover the aggregation of rights and privileges which attach to members of the House of Commons as members of the House of Commons. There are certain immunities from certain proceedings which apply to them. There are certain powers which committees have with respect to the taking of evidence and other matters of a cognate character, and I take it that the words " powers, privileges, and immunities " are intended to cover the aggregation of rights and powers to which I have referred. Senator Millen, I think, accused the Vice-President of the Executive Council of skipping this provision rather hurriedly, because it might provide a dangerous argument against himself, but if Senator Symon and Senator Millen had gone further, they would have seen that in the Constitution itself this very distinction is implied, because under clause 49 the "powers, privileges, and immunities" of the Senate and House of Representatives and the committee of each House are to be such as are " declared by the Parliament." Senator Millen pointed out that this had only been declared by the Senate, and suggested that, therefore, it might be argued that clause 4.9 would not cover the particular matter we had under discussion. If the honorable and learned senator had gone further, he would have seen, by section 50, that -

Each House of the Parliament may make rules and orders with respect to -

The mode in which its powers, privileges, and immunities may be exercised and upheld.

The order and conduct of its business and proceedings, either separately, or jointly with the other House ; so that we have section 50, empowering each House to make standing orders governing the conduct of its own business.

Senator Playford

- We did that, and we adopted the standing orders of South Australia.

<page>5785</page>

Senator KEATING

- I do not for one moment deny the statement of Senator Playford, but I am pointing out that the argument used by honorable senators opposite, with respect to the powers, privileges, and immunities of members under section 49 was absolutely erroneous, because section 50 deals with matters of this kind, and not section 49 at all. It behoves us on this occasion not to be led away from the issues before us, and not to take into account the fact that this committee has been in existence for a certain time, and unable to come to an agreement ; not to take into consideration the various matters that come to our ears, directly or indirectly, during the course of this debate or otherwise, as to what would actually be the outcome of passing either the motion or the amendment. We should confine ourselves absolutely to the principle involved and decide whether or not - apart altogether from what may be the actual concrete circumstances in this case - this Elections and Qualifications Committee - or any other appointed for the purpose of inquiring into any other case - the Chairman of the Committee has or has not a deliberative vote. We have to decide the principle which shall govern all our committees in similar cases under existing circumstances with our standing orders as they are, and under the Constitution under which we are working. For the reasons I have given, based purely upon technical or legal grounds, I am compelled to support the motion moved by Senator Downer.

Senator FRASER

- I intend only to say a few words, We have adopted the standing orders of the South Australian Parliament.

Senator Higgs

- With certain exceptions.

Senator FRASER

- With certain exceptions, but we have adopted specially this rule No. 345, and we have adopted it in consequence of section 49 of the Constitution.

Senator Sir Frederick SARGOOD

- No, no.

Senator FRASER

- Oh, yes, and under that section the powers and privileges of the Senate are to be in accordance with the privileges of the members of the House of Commons, unless we have adopted some other provision. We have not adopted some other provision, but we have adopted this standing order.

Senator Higgs

- Which is ultra vires ?

Senator FRASER

- It is preposterous to say that it is ultravires. If this standing order which we have adopted is ultra vires, it is because of section 23 of the Constitution.

Senator Glassey

- When was it discovered that the rule was ultra vires ?

Senator FRASER

- A very apt interjection. Why make the discovery now, when the committee has been sitting for months and months! Section 23 of the Constitution is a section which deals with State rights, and where State rights are involved it would never do to take the vote of any senator away. But can any honorable senators say that a State right is involved in this question ? Is any State right involved in the constitution of the Standing Orders Committee, of whom- there are nine ; of the temporary Standing Orders Committee, of whom there are seven ; or of the Printing Committee, and the House Committee, of whom there are seven ? No one contends that these committees affect State rights, and in my opinion it is preposterous to think of a select committee dealing with elections and qualifications, or dealing with a thousand and one matters, which I could name if I chose to waste the time of the House, as involving questions of State rights. Where questions of State rights come in, the proper place in which to deal with them is on the floor of the Senate Chamber, when every honorable senator may be supposed to be in his place, and when we are guided by the Constitution. Section 23 was put in purposely to conserve State rights, and it would not be there at all but for that. I remember well the discussion which took place in the Convention on the matter, and it was said that the smaller States would never come into the federation unless they were protected by having eight senators each, as the proposal then was, to maintain their State rights. State rights are not involved in connexion with the Elections and Qualifications Committee, the Standing Orders Committee, or the House Committee. Surely we shall not descend to such ridiculous arguments as these. I say that the proper thing to do is to support Senator Symon's amendment, and let the committee deal with the matter submitted to them, and bring up a report speedily, that Western Australia may have the justice she is entitled to, and which she demands.

Senator Sir JOHNDOWNER (South Australia). - It appears to me that a great deal of the argument we have heard has been a little beside the question which I opened.. I assure the House that after much thought I certainly did try, with much care and very studiously, to restrict the discussion to the simple practical question before us, without dragging in all these considerations about Western Australia being kept out of a member. We are simply dealing with the question of whether or not the chairman of a certain committee had a right to a deliberative vote or whether he was restricted to a casting vote. If he had not had a deliberative vote, we all know what the result would have been.

Senator Staniforth Smith

- What would it have been ?

Senator Sir JOHN DOWNER

- If there were three against two, and three were one way, and two the other way, we know what the result would have been. Then my honorable friend says Western Australia would have had a member. It might or it might not, but that is scarcely the question which was before us. It was a great principle, which, speaking generally, has been argued fairly and reasonably, and without the introduction of side issues, such as Senators Smith and Fraser introduced, which, in my opinion, have nothing to do with the question.

<page>5786</page>

Senator Fraser

- How so ?

Senator Sir JOHN DOWNER

- My honorable friend was not here or did not hear, otherwise I think he would have spoken differently.

The simple point which I made, and which I appeal to Senator Fraser about at the last moment, was that when the Senate appointed a number of honorable senators as a select committee to consider and take evidence and advise, it wanted all of them not only to exercise their judgments, but to give it the benefit of their opinions, and the question was whether in practice a standing order adopted from South Australia would prevent that result from being obtained, and would stultify the chairman in his position and exclude him from expressing his opinion equally with the others. That was the whole point that I opened. There was no question of unfairness, one way or another. I was avoiding all argumentative questions. I pointed out that our Constitution gave the President a deliberative and not a casting vote, and I argued by analogy that it gave the Chairman of Committees also a deliberative and not a casting vote.

Senator Fraser

- Why did not the honorable and learned senator raise that question at first, when there were four to two?

Senator Playford

- Because he never thought of it.

Senator Fraser

- He did not think of it until he was driven into a corner.

Senator Sir JOHN DOWNER

- I am rather obliged for that interruption, because it enables me to take a different tone. What had I done that I should be driven into a corner - a quiet, peaceful man, wonderfully enduring in this committee, as my honorable friend must know, what very few men would have stood? As my honorable friend talks about my being driven into a corner, let me say that he sat and listened-

Senator Fraser

- I never uttered a word until the honorable and learned senator reflected upon me. If an honorable senator reflects on me, he will have it with interest.

Senator Sir JOHN DOWNER.- I have never reflected on my honorable friend in my life, and I never shall.

Senator Fraser

- If I did wrong, I apologize.

Senator Sir JOHN DOWNER

- I am not reflecting on my honorable friend now.

When he gets a little irritable, which we all do some times, and tells me that when driven into a corner I did certain things, I ask him how he would like any one to tell him that?

Senator Fraser

- The honorable and learned senator hurt my feelings first.

Senator Sir JOHN DOWNER

- I do not think so. I have always received the greatest consideration from my honorable friend, and we always agree, and he may be quite sure that he will always obtain the same consideration from me. While there was a majority, and there was no question of my deliberative vote having any effect, the point never arose. It was only later on, when, by a fortuitous concurrence of ' circumstances - all done accidentally, and mostly, I understand, in the best interests of you, Mr. President, and with the kindest inclination to save you any trouble or anxiety - it was arranged that the number should be only six, and should not be seven.

Senator Sir Josiah Symon

- On a point of order, sir, is it correct for the honorable and learned senator to speak of it being arranged that the number should be six instead of seven, when it was the result of a resolution of the Senate? It was not the result of any arrangement.

The PRESIDENT

- I understood the honorable and learned senator to mean that it was arranged by the Senate.

Senator Sir Josiah Symon

- He did not say it was- arranged by the Senate. It was the result of a resolution of the Senate made in his presence.

The PRESIDENT

- I do not see point of order.

Senator Sir JOHN DOWNER

- Who can say that a fortuitous concurrence of circumstances is an arrangement? When I saw three

members of the committee struggling one way and three the other, I began to wonder.

Senator Sir Josiah Symon

- Is this in order, sir?

The PRESIDENT

- I have stopped several honorable senators, as far as I could, from referring to the proceedings in the committee, because we do not know anything about them.

<page>5787</page>

Senator Sir JOHN DOWNER

- I always bow to the Chair, but still, when I am told that it was only when I was driven into a corner that I found this out, I reply that I never had to consider the matter until the occasion arose, and, when it arose, I thought it was as much my duty to vote, if it was my constitutional right to vote, as it is yours, sir, when it is your constitutional right to vote. I brought this matter before the Senate, not with reference to this passing thing, which is of no consequence compared to the principle involved, but for the purpose of establishing the rule that in committees of the whole and in select committees we should follow the great cardinal principle that no honorable senator loses his vote anywhere.

The PRESIDENT

- The amendment is to insert the word " not " before the word "entitled." As a general rule a distinct negative is not an amendment, and ought not to be put. I had some doubt as to whether I ought to put this amendment, but as the committee require instructions from the Senate, I think I ought to deviate from the ordinary rule. Of course, the general rule will still hold good, that a direct negative cannot be moved as an amendment.

Question - That the word proposed to be inserted be so inserted - put. The Senate divided.

10

AYES

11

NOES

Majority..... 1

AYES

NOES

Question so resolved in the negative.

Amendment negatived.

Question - That the motion be agreed to - put. The Senate divided.

11

AYES

10

NOES

Majority..... 1

AYES

NOES

Question so resolved in the affirmative.

IMMIGRATION RESTRICTION BILL

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

POST AND TELEGRAPH BILL

In Committee(consideration of amendments of House of Representatives resumed from 1 October, vide page 5641) :

Clause 19 - (Governor-General to fix rate of postage & c).

Postmaster-General

Senator DRAKE

. - When we sent this Bill to the House of Representatives, it contained a provision in clause 19 that the alteration of rates should be by means of regulations laid upon the table of both Houses of Parliament. The House of Representatives have struck out that clause, and have altered another clause so as to provide that an alteration of rates must be made by Act of Parliament. We discussed the subject on a previous clause, and there was a general agreement amongst honorable senators that we should consent

to the alteration made by the House of Representatives. I. therefore move -

That the committee agree to the amendment of the House of Representatives omitting clause 19.

Motion agreed to.

<page>5788</page>

Senator DRAKE

- The House of Representatives have inserted new clauses 25a and 25b. The object of these two clauses is to make provision for the payment of postage, not by the person posting the postal matter, but by a State. Some States have adopted the principle of voting by post, and they desire that the voter who intends to vote by post should be allowed to put his ballot-paper into the letter-box without affixing a postage stamp to it, and that the paper should be delivered to the electoral officer. "We do not want to prevent any State from carrying out an Electoral Act of this description, if it desires to do so. The two clauses in question have been very carefully prepared by the Parliamentary Draftsman.

Senator Millen

- I do not propose to offer any opposition to these proposed new clauses, but there should be some reciprocity if the Commonwealth is to exercise services for the States gratuitously.

Senator DRAKE

- The States are going to pay for the service. The only difference is that, instead of the person posting the letter putting stamps upon it, it will be carried to its destination, and the officer who receives it will pay, or the postage will be debited to the State affected. That is to say, we put the State in this position - that if it likes to carry postal matter free it may do so, so far as concerns the individual who posts the matter, but the Federal Post-office will require to be paid all the same. I move -

That the committee agree with the House of Representatives in inserting new clauses 25a and 25b.

Motion agreed to.

Clause 26 - (Definition of newspaper and supplement).

Senator DRAKE

- This is the newspaper definition clause to which the committee devoted a great deal of attention when the Bill was being dealt with here. I propose to say a word or two about the clause generally, and then I propose to move that the amendment of the House of Representatives be accepted. Several amendments were made in another place, and eventually the clause was withdrawn, and another one was provided so as to embody the different amendments. It will be remembered that when the Bill was first introduced the newspaper definition restricted a newspaper to a publication which was issued at intervals of not more than seven days. An amendment was moved in the Senate to strike out seven days, and substitute 30. That was the period which had been accepted in all the different States up to that time. The effect of that amendment was to let in under the definition of " newspaper " a whole lot of monthly publications of various kinds. Since the Bill has been before the House of Representatives, various amendments have been made in it, all of which have been in the direction of opening the door wider and wider. I strongly protested, when the Bill was being dealt with by the Senate, against the alteration which was made having the effect of letting in all these monthly periodicals. As I have just said, the amendments since made in another place have been in the direction of opening the door wider, and of allowing a very great deal of printed matter to come in at the lower rate, which matter, under the old definition, would have had to go through the post as printed matter, and not as newspaper matter. The effect will be that the Postal department will have to carry as newspapers a vast amount of postal matter which previously went through the post as printed matter and paid a higher rate. I do not see, unless we are going to retrace our steps altogether and get back to the point we started from, that we can reject the amendments made by the House of Representatives.

Senator Sir Frederick Sargood

- Can we not adhere to our own clause?

Senator DRAKE

- It is important that this Bill should be got through without loss of time.

Senator Playford

- The Senate has to come down on everything.

Senator DRAKE

- I strongly opposed the amendment proposed here, but it was carried against me. Senator Sargood

suggests we should go back to the original clause as we sent it down to the House of Representatives, but the amendments made in the clause of the Bill as originally introduced into the Senate encouraged the House of Representatives to go on in the same path, and to open the door wider. I hope that as soon as the Bill is passed through Parliament, and before it comes into operation, I shall be able to introduce a Rating Bill. That will be necessary before we can make any alteration in any of the rates affecting either letters, newspapers, or telegrams.

Senator Sir Frederick Sargood

- There will be the same fight over that.

<page>5789</page>

Senator DRAKE

- If we accept this definition which allows printed matter to come in as newspaper matter, we must take that into account when we bring in our Rating Bill. We want to insure that the Government will get something like a fair remuneration for the carrying of postal matter.

Senator Millen

- Does the Postmaster-General propose to charge newspapers?

Senator DRAKE

- I think it is generally admitted that there should be a reasonable charge for newspapers. I have endeavoured usually not to forecast what is coming on, but it is a generally accepted proposition that there must be some charge, at all events. I do not desire that there shall be any unnecessary delay in dealing with this Bill. It must be borne in mind that the second reading of the measure was moved on the 6th June. It is now October, and I am very anxious that we should get the measure into operation by the 1st December, for the reason that it is very desirable that we should get our Rating Bill passed before the end of the year, and that the regulations should be framed and laid upon the table of Parliament. I hope to have the regulations ready to lay upon the table as soon as this measure becomes law.

Senator Sir Frederick Sargood

- What about paragraph (6), sub-clause (2) of the new clause?

Senator DRAKE

- That paragraph provides that a publication shall be deemed to be a supplement if its letter press other than any title or short description of any engraving, print, lithograph, or coloured supplement is printed within the Commonwealth from type set up within the Commonwealth, or from stereotypes or electrotypes made therefrom. That provision was inserted in the House of Representatives, and the object of it is, I believe, to insure that in the first place the work will be done within the Commonwealth, and in the second place it has the effect that the letterpress is more likely to be Australian in character if it is produced here than if produced in some other country. There is a similar provision in the Queensland Act. I move - That the committee agree with the amendment of the House of Representatives, omitting clause 26 and inserting the following new clause - 26a. (1) For the purposes of this Act a newspaper shall mean any publication known and recognised as a newspaper in the generally accepted sense of the word, and printed and published within the Commonwealth for sale, if -

It consists in substantial part of news and articles relating to current topics, or of religious, technical or practical information ; and

It is published in numbers at intervals of not more than one month ; and

The full title and date of publication are printed at the top of the first page, and the whole or part of the title and the date of publication are printed at the top of every subsequent page.

A publication printed on paper and issued as a supplement to a newspaper, shall be deemed to be a supplement and to be a part of the newspaper if -

It consists in substantial part of reading matter other than advertisements, or of engravings, prints, lithographs or coloured supplements ; and

Its letterpress, other than any title or short description on any engraving, print, lithograph or coloured supplement, or the title and date of the newspaper thereon, is printed within the Commonwealth from type set up within the Commonwealth, or from stereotypes or electrotypes made therefrom ; and

It is enclosed in each posted copy of the newspaper with which it is issued ; and

It has the title of the newspaper with which it is issued printed on the top of each page of letterpress ; and

It is not of a size or form which makes it inconvenient for carriage or delivery by post.

Senator Major GOULD

- If Senator Drake is so very anxious to get this Bill through with the greatest possible expedition, the simplest course would be that he should suggest that the committee should accept the whole of the amendments of the House of Representatives in globo.

Senator Drake

- We have dissented from some of their amendments, and I propose to ask the committee to dissent from others.

<page>5790</page>

Senator Major GOULD

- The Senate has already performed a kind of double-backed somersault as gracefully as possible with regard to another provision. As far as this definition is concerned, in some respects it is rather better than that proposed by the Senate, but, at the same time, honorable senators will observe that there are some provisions in this proposed new clause that we did not agree with when we were dealing with it in the Senate previously. I may refer particularly to paragraph (b) of sub-clause (2) with regard to the printing of letterpress on supplements. We find, amongst other things, that a newspaper supplement must be printed within the Commonwealth, from type set up within the Commonwealth, or from stereotypes or electrotypes made therefrom. I want to know whether, as far as concerns coloured supplements, they have to be produced within the Commonwealth, or whether they can be introduced from outside ?

Senator Drake

- Undoubtedly they can.

Senator Major GOULD

- The lithographs or engravings may be introduced from outside so long as the description of them are printed within the Commonwealth. I ask honorable senator's whether it is desirable to incorporate in a measure of this kind such a proposal? I do not quarrel with the definition of a newspaper - that it shall be a publication " printed and published within the Commonwealth for sale ; " because we recognise the fact that a newspaper in the ordinary sense of the term is a document produced in the country, containing news regarding current events. It would be absurd to say that a paper like the Age, the Argus, the Sydney Morning Herald, or the Daily Telegraph might be printed anywhere else than within the Commonwealth. The news must be fresh from the community, and the paper would naturally be printed here. Therefore this measure is regarded as a fair definition of a newspaper in the ordinary sense of the term. But many papers, more particularly country papers, issue supplements. I do not suppose that this clause would interfere with the great daily papers. But the country newspapers we know are largely dependent for their weekly supplements upon papers printed and produced, not in the printing office which issues the country newspaper itself, but somewhere else. Thousands of them are sent from Melbourne to the country press.

Senator Drake

- They can do that still.

Senator Major GOULD

- I know they can; but there may be valuable supplements printed outside the Commonwealth and brought here from the other end of the world. Why should we say that these supplements should not be circulated with our newspapers, provided that the newspapers are themselves printed and published in the Commonwealth ? We go to a certain distance and permit a picture, print, or lithograph to be produced outside and circulated with a newspaper ; but the moment one single word of letterpress descriptive of the print or picture is printed on the supplement, it is not to be regarded as a supplement. Is that not drawing an absurd distinction, and is there any necessity for it at all ? Whether it is introduced as a sort of protection to the printing trade in the States, or not I do not know, but assuming that it is put in for that purpose, what is the value of it? Will it add one tittle to the employment of people in the country? That must be the reason why it is introduced, otherwise it would not matter where the supplement was produced so long as the person receiving it was satisfied with it. Is it reasonable that we should disfigure this Bill with such a provision ? If the Government desire to introduce a Bill dealing specifically with matters of this kind, and saying that these supplements shall be printed here, well and good. A book may be printed in New York or in London, and it comes into the Commonwealth and is distributed on exactly the same terms as a book printed in the Commonwealth itself. Why this difference with regard to the supplement of a newspaper ? I submit there is no reason for a provision of this character. I am perfectly

prepared to have a definition here as to what may be regarded as a supplement to a newspaper. I do not object to paragraphs (a), (c), (d) or (e), but I believe paragraph (b) is unnecessary, and would be much better left out of the Postal Bill. The object of this Bill is to deal with the postal service so as to secure that our letters, newspapers, packets, and parcels shall be carried from one end of the Commonwealth to the other under as favorable terms as possible in justice to the Commonwealth and the individuals in the community. The object is not to bolster up any particular class of industry. It becomes necessary, as newspapers are going to be permitted to pass through the Post-office at lower rates than books and parcels, that we should define what a newspaper is, so as to make sure that we are not going to be defrauded of our revenue. But once we have done that we have done all that is required, and we have no right to put in a provision of this kind, which is foreign to the scope and object of the Bill. I do not desire to anticipate any amendment which honorable senators may desire to propose, but if there is no prior amendment, I am prepared to move the omission of paragraph (b).

Motion by leave withdrawn.

Senator Major GOULD(New South Wales). - I move -

That paragraph (6), of sub-clause (2), of new clause 26A, be omitted.

<page>5791</page>

Senator HIGGS

- I am sure Senator Gould does not belong to the profession of the compositor, editor, or newspaper man generally, or he would not object to this provision, which, as he has stated, is for the protection of the poor printer.

Senator Staniforth Smith

- Is this a Bill to introduce protection 1

Senator HIGGS

- No. I take it that the intent of the Bill is not necessarily to protect anybody in particular, but when certain newspaper proprietors are given concessions in the way of lower postal rates than are allowed to other people--

Senator Major Gould

- The public should have some little benefit from it.

Senator HIGGS

- Does the honorable and learned senator deny that the public would be benefited from the production in Australian newspapers of literature of the type of which I had the honour to give the Senate a sample of the other evening - by the publication of local productions ?

Senator Major Gould

- It need not be a local production. The supplement may be written in any part of the world, so long as J.t is set up here.

Senator Drake

- It is more likely to be written here if it is set up here.

Senator HIGGS

- I am sure that the "honorable and learned senator recognises what the clause is aimed at. It is aimed at the circulation by our postal service of supplements which are set up in type and printed in other parts of the world. Those of us who come specially in contact with the industrial classes know that the linotype machine in the printing trade has done havoc enough in the ranks of the compositors. No less than 55 men out of 70 have been displaced in some offices by the introduction of the linotype, and we know that in Australia at the present time the ranks of compositors are overcrowded. When we propose to give newspaper proprietors special concessions, as provided in this Bill, we have a right to ask that they shall not introduce, in competition with Australian printers, supplements prepared and set up by the cheap labour of other parts of the world.

Senator Major Gould

- Would the honorable senator abolish the linotype and send it out of the Commonwealth ?

Senator HIGGS

- No representative who specially claims to represent the interests of the poorer paid and working classes of the community has any desire to block progress in the way of invention. We know that all attempts in the past to do away with labour-saving machinery have been a mistake. I am not saying a word against

the introduction of machinery into the Commonwealth, but I do wish to say a word against machinery and low paid labour in other parts of the world being brought into competition with our Australian compositors. I take a special interest in this because for many years worked as a compositor myself, and I know the hardship which members of the craft have to suffer under.

Senator Charleston

- Then the honorable senator will try to put linotypes on the taxable list?

Senator HIGGS

- Linotypes are in use in nearly all the States of the Commonwealth at the present time. But if supplements are permitted to come here from abroad, and to come under the concessions provided in the Bill, there is no reason why we should not have printed matter introduced which has been set up by compositors in Japan, who work for a ls. a day.

Senator Major Gould

- That is very far fetched.

Senator HIGGS

- I may tell the honorable and learned senator that printed matter now comes into the Commonwealth from Japan, set up by men who are paid about one-eighth of the wages paid to Australian compositors and printers generally. If one effect of the provision is of a protective character, we cannot help that. We are desirous of giving newspaper proprietors certain concessions, but we say that Australian compositors and, printers generally shall not be brought into unfair competition with people outside. I am sure honorable senators do not wish to give concessions to printers outside the Commonwealth to compete with their own citizens, who furnish the taxes to carry on the Federal Parliament and the Federal services generally.

<page>5792</page>

Senator MILLEN

- I object to paragraph (6) of sub-clause (2) for two reasons. I object to the proposition itself, and I object to its finding a place in a Postal Bill. We have had a very frank declaration by the last speaker, that he supports the proposal because it coincides with his ideas as a protectionist. Surely the honorable senator, under the circumstances, can see that the proper place for such a proposal is a Tariff Bill, and we should not use any other department than that of the Customs as a means of carrying out any particular set of fiscal ideas.. Matters of this kind should be left until the Senate is invited to enter upon a full discussion of the whole fiscal question. Senator Higgs, in his remarks about machinery, seemed to carry us back a very long way indeed. The honorable senator was careful to explain that he did not wish to speak in opposition to labour-saving appliances, but my impression is that if the honorable senator could have his way he would very soon abolish the linotype machines. The honorable senator said that as we make a concession to newspaper proprietors, it is only fair that they should be called on to use printing material which is the work of the people of the Commonwealth. "But what concessions are we making ?

Senator Higgs

- -We give them low postal rates.

Senator MILLEN

- We have not yet fixed the rates, and we do not yet know whether any concessions will be represented by the rates as fixed. The Post-office is to be made to pay itself, and there is no concession in it, as it is a payment for services rendered.

Senator Higgs

- Is there any State in which the Post-office department pays itself? .

Senator MILLEN

- It must pay itself under any sound system of finance, and I have no doubt the Postmaster-General would say that the Post-office will have to pay its way. If that be so, we are making no concessions to newspaper proprietors or to anybody else. I should like to point out that the measure of protection represented by this provision, amounts to something like 100 per cent, ad valorem. Supplements consisting only of lithographs, prints or pictures, are to be carried at the ordinary newspaper rates. We can buy ordinary demy supplements for from 6s. to 7s. and 8s. per thousand. That is the price for them complete, with engravings and letterpress, and if we desire to obtain them without the letter-press, we should have to pay just the same price, and we should require to pay 7s. or 8s. more per thousand for

getting the letter-press and machining done here, because it would involve double machining. The proposal is, therefore, equivalent to an ad valorem duty of 100 per cent. Whatever may be said in favour of a protective duty of this kind, I submit that 100 per cent, ad valorem, is exorbitant and altogether out of proportion to the object aimed at. If it is intended that this shall be a distinct proposal for the imposition of an ad valorem duty of 100 per cent., the proper place for it is a Tariff Bill.

<page>5793</page>

Senator DOBSON

- I think we should have some proper definition of what a newspaper is in this clause, and though it may be debating old ground over again, we are not going to pass the clause in a hurry, and we should not leave a simple matter in the doubt and uncertainty in which it is left by the clause as it stands. If we leave in the words "one month," we shall include the Review of Reviews and other monthly periodicals as newspapers. To use the words that for the purpose of the Act a newspaper shall mean "any publication known and recognised as a newspaper in the generally accepted sense of the word," and to use also the words "published at intervals of not more than one month," appears to me to be grossly inconsistent. I think that before the Bill leaves the Senate, we should make up our minds whether a newspaper is to be a publication recognised as a newspaper in the ordinary sense of the word, and if we decide that we should strike out the words "one month" and insert in lieu thereof the words "seven days." The Postmaster-General and the Government will have the work of interpreting the clause, but in spite of the words "one month" my common sense would lead me not to regard the Review of Reviews, and other monthly periodicals, as newspapers in the ordinary sense of the word. I do not think that a publication published once a month, and weighing as much as ten or fifteen newspapers, should be allowed to pass through the Commonwealth, at the same rate as a penny newspaper. Speaking subject to the opinion of my honorable friends in the labour corner, because the question is one I know very little about, it appears to me that by striking out paragraph (6) we shall absolutely benefit the compositor. I am exceedingly sorry to hear that compositors have had a bad time in consequence of the introduction of modern machinery. We cannot give up the machinery, but we should in any fair way deal sympathetically with the compositor. Many newspapers are flourishing and paying good dividends, but I know of others that are not paying or are barely existing, and if newspapers of that sort were from time to time able to secure supplements of an attractive character from Japan, America, France, Germany, or other nations, giving us more information, and enlarging our minds upon various subjects, the papers circulating these supplements would be rendered more attractive, and would possibly be converted into paying concerns. The circulation of these supplements might be of the greatest benefit to the readers of the newspapers, and might prove of benefit to the newspapers themselves, and whatever would benefit the newspapers would benefit the compositors employed upon them. I am therefore inclined to vote for the amendment, and if we are going to raise this question of free-trade and protection, let us at least have free-trade in knowledge.

Senator STANFORTH SMITH

- I quite agree with what Senator Dobson has said. If we enact that -

A newspaper shall mean any publication known and recognised as a newspaper in the generally accepted sense of the word - it will make it impossible for publications like the Review of Reviews and valuable agricultural, pastoral, and mechanical journals to go through the post. We discussed this matter for days, and, after the fullest consideration, we decided that the term should include those publications, because it was in the interests of the people that they should be sent at a low rate. If we leave in those words, we shall nullify the intention of the Senate, and simply allow the transmission of what are ordinarily accepted as newspapers, whereas, what we require is the transmission of publications issued once a month, or less.

Senator Dobson

- Does the honorable senator regard a monthly publication as being equal to 30 copies of the Argus or the Age? I do not.

Senator STANFORTH SMITH

- I do not see where the analogy comes in. There is only a 30th of the carrying to do. We do not carry a monthly publication 30 times backwards and forwards.

Senator Dobson

- They are much heavier.

Senator STANIFORTH SMITH

- Not necessarily. I doubt whether copies of some of these journals are as heavy as the Australasian or the leader, but that will be regulated when fixing the rates. I propose to move the omission of those words from the new clause.

Senator Sir Frederick Sargood

- It cannot be done ; we have already agreed to them in the original clause.

Senator STANIFORTH SMITH

- If it is impossible to make that alteration, I wish to say a few words on paragraph (6) of subclause (2). From the educational point of view, supplements are undoubtedly the best portion of country newspapers. Generally country newspapers consist of advertisements and local news of the day. A supplement usually consists of educational matter culled from various journals. I have enjoyed reading the supplements far more than the papers themselves. Australian compositors, of course, can set them up ; but a country newspaper does not happen to receive all the publications in the world. The proprietors do not go to the expense, nor are publishers philanthropic enough to send their newspapers to every one in the black blocks. The proprietors of country newspapers, therefore, have not an opportunity to get this information from the various newspapers ; but a central agency can cull from such newspapers interesting facts which are of value to the people, and publish them in supplements for issue in country newspapers. It would certainly be a great hardship, not to the people of the metropolis, but to people of inland places, to disallow the circulation of such supplements by post. I can understand the prohibition of the transmission of any publication which is obscene or blasphemous, or which is against the interests of the people, but we are asked to prohibit the transmission of something which we admit is absolutely harmless.

Senator Playford

- We are not prohibiting it ; we are proposing not to carry it at quite so cheap a rate.

Senator STANIFORTH SMITH

- It says that it must be printed within the Commonwealth ?

<page>5794</page>

Senator Playford

- That is not prohibiting the newspapers from coming into the country.

Senator STANIFORTH SMITH. What is the good of the supplement if it cannot be sent to country newspapers for circulation by post. The supplements always contain information, and very often valuable information, with regard to the affairs of the world. Surely we are not going to make this Bill a vehicle for imposing a prohibitory duty on certain information coming in, which we admit is harmless, and which is probably exceedingly valuable.

A supplement to a country newspaper is only a sheet, and is valued very highly by country people. No argument has been adduced why the transmission of these supplements should be prohibited, except as a protectionist move. I am not prepared to discuss the question of protection or freetrade, but if it is to be discussed, let an amendment be proposed in the Tariff Bill that these publications shall be prohibited. The only reason we have heard why they should be prohibited is a protectionist one, therefore the provision should be introduced into the Tariff Bill. Senator Higgs has pointed out that linotypes are throwing a lot of compositors out of work, and that they do not want that to be accentuated. If, under the Tariff proposals, linotypes are to come in free, why should the Government object to supplements coming in printed ? Seeing that linotypes are to come in free, these supplements can be set up by linotypes in Australia as well as in a foreign country.

Senator Millen

- The big newspapers use the linotypes, and only the little country newspapers use the supplements.

Senator STANIFORTH SMITH

- The great newspapers, owned by wealthy men, bring in the linotypes, which throw men out of work. Although the general policy of the Government is protection, they admit linotypes free, not to benefit the little country newspapers, which are struggling to carry on, and which play a very important part, but to benefit newspaper proprietors who, perhaps, comprise some of the wealthiest men in Australia. And they further accentuate the difference by saying that little country newspapers shall not even have the right to send a supplement by post. I sincerely hope that the committee will see its way to strike out the clause.

Senator DRAKE

- It may perhaps save a little time if I point out exactly the alterations which have been made in the clause by the other House. Whereas in the original clause, speaking of the contents of a newspaper, we had these words -

Which consists wholly or principally of political or other news or of articles relating thereto or to other current topics. in the new clause we have these words -

In substantial part of news and articles relating to current topics, or of religious, technical or practical information.

That is in the direction of opening wider the door, because it lets in certain publications which under other circumstances might have been excluded. Then in the second subclause the words " wholly or in part " have been struck out and the words " in substantial part " substituted, thereby enabling a supplement that contained a smaller proportion of printed matter to go free. Paragraph (b) which has been referred to is new. Then with regard to the size of the supplement the original clause required that the sheet or sheets of paper should be of a similar size to the newspapers with which they were issued. That has been changed so as to make it read that it is to be deemed a part of the newspaper if it is not -

Of a size or form which makes it inconvenient for carriage or delivery by post.

It may be of any size or form which can be folded up in such a way as not to make it inconvenient for carriage or delivery by post. All these are extensions of the limitation of newspapers, not perhaps particularly serious, but still all in the way of opening the door a little wider. I do not think any Postmaster-General would be so disingenuous as to construe the clause as it stands now, to mean that no newspaper which was published at intervals of a month could go free. The paragraph reads -

It is published in numbers at intervals of not more than one month.

It clearly lets in ordinary monthly newspapers. I pointed out that fact, I think, when we were considering the Bill here. I brought down a clause providing for the carriage of what I call periodicals - that is to say, publications issued 'at an interval of longer than one week, but not more than a month, so as to bring all that class within the new definition. As I was defeated on my proposal, and this amendment was made, of course I expected that all that class of periodicals, supposing that they complied with the clause in other respects, would have to be classed as newspapers. In fact, what was done- was ' to provide that these publications issued at intervals of more than a month should be classed as newspapers. As regards the first part of the definition of the interval of publication, the clause is exactly the same as it was when it left the Senate. We sent it down to the other House with these words -

Any publication known and recognised as a newspaper in the generally accepted sense of the word.

We also sent the clause down with the proviso that it is published in numbers at intervals of not more than one month. In that respect the clause has come back in exactly the same form.

Senator Staniforth Smith

- Will the Government consent to paragraph (b) relating to supplements being deleted ?

Senator DRAKE

- No ; it seems to me almost unreasonable to object so strongly to that proviso when we have a provision that a newspaper must be printed and published within the Commonwealth.

Senator Staniforth Smith

- That is only a matter of form, because you cannot have a newspaper printed in any other place.

Senator DRAKE

- I do not admit that at all. It is admitted that we are giving some concessions to newspapers, and if we make this stipulation that the newspapers shall be printed and published within the Commonwealth, why should we not say that the supplements, which we are willing to accept as part of the newspaper, shall also be printed and published within the Commonwealth? The practice has been to import the matrix from abroad and from that to make stereo plates, and to print the supplement in a local office. The disadvantage of that-and I place this almost before the question of the employment of labour within the Commonwealth - is that it does not encourage Australian literature. If you get your supplements printed abroad, or import the matrix from which to print supplements, the strong probability is that the matter which you will get will appertain to the country where it is printed, and not to Australia. That is undesirable. It is better to cultivate a taste for Australian literature and an Australian sentiment.

Senator Millen

- The greatest paste and scissors productions are supplements printed in big offices in Sydney and Melbourne.

Senator DRAKE

- That may be so, but at all events the scissors are wielded in such a way as to secure from the newspapers drawn upon those items and paragraphs which are of particular interest to Australian people.

Senator Millen

- The Minister has not read many of them.

Senator DRAKE

- I have read a good many of them in my time. If you have the work done in the newspaper office, I think it will be found that the matter will be more suited to the tastes and requirements of the Australian people than it will be if the supplements are imported.

Senator CHARLESTON

- I am very sorry that the House of Representatives has inserted a provision of this character in the Bill. I think Senator Dobson expressed the true opinion as to the effect of the clause on compositors and others. In many country townships the newspaper cannot gather up a great deal of interesting local matter. It can gather up a few items which are of deep interest to local people, but, of course, the changes in the place are not of a sufficient character to warrant the publication of a large newspaper, and unless they supplemented the local news with general news their operations would probably cease. By importing supplements which have been written probably by some of the ablest writers, and which contain good literary matter, and have an educational influence, a country newspaper becomes a saleable article. With the combination of the local news and the supplement an attractive newspaper is produced, and three or four compositors are kept constantly employed in the township. If this clause is retained I feel sure that most of the small country newspapers will cease to exist.

Senator Glassey

- Why ?

Senator CHARLESTON

- Because they cannot possibly gather up sufficient local matter to be of interest. Where are they to get their matter from ?

Senator Drake

- Why can it not be done in the capitals? This only says that it shall be printed within the Commonwealth.

Senator CHARLESTON

- To all these country places weekly newspapers such as the Observer, the Chronicle, or the Australasian still find their way from the capital. The articles in these supplements are of the nature of magazine articles, and exercise an educational influence. Senator Higgs spoke of a concession being made to the publishers. We are not making a concession to the publishers. Supposing that we carry the supplements at a rate which involves a loss to the department. In whose interests is it done ? Not in the interests of the publishers, but in the interests of the general public, so that they may have cheap literature.

Senator Playford

- If we charge nothing, it will be better still.

<page>5796</page>

Senator CHARLESTON

- It has been thought, even by the mother State, that it would be advantageous in some respects to carry newspapers free. I maintain that the proposed new clause will prevent a good number of small country newspapers from spreading literature amongst persons living in the outside townships. Therefore, seeing that the clause has no proper place in a Bill of this sort, I shall vote against it. It is clear that the clause is intended for protective purposes. If so, let the matter be dealt with in the Tariff, which is the proper place for it.

Senator GLASSEY

- A peculiar doctrine has been propounded by the last speaker - that unless supplements are printed abroad they are not likely to increase the circulation of country newspapers. It has been alleged by other honorable senators that better supplements can be obtained abroad than from within the Commonwealth, and that country newspapers are likely to cease to interest many of their subscribers if locally produced

supplements are used by them. I cannot subscribe to that doctrine, nor do I believe that everything from abroad is superior to what can be produced in the Commonwealth. I read a little of the current literature that comes from other parts of the world, from America and elsewhere.

Senator Dobson

- Would the honorable senator like to be limited to Australian books ?

Senator GLASSEY

- That is a different matter altogether. What earthly reason is there why in a city like Sydney, with its cosmopolitan ideas, where there are men of capacity and learning, who are well up in literature, supplements of the most attractive character should not be produced ? I fully believe that supplements can be produced in Sydney and Melbourne that are quite as good as those produced in London or New York. Even though this clause is of a protective character surely there can be no harm done by means of it. If we can in any way provide by means of a Bill of this sort that work that is required shall be done within the Commonwealth, we ought to encourage those who do that class of work. Indeed, it is our bounden duty to do so. The proposed new clause is a reasonable one, and I hope the committee will adopt it.

Senator MCGREGOR

- According to some honorable senators we should put nothing in this Bill but what deals directly with the carriage of letters, newspapers, and other postal matter. It appears to me that Senators Gould, Millen, and others have ad valorem on the brain and protection in their dreams. Even Senator Charleston himself only a few days ago voted for something of a more protective character than that which is now under consideration. I have travelled a good deal in this country, not only in South Australia, but in New South Wales, and have frequently visited the offices of the local papers. I have frequently seen the supplement issued by these journals, and I know that as a general rule, even at the present time, they are produced in the larger cities of the Commonwealth, and sent to the country newspapers. I do not know whether the literary matter emanates from the brains of literary men in Australia or whether it is put together by means of scissors and paste. Even in the latter case it is just as well that it should be put together within the Commonwealth. As to the linotype, if such machines are to be introduced duty free, is it not better for that kind of work to be done by Australian operators than by Chinamen or Japanese, or even people on the Continent of Europe, who are living under entirely different conditions from those which prevail in this country 1

Senator Staniforth Smith

- This is giving a monopoly to the big papers.

<page>5797</page>

Senator MCGREGOR

- The honorable senator is not afraid to give a monopoly in other instances to persons in London or New York, though he is terribly afraid of giving a monopoly to a few newspapers. I shall vote for the proposed new clause, because I believe it will have the effect of giving encouragement to Australian workmen and literary men, and even to Australian capitalists.

Senator MILLEN(New South Wales). - I have heard something said in behalf of the poor literary men, who it is supposed will have employment given to them through the operation of this clause. But I venture to make the assertion, having a considerable knowledge of the production of these literary supplements, that there is hardly ever an original line from one end of them to the other. The bulk of them are printed in Sydney and Melbourne, and they are put together with paste and scissors. I do not say that they are not useful ; but, as far as literary men are concerned, they are not of the slightest use. There is one inconsistency in the proposal, namely, that the amendment of the House of Representatives is a practical admission that it is desirable to let in engravings. That is admitted by the form in which paragraph (b) is cast. In a large number of cases, illustrations are accompanied by letter-press. But, while" the amendment affirms the desirability of admitting illustrations - presumably on the ground that the trade of the States is not sufficiently developed to produce them here - it proposes, at the same time, to keep them out: because it is utterly impossible for any one to suppose that where these illustrations occupy a portion of a page, with letter-press around them, the illustrations can be printed elsewhere while the letter-press is printed here. A fair compromise would have been to say that the clause should not refer to the literary matter of supplements containing engravings. While that would not meet my views altogether,

it would be a fair compromise, and, under the circumstances, I should not oppose it.

Senator Drake

- Could not the blocks be sent out?

Senator MILLEN

- I am pointing out that by proposing to admit illustrations, the supporters of this amendment admit that there are certain things which the producers of this work in the States are not yet prepared to supply. That being the case, what is the good of saying with one breath that it is desirable to admit engravings, and then saying with the next breath - "We will only admit them under conditions which amount to prohibition?"

Senator PEARCE

- I do not think there is so much in this question as one would be led to believe from some of the remarks that have been made. One would think from some speeches, that the whole question of fiscalism is raised upon the proposed new clause. There is a right way and a wrong way of dealing with these matters, and I do not believe that we should make a Postal Bill the medium for protecting a local industry. I have seen many of these country newspaper supplements, and I may say that the greater part of the attractiveness of some country newspapers lies in the supplement. People can get the news from the metropolitan newspapers, but they buy the local papers because they contain more local news, together with perhaps an attractive serial story, some scientific and general literary matter, and other items of interest.

Senator Drake

- Is the honorable senator talking of supplements printed outside the Commonwealth?

Senator PEARCE

- Some of them are printed outside the Commonwealth, and some of them are printed inside, but if they are to be compelled to be printed within the Commonwealth, let there be a heavy duty imposed at the Customs-house. A Postal Bill ought simply to provide the vehicle for the transmission of these papers, and I fail to see why we should make it the medium for taxing supplements that are not printed within the Commonwealth.

<page>5798</page>

Senator KEATING

- I fail to see that the question that is raised in the new clause, inserted by the House of Representatives, has anything to do with the fiscal policy. We have already decided "for the purpose of this measure," that a newspaper shall mean a newspaper printed and published within the Commonwealth. In framing such postal legislation we are simply defining what particular publications will get the benefit of the reduced rates as newspapers. Under ordinary circumstances, unless there was some special exemption, a newspaper would have to pay at ordinary packet rates. It is here proposed that papers printed and published within the Commonwealth shall be carried at lower rates of postage as contrasted with other postal articles. I think that if we decide that a newspaper is to be defined as a publication printed and published within the Commonwealth, we ought also to regard the supplement "for the purpose of this measure," as something printed and published within the Commonwealth also if it is to get the advantage of the low rate of postage. It is not a question of excluding publications from beyond the Commonwealth, but of simply saying that only those printed and published within the Commonwealth shall get the special advantages of newspaper rates. I have known of this absurd anomaly, that a lithograph has been issued by a paper published in a metropolitan district in Australia, during the height of the war, illustrating the return of an Australian trooper to his home and family from the Boer war, and I have seen at the bottom of the lithograph the words - "Engraved and lithographed in Holland." I have it on the best of authorities, and a number of them, that lithographs of equal merit could have been produced within another centre about 100 miles from the place from which this supplement was issued. The Senate decided that in order to get the benefit of the lower rates of postage a newspaper should be printed and published in the Commonwealth. It is now proposed that newspaper supplements, in order to be included in the same concessions, should also be printed within the Commonwealth, and I shall, therefore, vote for the amendment as it stands.

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

AYES

12

NOES

Majority 1

AYES

NOES

Question so resolved in the negative.

Amendment agreed to.

Motion (by Senator Drake) agreed to -

That the amendment of the House of Representatives, as amended, be agreed to.

Progress reported.

<page>5799</page>

22:23:00

Senate adjourned at 10.23 p.m.