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1901-06-21

House of Representatives.

Mr. Speaker

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

SUPPLY BILL (No. 2)

Mr SPEAKER

- I have to inform the

House that I have received the following message from the Senate. - "Mr. Speaker, The Senate returns the Bill herewith intituled ' An Act to apply out of the Consolidated Revenue Fund the sum of four hundred and ninety-one thousand eight hundred and eighty-two pounds, to the service of the period ending the thirtieth day of June, one thousand nine hundred and one,' with the suggestions set forth in the annexed memorandum, in which suggestions the Senate requests the concurrence of the House of Representatives. " - R. C. Baker, President.

Minister for External Affairs

Mr BARTON

. - I think it is desirable that this matter should be dealt with at once. I therefore move, with concurrence - That the message be taken into consideration forthwith.

Mr Conroy

- Do I understand that this motion is for the suspension of the standing orders?

Mr SPEAKER

- No. It is quite competent for the House to proceed at once with the consideration of a message if it so pleases.

Question resolved in the affirmative.

In Committee.

An Act to apply out of . the Consolidated Revenue the sum of four hundred and ninety-one thousand eight hundred and eighty-two pounds to the service of the period ending the thirtieth day of June, one thousand nine hundred and one.

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Minister for External Affairs

Mr BARTON

. - The memorandum referred to in the message which was read by Mr. Speaker is as follows : - Memorandum of suggestions made by the Senate in the Bill, intituled " An Act to apply out of the Consolidated Revenue Fund the sum of four hundred and ninety-one thousand eight hundred and eighty-two pounds to the service of the period ending the thirtieth day of June, one thousand nine hundred and one. "

No. 1. In the title. In lino 1, after initial words " An Act to " insert " grant and."

No. 2. Leave out the words of recital, viz., "For the purpose of appropriating the grant made by the House of Representatives."

No. 3. In page 1, line 8 (clause 1, line 2) after " supply " insert " hereby. "

The section of the Constitution under which this matter arises is section 53; the fourth paragraph of which says - *

The Senate may at any stage return to the House of Representatives any proposed law which the Senate may not amend, requesting, by message, the omission or amendment of any items or provisions therein. And the House of Representatives may, if it thinks fit, make any of such omissions or amendments, with or without modifications.

So it appears clear by the Constitution that the function of the Senate, if it wishes to perform it, is to send a message requesting omissions or amendments.

Sir John Quick

- Is this message in the right form ?

Mr BARTON

- It is in form. . Sir John Quick. - Will the right honorable and learned gentleman allow me to invite his attention to its form 1

Mr Sawers

- Why is not the message printed and circulated 1

Mr BARTON

- The Senate returns the Bill with the suggestions contained in the memorandum which I have read, in which suggestions it requests the concurrence of the House of Representatives.

Sir John Quick

- That is the form of amendment, not of suggestion.

Mr BARTON

- That is the form applicable to any amendment, but it is none the less applicable to a suggestion. The fact is that the Senate has observed its province so far as this matter is concerned by making suggestions and requesting concurrence. The precise form to be followed is not a vital question; it is the spirit of the message which has to be considered. The spirit which dictates' this message - without reference to other things, which I will advert to further on - is evidently that of suggesting to this House certain alterations in which the Senate requests our concurrence. The fact that it requests concurrence does not vitiate those suggestions in the slightest degree, nor does the fact, that- the request for concurrence has been applicable in the past to amendments, make it any the less a suggestion. The whole thing breathes the spirit of suggestion. Therefore I do not intend to quarrel with the message on the mere matter of form. As to the substance of it I shall have something to say presently, but I am not wholly in accord with the suggestions. The position of the House of Representatives is that if it thinks fit to make any of the amendment suggested, with or without modification, it can do so. As to two of the suggested omissions, I think that the House can make them without any loss of dignity, or without giving away any principle, so long as in respect of the third it maintains the position indicated for it by the Constitution. The suggestion, that I mention as the third is the one -which, in the memorandum, stands as No. 2, and it suggests that we leave out of the recital the words -

For the purpose of appropriating the grant made by the House of Representatives.

Sir William McMillan

- Might I suggest to my right honorable and learned friend that he might send for the Bill. The Bill might be distributed so that honorable members have it' before them.

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Mr BARTON

- I will have as many copies as are here handed round. As I have already said, I think that two of the requests can be acceded to without any loss to the position of this House, and while I think that non-accession to them would provoke an unnecessary delay in supply, and also an unnecessary fight about what is after all not a matter of principle, I consider that, a matter of principle is involved in that which ' I have just . read. It is quite' true, and every one will admit it, that the grant of supply is not complete until the Bill appropriating supply has passed, so that to that extent the-' Senate and the House of Representatives exercise a degree of co-ordinate: power. As to the matter, manner, method, and time; and, as to the limits of mode and so on, those questions are not involved here, .because the Senate have not attempted to alter any of the items of supply mentioned in the Bill. So long as they leave the Bill alone in respect of the supplies - which we wish to be granted, the rest is a' matter of form rather than of substance. But' there is this one instance in which I do not propose to adopt the ' suggestion of the' Senate, and I intend to put before the House a modification of it, which .really states the constitutional position of this House, and to which, I think, the Senate cannot take any objection, unless it is very unwise. It will be understood, of course, that in this power of suggestion there is absolutely no power of amendment, t rests with this House to make amendments in the Bill, or to refuse to do so, if we please. That principle we strictly lay down, so that whatever there may be in a suggestion from the Senate, that suggestion can have no force or effect except this House chooses to accede to it. If we think that a suggestion is relevant to the matter in hand - if we think it is important, or one which can be acceded to without loss of dignity or privilege, we can accede to it, but only by making the amendments ourselves ; because the text of this Bill cannot be touched by the . other House. That principle I wish to be clearly understood, because I coincide with it entirely.

Sir George Turner

- " Suggestion" is merely a colloquial term.

Mr BARTON

- Suggestion is, as I have been reminded, a colloquial term for the constitutional right of the Senate. We shall not quarrel with the form of the message, because it uses this word " suggestion " instead of the word " request," inasmuch as the word " request " might be a stronger term than the word "suggestion." The title of the Bill is - " An Act to apply out of the Consolidated Revenue Fund" a certain sum, and the first suggestion of the Senate is that we should insert two words, and call it - " An Act to grant and apply out of the Consolidated Revenue "Fund." The root of that suggestion is that the Senate claims that its concurrence is necessary in a grant. That is true to the extent that the grant cannot become law without the consent of both Houses, and for the grant to take effect in an Act, the consent of both Houses is necessary. The next suggestion is the more important one. But I will pass that over so that I may deal with the third and less important suggestion. In clause 1 there are the words -

There shall and may be issued and applied for or towards making good the supply granted to His Majesty for the service of the period ending the thirtieth day of June, one thousand nine hundred and one, the sum of four hundred and ninety-one thousand eight hundred and eighty-two pounds.

The alteration suggested by the Senate is this - and it is, as I said before, an alteration that we need not make unless we please, but which I shall urge this House to assent to - that after the word "supply" the word " hereby " be inserted. Now we come to the more important amendment which stands as No. 2 in the memorandum attached to the message. We have prefaced the enacting words by the words -

For the purpose of appropriating the grant made by the House of Representatives.

Then we go on to say - " Be it enacted," and so forth. The Senate wish us to omit those words. I shall not, so far as I am concerned, concur in the suggestion of the Senate, but I propose to retain the words in a modified form which lays down our rights on the strict lines of the Constitution - the safest bed-rock for our stand to be made on. The 53rd section of the Constitution Act provides : -

Proposed laws appropriating revenue or moneys, or imposing taxation, shall not originate in the Senate. That means that a Bill such as this must originate in the House of Representatives. The question between us on a written Constitution is the right of origination. Without origination on the part of this House it is impossible for supplies to be granted out of the public revenue. The main right, of this House - the inalienable right - and one which will enable it to maintain its supremacy in fiscal matters - in matters of the purse - is that conferred by the provision which I have read. I propose to deal with the suggestion in this way that we shall not concur with the Senate's request that these words be omitted, but that instead of using the words -

For the purpose of appropriating the grant made by the House of Representatives, we shall say, in place of "made by," "originated in." I think that is an amendment to be made by us alone. But it is an amendment which is reasonable, and which ought to meet the views of the Senate, whether it does or does not, and whether it does or does not give away any of the privileges we possess. I know there are those whose training - whose political experience as between Assemblies and Legislative Councils - is so bitter to them, and justly so bitter, that they cannot tolerate the idea of even a suggestion coining from such a body as the Senate. As between Councils and Assemblies, I am quite of their opinion, and always have been with honorable members in maintaining that attitude. But as between the House of Representatives and the Senate the position is, to a slight extent, and only to a slight extent, made different by the terms of the Constitution Act. By those terms it is made clear that Bills of this character cannot be amended by the Senate, but that they may be the subject of suggestions by way of request; and unless these suggestions are acceded to, the Bill must retain its original form, at: the peril of rejection of supply by the Senate. That is a course which the other House would not be ready to take, except in a case of great emergency. I am not disposed to precipitate a crisis on the matter now, because the suggestions made, taking them altogether, are not serious in view of the fact that our rights are absolutely defined by the Constitution, and no terms or words can ever abrogate them or make them different. I also am not disposed to precipitate a crisis for the other reason that if there were a desire on the part of the Senate to do so it does not appear from the message that that desire is affecting them now. If I may say so much in reference to what has taken place in the Senate, I may say that there is reason to think that this matter has been debated there with a freedom from vindictiveness and temper which it would be just as well for us to mark. . There has not been, so far as I can see, any spirit of

intolerance or aggression either in the debate or in the suggestions. It may be that if it were intended to precipitate a quarrel with us, no other occasion would be better than this to seek for it - that I quite admit - but, so far as we are concerned, it is no part of our desire to precipitate quarrels in respect to matters in which our rights in the Constitution are clearly defined, so long as no form of words interferes with our exercise of those rights. I find nothing in the form of words here which can in the slightest degree amount to an infringement of the exercise of our undoubted rights. I am inclined, as I think we all ought to be, to fair dealing with the other House. We exact fair dealing from them and we should be prepared to grant it in return. My solution of the difficulty is, I suggest, one that is reasonable and fair to both Houses. As has been pointed out to me by the Treasurer, this Bill goes to the Senate, bearing the Clerk's certificate - This Bill originated in the House of Representatives, and having this day passed, is now ready for presentation to the Senate for its concurrence.

We wish to retain that mark of origination.

Mr Conroy

- That is settled by section 53, and we cannot alter it. The amendment is unnecessary.

Mr BARTON

- I want to show, not only by the certificate on the Bill, but by the retention of the words I have read, that this is one of those Bills which can only originate in this House - which must originate here and nowhere else - and a Bill in regard to which constitutional practice had been followed. To that extent I think we ought to push our difference with the Senate, but there is no necessity to push it further. Having maintained the principle - and reinstated the words in the Bill - I think we have done enough. Honorable members will recollect that I spoke on this question last week, pointing out the tendency in regard to all enactments to dispense with the preamble and confine oneself to the enacting words. That is a tendency which has been exemplified in forms of legislation and even in Supply Bills in some of the States. The position now is that we have inserted words which bear indication that the grant has originated here, but if the form of words is objected to we can maintain the substance by saying in distinct terms that the grant was originated by us. I propose to go to that extent, but it would be fatal to go any further, because I see no real ground of quarrel between the two Houses. The real question was whether the Senate were going to suggest any interference with the sums and amounts and the method of their distribution which we in our grant originated in 'the House, and which were comprised in the Bill. As I find no attempt at such interference I am to a large extent content. If I found any attempt to interfere there I should fall back on the fact that, although the Constitution allows another House to suggest, it is still for us to determine whether we shall allow any grants to be interfered with, and in such a case I should be entirely on the side of this House. But I find no cause of quarrel here, and I propose that a course shall be adopted which I think will obviate any cause of quarrel - a course which does not tend to the whittling away one jot of any of the principles laid down or expressed in the Constitution Act, and one which in the spirit of constitutionalism as ordinarily accepted outside Constitution Acts has not the effect of whittling down anything that belongs to us.

Sir William McMillan

- Does the right honorable and learned member accept the suggestion to insert " grant " ?

Mr BARTON

- Yes.

Sir William McMillan

- Has it any effect?

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Mr BARTON

- I do not think so. The question is, where does the grant originate? It originates here, and I will make that clear in what I am going to propose. By retaining the words which it is suggested we should omit, and by inserting " originated in " for " made by " we practically reiterate, if it is necessary to do so, the principle laid down in the Constitution. I am not troubled about the word "grant," because in order that a grant may become an Act it must be a Legislative grant, and the assent of the other House is required. What I am concerned about is that this Bill should come back to us without any attempt to alter it in substance, and with nothing to invoke reprisals or quarrels, or calculated to whittle away any privilege that belongs to us. I shall presently move that the House of Representatives, having taken the Senate's message into

consideration, returns the Bill to the Senate with a schedule of amendments entered thereon, and with . an intimation that the amendments are ours and not those of the Senate. I move now - That the requested amendment of the Senate to insert "hereby" after the word "Supply" in clause 1 be agreed to.

The ACTING CHAIRMAN (Mr. Y. L. Solomon). - I take it the committee prefer to deal with each of the suggestions in order, and I shall therefore put them one by one, but there may be a general discussion on the first amendment, of course within the bounds of the message.

Sir WILLIAM MCMILLAN

- I have very little to say on the subject. It seems to me that the Government are . taking the right course. After all, in reviewing the debate there is no doubt in my mind that under no possible circumstances can the rights of this House as contained in section 53 of the Constitution Act be interfered with. The only question which probably some of the legal members of the House may throw some light on is the difference between the words "made by" and the words "originated in." If we take the course proposed by the Prime Minister we simply keep to the Constitution, and certainly, so far ' as this Chamber is concerned, the Senate can find no fault with the amendment except, perhaps, because it is surplusage. Section 53 says that proposed laws appropriating revenue or moneys or imposing taxation shall not originate in the Senate. That provision is quite clear, and we are simply re-enacting it by using the words "for the purpose of appropriating the grant originated in the House of Representatives." Looking at it in that way the words in the preamble are surplusage, reenacting or copying the words of the Constitution to provide against any possible future inroads upon our privileges under the Constitution.

Mr Isaacs

- The insertion of these words might make our position worse, as it might lead to the inference that the grant might originate somewhere else, but that it originated in fact in the House of Representatives on this occasion.

Sir WILLIAM McMILLAN

- That may be, but if I understand the course recommended by the Government, the object is to prevent the slightest misunderstanding with regard to the rights and privileges of this House, although they are very clearly defined in section 53.

An Honorable MEMBER - We might re-enact the Constitution in every Bill.

Sir WILLIAM McMILLAN

- We might do that, but so far as the present case is concerned we are dealing with Money Bills, and with the question as to the words to be used in these Bills in the future, and whilst I am not at all bound to the proposal now before the House, because it is much more a matter of legal construction than anything else, I think we ought to settle exactly the terms of the preamble of our Money Bills. . As a layman, I naturally speak with very considerable diffidence on this matter. It seems to me that in their essence the words are surplusage, and that we are simply repeating in a positive form that which occurs in the Constitution in a negative form as regards the other House. The point the honorable and learned member for Indi takes is, I think, worthy of consideration, because it is a well-known rule that if you limit your rights to any extent, you may possibly cramp yourself as far as your larger rights are concerned. However, I am inclined to be entirely guided in this matter by the House, and especially by those who are authorities on constitutional subjects, although, at the same time, it seems to me that the words cannot be objected to by the other House, except on the ground of surplusage.

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Sir JOHN QUICK

- I would like, at the initiation of this discussion, to direct attention to the message which has been received from the Senate, and I would suggest that the Clerk should read it again.

An Honorable Member. - I think we ought to have had copies of the measure.

Mr Barton

- We have had absolutely no time to provide copies. We received the message only when the House met.

An Honorable Member. - Then the matter ought not to have been brought forward.

Mr Barton

- I would like to remind honorable members that unless this Bill is dealt with quickly - and that is why we could not adjourn the House for the purpose of allowing copies of the message to be printed and

circulated - this House will be involved in having delayed Supply beyond the period which it ought to be delayed, in which case the obligations of the Government, extending to the furthest parts of the continent, can only be met by warrants issued without authority.

Mr Conroy

- That is the fault of the Ministry.

Mr Barton

- It is absolutely not the fault of the Ministry.

Sir JOHN QUICK

- Immediately I heard the message read I knew that it contained words which were not in the Constitution. Practically, the message is an attempt to evade the Constitution by going further than it has authorized. The Constitution is quite plain, because the paragraph of section 53 relating to the power of suggestion says -

The Senate may return to the House of Representatives any proposed law which the Senate may not amend, requesting by message the omission or amendment of any items or provisions.

That is all the Constitution authorizes. The Senate, therefore, may suggest this proposition or that proposition, or this alteration or that alteration. But the Constitution does not authorize the Senate to go further, and request the concurrence of this Chamber in their suggestions, because, if it did, the distinction between suggestion and amendment would be absolutely obliterated. I would ask this Chamber whether, in this early stage of its history, it is going to practically agree to an abrogation of that distinction. We are quite aware that there have been those who have contended that there is no distinction between " suggestion" and "amendment," but I have always contended that there is an immense difference. Now, the Senate, by this carefully worded message - which might easily have escaped the attention of honorable members who very often do not hear these messages clearly - is asking us to ignore the distinction. If this matter had escaped notice we should have established a precedent which would have existed for all time. If the House is to tamely acquiesce in this message, let us understand what we are doing, but I am not prepared to acquiesce in it. Probably the attention of the Prime Minister was not directed to the paragraph containing the words mentioned, and probably, without deep consideration, he has expressed the view that there is no objection. But I think we ought, before considering the suggestions, to decide whether we are going to tolerate this form of message, because, if we are, farewell to the distinction between "suggestion" and "amendment." The Senate may suggest that we should do this or that, or that we should omit or amend, but this message requests concurrence in the suggestions, using the word " suggestion" as if it were equivalent to " amendment." I therefore most anxiously invite the attention of the Government to the form of message, which I certainly think ought not to be accepted. I would like honorable members to seriously think the matter over. I do not wish the House to rush into any precipitate action, but the matter is one that requires careful consideration. Now, with "reference to the suggestions themselves, I really do not think that that affecting ' the title is worth fighting about, and I quite agree with the suggestion of the Prime Minister, that we might agree to it. In reference to the insertion of the word "hereby" in clause 1, I do not see any objection, but in reference to what the Prime Minister has properly said is the gist of the whole business, the form of preamble or the introductory words, we ought to make a stand, and insist upon retaining the words that we put in. At the same time, I do not wish to assume any unnecessarily aggressive attitude. I agree with the Prime Minister that the constitutional points involved in this Bill, which were raised in the Senate yesterday, were discussed in a very calm, business-like, and conciliatory manner, and the same thing should obtain here. The Senate is perfectly entitled to insist on its rights, and this House should do likewise.

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Mr O'Malley

- Their rights end when ours begin.

Sir JOHN QUICK

- The Prime Minister has spoken somewhat slightly of preambles, and if his view were entertained as to preambles being unnecessary elements in Supply Bills, why, may I ask, was the preamble inserted in the first Supply Bill brought down to this House? -The historic preamble, familiar in all our Legislatures, was inserted in the first Supply Bill, and the Government asked the House to accept it in the old original form. The House complied, and ratified the principle of the preamble. Now we are asked to accept the

view that preambles are unnecessary and have passed out of date. This seems to me scarcely a consistent attitude for the Government to take up, and I hope we shall adhere to the form of preamble to be now agreed to. As I said when this question was raised before, I am not wedded to any particular form of preamble as long as the principle of initiation is placed upon the face of the Bill. There is an organic difference between Bills appropriating revenue and any other form of Bills. ' As regards other Bills, the powers of the two Houses are equal ; but in the origination of Appropriating Bills those powers are not equal. This House has the supreme power of origination, but messages from the Crown recommending appropriations must be presented to this House alone ; that is, must be presented to the originating House. So that in these two features this House is essentially different from the Senate : in its exclusive right to receive messages recommending supplies, and in its exclusive right to originate appropriations. I contend that Bills so recommended, based upon a Royal message, ought to bear upon their forefront the source of their origination, and the fact that we had agreed to the message to the Crown. I am not wedded to any form of words as long as words are put in that show, first, the origination of appropriations, and, secondly, that they are based upon messages from the Crown. Any words that are capable of conveying these two principles I am willing to acquiesce in, and I think we ought to expect so much.

Sir William McMillan

- The honorable and learned member would agree to the word " originate " ?

Sir JOHN QUICK

- Certainly ; I agree to any form of words that shows upon the face of the Bill the fact of its origination. But, at the same time, I think it should go further and say that the Bill is based upon a recommendation from the Crown. The Crown recommends by message. What then takes place is that the message is referred to a committee of this House. It may be dealt with by the House as a whole, but as a matter of constitutional practice the message is always considered in Committee of Supply. In Committee of Supply a resolution is arrived at that supplies be granted to the Crown. That resolution is reported to the House. The House agrees to the resolution, and a Bill is brought in based upon it. I hold that these Bills should bear upon the face of them something to show that they are based upon a message from, the Crown, and originate in the House of Representatives in accordance with the recommendation of the Crown. Honorable members may . ask what is the utility of this procedure ? The reason for it - and it is a very special reason - is that questions may hereafter arise as to the constitutionality of these Supply Bills. They may come before the High Court. The High Court will judge of a Bill from what appears on the face of it, and if it appears that the Bill in question was intended to make an appropriation within the Constitutional requirements, the High Court will know that it is dealing with a class of Bill different from the ordinary form of legislation.

Sir George Turner

- Then we should have to put that in every Bill that is originated by a message from the Crown. A large number of Bills that are not Supply Bills are introduced by message.

Sir JOHN QUICK

- What are they?

Sir George Turner

- There are many such Bills.

Sir JOHN QUICK

- A Bill originated on a Crown message should show that fact upon the face of it. I shall be willing to acquiesce in what is proposed, so long as the word " grant" is kept in. I am willing to strike out the word " made," if that is considered objectional, but the word " grant" should be retained for the purpose of appropriating the grant.

Sir George Turner

- It is proposed to leave in the word "grant." We propose to make it read " grant originated in."

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Sir JOHN QUICK

- I quite agree with that, and am glad to hear that such is the. proposal of the Government. But going back to the message from the Senate, I think that, before we proceed to consider the suggestions, a message should be returned to the Senate, and it should be pointed out to that Chamber that in asking the concurrence of this House they are exceeding their constitutional powers and rights.

Mr ISAACS

- I am quite sure that in this matter every one will agree that we have no party question to deal with. We are all agreed also- that it should be debated in the most solemn, careful, and, if I may use the expression, cold-blooded fashion. Further, I am thoroughly assured that the Government feel that they are doing what is right towards maintaining the Constitution and conserving the rights and privileges of this House, and are actuated by no desire except, while stoutly maintaining the real substantial rights and privileges of the House of Representatives, to . discard any rigid adherence to forms which they think may cause conflict. I go with the Government thoroughly in all that; but, notwithstanding, I cannot agree that the course they propose to the House is the right one. We are now upon the threshold of a proceeding which may, by constant and continuous encroachments, involve the whole future of responsible government. Much mischief may follow from a simple misunderstanding of the nature of these proceedings. At the outset I thoroughly indorse what has been said by my honorable and learned friend the member for Bendigo with regard to the form of the message from the Senate. We ought to refuse to sanction that particular form of message ; because although it uses the word "suggests" - a word not used in the Constitution - it asks the concurrence of this House in something which has been done by the Senate. This House is asked to "concur" - that is the word used, I believe - with regard to the amendments suggested; and if a word not used in the Constitution - "suggests" - is used here, and we are asked to concur in the suggestion, I see no practical difference between the Senate amending and asking our concurrence in their amendments, and their suggesting and asking our concurrence in their suggestions. The Constitution says that if the Senate wishes an amendment to be made, it is to request this House to make it, and then it proceeds to state that this House may, if it thinks fit, do what is requested. To my mind the word "request" in that collocation is of infinitely weaker import than the word "suggest" as used in this message. The word "request" is, as it purports to be, a request to this House to do something if it thinks, fit. There is nothing to concur in, and we are left absolutely to our own discretion to say whether anything shall be done or not. I therefore say that the form of the message is not one that ought to be entertained. In the next place, on the merits, I think a distinction has been lost sight of. When we speak of the Constitution, it should be recollected that our Constitution is not completely contained within the pages of a written document. We have behind those written pages a history. We have behind those words, which appear in cold type, a long period of constitutional usage. When we were building up our Constitution, we did it knowing that we were basing that fabric upon the bed-rock of what I may call the common law of the Constitution. When we formed our two Houses, we distinctly intended that, as far as possible, one House should have the predominant financial power. We had precedents to go upon which should not be disregarded. We know what is meant by the word "grant." In Great Britain, no less than in Australia, a legal grant in one sense is not made, and cannot be made, except by the two Houses of Parliament. But there is another sense in which the word "grant" is used; and that is that it is done by a vote of the House of Commons on the recommendation of the Committee of Supply and -with the sanction of the Crown. It is in that sense that the word " grant " is used in some portions of this Bill. I will take for example, to illustrate what I mean, the last Appropriation Act passed by the Imperial Parliament. There a " grant " is not made in the sense in which the Senate wishes us to limit the word, except by the concurrence of the House of Lords with the House of Commons. In the English Appropriation Act I find the word " grant " used in two senses. In one sense it means a grant made by the House of Commons by itself by resolution, and in the other sense it is used in the signification of an Act of Parliament. We have in the first clause of the Bill before us the words " supply granted," which can only mean the amount of supply granted by this House.. The insertion of the word " hereby " before the word " granted " would in my opinion distinctly alter the complete sense of what was done. Let me draw honorable members' attention to this provision. It says - " There shall and may be issued and supplied for or towards making good the supply granted to His Majesty."

How was that supply granted? It was granted by this House upon motion in Committee of Supply." By the insertion of the word " hereby " the meaning is altered entirely. This Bill is a Bill for the purpose of appropriating money to make good a supply previously granted by the House of Representatives. Let me read the terms of the English Act of Parliament to which I have already alluded. The following are the words of the preamble : -

Most Gracious Sovereign. We, your Majesty's most dutiful and loyal subjects, the Commons of the United Kingdom of Great Britain and Ireland, in Parliament assembled, towards making good the supply which we have cheerfully granted to your Majesty in this session of Parliament, have resolved to grant unto Your Majesty the sum hereinafter mentioned ; and do therefore most humbly beseech Your Majesty that it may be enacted.

The word "grant" there has distinct reference to the vote of the House of Commons; and that is the constitutional sense in which the word- " grant " is used. That also is the sense in which it ought to be used in the preamble of this Bill. Therefore when we talk of the grant originating in this House we must mean that the grant originates and ends in this House in the sense in which that word is used in the English Act. When we come to the enacting words of the English Act further on, we find that the word grant is used in a totally different sense. In fact, it is used in two senses in one section, which I will quote. Section 3 refers to -

All sums granted by this Act and the other Acts mentioned in schedule A annexed to this Act out of the said consolidated fund making good the supply granted to Her Majesty.

The word granted means in the second use the supply granted by the House of Commons. For these reasons I am absolutely opposed to altering the words " made by " to the words "originated in." This preamble is for the purpose of appropriating the grant made by the House of Representatives; and I will not be one to allow the idea to be weakened in the least degree that the term "grant" - the grant of supply - is solely confined to that sense. We ought to take care that we do not abandon the position which constitutional history has handed down to us from our English prototype, the House of Commons. With regard to the title and the words, " An act to grant and apply," I care very little. I think it would be stronger for this House to refuse to countenance even that alteration. But I care very little about it because when the words "and grant" are added there, it means giving legal form to the grant made by this House in the first instance. But with regard to the preamble and the words of the first clause I distinctly and clearly offer my opposition to the suggestion made by the Prime Minister. For these reasons I think that at the very outset we ought to take our stand upon the position that this House represents in a special and perfect degree the taxpayers of Australia. We ought to be very careful lest by withdrawing what are called forms, but which are really more than forms - which have been spoken of as danger signals, but which I think should be regarded as standards marking out our territory - we surrender the rights of this House. We cannot be too careful lest argument be piled on argument and surrender called for after surrender. When we find that a Supply Bill was first brought down to this House containing a certain preamble and that it was demanded that we should alter it, and we did alter it and that when we sent it up again it was demanded that we should again alter it, it is time we took a stand. Whilst desiring to recognise to the full degree the rights of the other Chamber, and with, a full belief that the Prime Minister is actuated by the very best and the highest of motives, in endeavouring to get the business of the country done with the least possible friction, I feel called upon to say that the strongest opposition should be offered to all the amendments which the right honorable and learned gentleman has proposed.

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Mr CONROY

- I very much regret that the Ministry, by their action in having neglected to exercise a little thought and care, have placed this House in the position of having to back down to the Senate. We must of course back down, because the Senate is undoubtedly in the right. Ministers are very blameworthy for not having carefully considered these matters. If they had devoted a little attention - even half an hour - to the first Supply Bill, that measure would not have been returned by the Senate. This House on that occasion was so clearly wrong that the Ministers tossed the Bill under the table and brought in a fresh one.

Mr McCay

- Why did the honorable member pass it ?

Mr CONROY

- I pointed out that we were rushing matters through in such a violent hurry that this Ministry would be known as the slipshod Ministry. I find very strong proof of the accuracy of my predictions in the way matters are now being conducted. In the second Supply Bill the Ministry inserted the words " for the purpose of appropriating the grant made by the House of Representatives."

Mr Kingston

- Was. not that made in response to a suggestion from the opposition side?

Mr CONROY

- Certainly not. Honorable members are well aware that quite half a dozen of us were cognisant of the fact when the second Supply Bill went up to the other House that the Senate would send it back, as has now been done. We are not getting parliamentary legislation here, because things are rushed in such a way that honorable members have not time to consider them. This House will have to go back upon this matter, because the Senate is in the right upon it. The Ministry have put members in the wrong, but, because of that, this House is not going to put itself in the wrong. In two matters the Ministry have recognised that the Senate is right. Why, I ask, did they not save us from this humiliation of having to back down 1

Mr O'Malley

- The honorable member looks upon the Senate as infallible.

Mr CONROY

- I look upon the Ministry as wrong, and if we adopt the first part of this preamble, the Senate, acting within their rights, will send the Bill back to us again. Section 53 of the Constitution clearly states that these Bills shall originate in the House of Representatives. If any constitutional point is going to arise in connexion with it, I would refer honorable members to section 76, which says that any matter arising under this Constitution, or involving its interpretation, shall come under the notice of the High Court. Of course, the form of the preamble would not come under the notice of the High Court, but the legality of acts done by one House or the other might and should come under its jurisdiction. Honorable members are too much under the old idea that the Lower House is 'all paramount. But we have departed from that very sound principle - a principle which was built up by ages of struggle - and we have granted to the Senate certain rights under this Constitution. Since the Constitution confers those rights we cannot deprive the Senate of them. No amount of assertion on our part can take them away. I have no desire to help the Ministry, but when I see the disabilities which may ensue if this Bill is not passed, I must say that I think that the Government should accept the suggestions of the Senate. By so doing they will be acting strictly within constitutional limits, and even if they do not do so-

Mr O'Malley

- The honorable member will put them out.

Mr CONROY

- If honorable members on the opposite side of the House are still disposed to support the Ministry - although the latter had to submit the Acts Interpretation Bill twice and the Public Service Bill with six pages of new clauses - it is not our fault. I wish to state that the members of the opposition side of the House would not have fallen into these mistakes. We should never have precipitated a collision with the other Chamber, and if we had sent anything up there we should have stood to our guns. I would point out to the Ministry once more - as they are very anxious, to get this Supply Bill through - that the words in the preamble are utterly unnecessary. If we take them away it cannot be said that this House gives away one iota of its rights. I think that is the proper course to adopt, and, in so doing, we shall not be sacrificing one principle.

Mr. BARTON

(Hunter - -Minister for External Affairs). - I wish, if possible, to put this matter so clearly that we may be enabled to send this Bill back to the Senate while that House is waiting for it, in order that our public obligations may be legally maintained

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Mr Conroy

- With the permission of the right honorable and learned gentleman may I point out that there is one thing of far more importance than any alteration in the preamble. The Senate has agreed to every item that we have sent up to it without any suggestions, and if this House is wise, it will accept every suggestion now made by the Senate, because the principle has been established that the items in a Bill of this kind shall pass unchallenged.

Mr BARTON

- In trying to make this matter a little clear, I can quite understand that there are those who, having opposed this Constitution from start to finish on the ground that it gave too much power to the Senate, are

now seeking to elevate the Senate into the superior House. The whole air rang during the referendum contest with the complaints of gentlemen such as some whom I see in the Senate, who are trying now to arrogate to the Senate superior power, although the Senate has not been with them, and who all through the contest were endeavouring to make out that this Constitution could not be assented to, because it gave undue powers to the Senate and made it the supreme House. I wish to put the matter on a purely constitutional basis, and I think I am doing so. I want to bring it back to the honorable and learned members for Indi and Bendigo that the suggestion that this matter depends on the relations between the Commons and the Lords might be right if we were a Legislative Council fighting with a Legislative Assembly, but has absolutely no reference to ' the Constitution which has been passed. I wish to maintain the relative positions of the two Houses - to maintain the lights of the Senate, but to make no undue concession to that Chamber. Of course, there must be a certain amount of mutual "courtesy in the carrying on of the relations of the two Houses, otherwise these Houses could never be the working engines of the Constitution. But apart from that, there must be a reasonable and strict adherence to our rights, and I ' propose to consider those rights as laid down in the Constitution. Whoever heard of the suggestion before that there is anything in our Constitution which places the Senate in the position of the House of Lords? The powers of the Houses in respect of legislation are clearly defined in sections 53 and 54. Section 53 says : -

Except as provided in this section, the Senate shall have equal power with the House 'of Representatives in respect of all proposed laws.

Sub-section (2) states that the Senate may not amend " proposed laws" imposing taxation or appropriating revenue. This is a proposed law appropriating revenue. If we insist on our Constitution, do my honorable and learned friends wish to make those words nugatory? If they do not make them nugatory, does it not become apparent that if they wish them to be liberally and broadly construed they must liberally and broadly construe every other line of it: The honorable member for Indi has quoted the practice between the Commons and the Lords, which, with all due respect, I submit is not applicable for the purposes of this discussion. I am sure that, coming as we do from a profession in which warmth of argument is permitted, my honorable and learned friend will understand that when we argue warmly we respect each other none the less. There is no foundation for the analogy, unless that analogy is set up by sections 53 and 54, because otherwise the words I have quoted would have been put in as a delusion, to cause the people of the smaller States to vote for a Constitution, in which it was assumed that certain rights which were given were not to be exercised in fact. Our true position is to concede to the Senate its legal rights, and to insist upon having our own legal rights; These proposals of mine are simply upon those lines. It is quite clear from this Constitution that a proposed law, which appropriates revenue or moneys for the ordinary annual services of the Government shall not originate in the Senate. But anything, to be an appropriation must have the assent of both Houses. Although a proposed law appropriating revenue must originate in the House of Representatives, that does not detract from the constitutional result that there cannot be an appropriation without the consent of both Houses. Now it is asked that words should be inserted indicating that which is the form prescribed by the Constitution. It might have been as well if the Senate had passed this matter over, because the Constitution regulates our rights. But if in one of these amendments we assert our right to originate, as I propose to do, it is done by way of showing that if the Senate assert their right to be participants in the grant, we can only admit that right if they admit our reciprocal right to originate the grant.

Mr Hughes

- Will the right honorable gentleman tell us how the Senate' can dispute our right when it is set down in the Constitution ?

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Mr BARTON

- The Senate cannot dispute our right to originate the grant, and in the same way we cannot dispute their right to participate in the grant. The position is that we will concede to the Senate their undoubted constitutional position, if the Senate will concede our undoubted constitutional position ; and if they make an offer to accept what we propose in return, the true position between us has been reached, and no precedent has been set. to injure the prestige or power of either. I do not propose to follow the suggestions of the honorable and learned, member who last addressed the committee. No doubt we are

a slipshod Ministry, as the next and every Ministry will be; but the Ministry does not always go about with its football boots on. Still, though we are a slipshod Ministry, I ask honorable members how far they credit the statement made by the honorable member that he would not be a party to such a mistake. The honorable member said "We would not have fallen into this- mistake." Honorable members have had experience of that honorable member, and are able to say what mistakes he would fall into, and what mistakes he could avoid ; and I shall now leave the honorable member alone, merely suggesting that after all it is not those who have the least experience amongst us, who should suggest any undue concession to the Senate. To those who consider the matter fairly, it is clear that if we demand any defined rights for ourselves, we must be prepared to concede the defined rights claimed by other people. The Senate are undoubtedly entitled to participate in the grant by helping to give it the form of law. They are entitled to make good supply, to the extent that they give it the form of law by their assent.' They are not entitled to go any further, and if we make that plain by showing that the grant originated in the only place it could possibly have originated, we have not given way one tittle in regard to our reciprocal rights under sections 53 and 54. That is what the message, which I shall presently read in its fuller form, proposes to do. It may be true that the message that has come down has been framed more with relation to a state of things in one of the States where this power of suggestion has been created by standing orders, than with relation to the exact words of the Federal Constitution. But I do not propose to ask honorable members to haggle about form, when they have matters of substance to consider. I see no difference in principle or in effect between requesting this House to make an amendment and making a suggestion in which this House is requested to concur. Because, if concurrence be asked for, we are requested to make an amendment, and the difference is merely that between tweedledum and tweedledee. There, again, is the danger of our being, led astray by the mere fact if some form of procedure, or, an assimilation to some form of words which has been used on the occasion of certain quarrels, is used in connexion with a message under a Constitution which substantially preserves the rights of the House which makes the suggestion, without encroaching on the rights of- the other House. I do not think it is business-like or constitutional, in the higher sense, for us to string out a debate on a subject of the kind, because we all know that the Senate does not mean to make any encroachment on our rights, and that we do not intend to encroach on the Senate's rights. If we set forth this form of words which makes the matter abundantly clear, I surely think we shall have done our duty to the Senate. The Senate is not a House of Lords ; it is a popular House, as we are. The Senate represents the States, no doubt, as political entities, but the electors are exactly the same as the men and women who returned the representatives to this House - there is a difference in the distribution, but not in the personnel of the voters. I do not say that that means that the Senate is to derive undue financial rights, because we know there must* be undoubted financial supremacy in one House, under any Constitution providing for responsible government. But short of that limitation, the fact of the Senate being elected by the people gives them a right which we should be foolish not to recognise, while, at the same time, we must make no surrender of the right of originating and finally determining supply, without which right no Constitution could proceed under any form where there is responsible government. The message came down to us only at two o'clock, when we met, so that I have not had much time to consider it. I propose to deal with this matter as if the ordinary form of the Constitution as laid down in sections 53 and 54 had been followed word for word. I intend to follow that form, so far as the committee will allow me, in regard to the amendments which the Senate requests, by saying that we agree to two of the requested amendments and make them in the Bill, and that as to the third requested amendment, we have made it with a modification which will appear in the schedule. Throughout I intend to treat the message as one requesting amendment, and that will be a guide for the future.

Sir William McMillan

- Does the Prime Minister use the word "amendment" or "suggestion" .?

Mr BARTON

- I use the words "requests for amendments." I emphasize the fact that I wish to use a form of message which will leave no doubt that we are dealing with the matter on absolutely constitutional grounds, and following the forms of the Constitution. I do not think we ought to say we will not accept the form of message sent when we know it means the same thing as the Constitution indicates and requires. I do not think we have any right to interfere unduly with the internal procedure of the other House, any more than

the Senate has to interfere with the internal procedure of this House. We might have suggested that they modify the terms of their message by using the word "originate," but I think the Senate recognise that they have no right to interfere with our internal procedure, and I do not think we have any right to dictate to them as to the form of their message when we know what the message is, and what in substance it means. The message I propose reads : -

Mr. President,

the House of Representatives returns to the Senate the Bill entitled "An Act to apply out of the Consolidated Revenue Fund the sum of four hundred and ninety one thousand eight hundred and eighty-two pounds to the service of the period ending the thirtieth day of June, one thousand nine hundred and one," and acquaints the Senate that the House of Representatives has considered the message of the Senate requesting this House to make certain amendments in such Bill, and has made the requested amendments numbered 1 and 3, and in the case of requested amendment numbered 2 has made such amendment with the modifications appearing by the schedule.

That puts it in plain terms that, though requests, the requests are theirs ; the amendments are ours, and ours alone.

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Mr MCCAY

- I am not going to detain the House for any length of time on this question ; but feeling, as I do, that matters of great importance are involved, I deem it my duty to express my opinion briefly ; and, if opportunity is given, to vote in accordance with those opinions. The Prime Minister, by the form of message he proposes to send back - I will not discuss the form now, because I have heard it read only once - and by the remark he has made as to the absence of evil intention on the part of the Senate, practically admits, as everybody else must, that the message to the Senate was wrong in form. If the Prime Minister be right now, he was wrong before. It is all very well to say the Senate means nothing, and I grant they do not intend to attack our rights or to attack our Constitution in any way ; but the fact remains that if messages keep going and coming in a certain form they have their constitutional effect. It does not matter whether there is a written Constitution or not, there are these constitutional effects of a very far-reaching character. I venture to say that the present relations between the Commons and the Lords in Great Britain has been largely determined by the form of messages from time to time adopted by the House of Commons. It is perfectly true we have a written Constitution here, and that section 53 defines the relative powers of the Senate and of the House of Representatives. But if the Prime Minister himself, or any other eminent lawyer in the House, or if all the eminent lawyers in the House were to sit down together to determine what the section exactly means, I defy him or them to come to a conclusion. In the section there are elements of elasticity to an extent which we cannot at present foresee. What does, "originate" mean or include ? Does it merely include the receipt of the message from the Governor-General ? That could be argued, but I should say the word includes a great deal more. The message we got in this particular case was to the effect that the Governor-General transmitted to the House of Representatives Estimates of Expenditure for the period ending 30th June, 1901, and recommended an appropriation from the consolidated revenue accordingly. The House of Representatives received that, Message, and the Speaker having left the chair, the House went into Committee to consider the message. The Committee resolved to grant the money, and reported that resolution to the House, and then a Supply Bill was brought in to carry the resolution of the Committee into effect. In my humble judgment, the origination includes not only the receipt of the message, but also the resolution of the Committee to grant the money, and the reporting of that resolution to the House, which causes the bringing in of the Bill under which the money is actually granted in the legal sense of the word. That is at any rate a tenable view, in spite of the honorable and learned member for Werriwa, who says that the Senate are undoubtedly right and that we are undoubtedly wrong. So far as I am concerned I have not yet had sufficient experience in law to say that anything is undoubtedly right or undoubtedly wrong. In this particular case the origination in the proper sense of the term used in section 53 does not cease until the House has determined that the money shall be granted. The honorable and learned member for Indi is perfectly right in referring to the history of the hundreds of years behind us. It is absolutely certain that all the members of the Federal Convention had more or less in their minds the history of the mother of Parliaments, which sits in London, and also had in their minds the historical facts

relating to that principle which we are endeavouring more or less adequately to apply to the state of affairs existing between the two Commonwealth Houses. If we remember what the course of procedure is, and what the facts are, it appears to me that section 53 is an attempt in certain matters, though not in all, to put into words what has been the practice between the two Imperial Houses. In the "Annotated Commonwealth Constitution," by Quick and Garran, in a note with regard to the word "originate," it is stated that this is an attempt to put into words the practice that has prevailed. I believe that is so, and if it be so we must interpret the words in the light of history. If you simply look at the word "originate" in its dictionary meaning, you will not be carried very much further, because the dictionary says to originate is to begin, and the question with us is, if I may use the expression, where the beginning ends. Further we must satisfy ourselves as to when the first stage called the beginning is complete, and I say that it is clearly not complete until the committee has resolved that the money be granted; and equally if it is not complete till then, the word "grant" used here means granted in the Committee of Supply of this House, and a Bill is afterwards brought in which supplies the money out of the consolidated revenue.

Mr Isaacs

- In the other sense the House of Commons has no right to grant.

Mr McCAY

- No; not in the sense of making the money legally available. In effect they say, we agree to let this money be legally available, and this House of Representatives does exactly the same thing; and the King and the Senate resolve that the money shall be made available in accordance with the express determination of the House of Representatives. If that view be correct, the two alterations suggested by the Senate and prepared to be agreed to by the Prime Minister are direct and important infringements of that right which the Constitution grants to us by the use of the word "originate."

Mr Deakin

- The amendment is perfectly consistent with the wording of the Constitution.

Mr McCAY

- I do not think it is. The words "grant made" are not used in the sense of legally granted, but are used in the sense of a grant that the House of Representatives has determined shall be made. It may be stated that the word "originate" includes the word "made"; but if we use the word "originated," it cannot be used to mean more than "made," because it is certain that the other House will never agree to the idea that the word "originated" is larger than "made" but rather that it is less than "made." We must look not to the meaning that we ourselves attach to the words, but to the meaning which other people will ascribe to them.

Mr Isaacs

- They will say that it is not "made" in any sense until they agree to it.

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Mr McCAY

- I say that it is "made" in the sense in which the word "originated" is used in this Bill, and although the rules of the House of Commons in this matter are no guide to us, the language of British Acts of Parliament has been a guide to us in the construction of the laws of the Commonwealth. If you look at the words "supply granted to His Majesty," it seems to me that that means supply granted on the Governor-General's message" in the House of Representatives. It is not supply legally granted. The first clause provides that -

There shall and may be issued and applied for or towards making good the supply granted.

Now, if "supply granted" means legally granted, what is the use of making an Act to legally grant that which has already been granted? This would be an Act to grant what has been legally granted, and therefore the words must have a different meaning from that which might ordinarily be attached to them. Furthermore, the grant made by the passing of the Act must be a fuller thing than is meant by the words "supply granted." Therefore, the word "granted" in clause 1 must mean less than a grant legally made. Consequently the words "hereby granted" are wrong. "Hereby granted" would mean that this was an Act to grant to the Crown a thing which had already been granted. I think I have made clear the reasons which have induced me to take my present attitude. I have not been actuated by any hostility, but by a feeling that, although section 53 of the Constitution is in black and white, the section may be construed as meaning half-a-dozen things, and may require a great deal of discussion. This Act can not; be discussed

in the law courts as other Acts may' be, unless with the consent of Parliament, because it is expressly excluded by the wording of the Act from reference to the courts. Therefore the only judges are the House of Representatives and the Senate, and the House of Representatives should be slow, if there is any doubt that we are right and the Senate is wrong, to accept views which are inconsistent with its alleged or claimed supremacy in relation to Money Bills. Some honorable members, from their experience in State Legislatures, are perhaps a little embittered in their feelings towards the other House, but during my short experience in the State Assembly, I had no such* feeling towards the Upper Chamber. I feel, how-over, that resting as we must upon this Constitution, we have to consider first how the Constitution is to be interpreted, in the light of what precedents it has to be interpreted, and what the words as used actually mean. I have no objection to the first suggestion of the Senate. So far as the second suggestion is concerned, although "originated in" probably includes "made by" I cannot expect the Senate to accept my view. I propose that we should leave the preamble as . it is, and I cannot agree to the Government's proposal. Regarding the third proposition, I cannot consent to the insertion of the word "hereby" because that is changing the meaning of "granted" from its proper constitutional meaning to something quite different, which results in the Act saying that it is going to do what has already been done. It seems to me that the message from the Senate itself is an encroachment. People say that these are only matters of words, but words become very potent forces, and have 'meanings attached which we never expected them to possess in the beginning. Words are the expressions of thoughts and facts, and these words ultimately become the most potent of instruments. They are the beginning of what we cannot see the end of. I must confess to some feeling of surprise that the Prime Minister, in his proper anxiety, to avoid a dispute and to get his Supply Bill through, should have been so quick to practically agree to what the Senate asks. If I am wrong as to the importance of this matter, and the Senate is constitutionally" right, I should cheerfully agree to the course proposed, but it seems to me that there is so much more involved than a mere question of expediency, that if we are right we are bound to maintain our rights at all costs and all hazards. I do not believe there will be a crisis over this matter. We should show, just as clearly as the Senate has shown, that we are going to stand up for the real letter of our rights. The Senate has shown its determination to do this several times, and we have taken no offence. We have recognised the propriety of their conduct, and they will recognise our propriety in endeavouring to fully maintain our position and rights. If it were intended under the Constitution to give the Senate more powers than are possessed by the House of Lords, it was not intended to diminish the powers of the House of Representatives. If the small States came- into the Federation on the faith of the powers given to the Senate, on the other hand the large States came in on the faith of the powers given to the House of Representatives J and it would be just as much a breach of faith to yield to the Senate more than it is entitled to, as it would be for the Senate to yield to the House of Representatives more, than we are entitled to. We are elected by the people and so is the Senate ; but the extra powers that were granted to the Senate were a concession from the point of view of popular and democratic government, which we represent on the more perfect basis, and which we should maintain in its entirety. We represent the people according to population, and to that extent we differ from the Senate ; and as the people pay the taxes, and expect their interests to be directly represented by us, we should be very chary of yielding any rights that we consider we are entitled to. This is not a case in which we wish to create a new departure which would enlarge our rights, but a case in which we are called upon to oppose a course which would .have the effect of diminishing them.

Mr. G.

B. EDWARDS (South Sydney).I think the committee may possibly listen for a moment or two to a layman on the subject. Undoubtedly this Bill originated in the House of Representatives, but there was a condition precedent to its origination in this House, namely, that we pass first of all a grant in Committee of Supply. Consequently I think the form of words used in the Bill as it left this House, " For appropriating the grant made by the House of Representatives" is perfectly legal and correct, and I cannot see any reason for altering it. But the whole matter appears to me to be one of "words, words, words." There is no question whatever of the undoubted rights of this House being called in question. The rights of the House are not affected; nothing which can be inserted in this preamble will in any way affect the prerogatives and rights of this House to originate taxation Bills. It is for this reason that I suggest that the best way out of the difficulty will be to return the Bill as it left this House, with the exception of the preamble, which we might

well strike out altogether. We have it on the authority of the Prime Minister that the whole tendency of modern draftsmanship is to disregard the preamble. The difficulty has arisen by inventing a preamble in which in some absurd way we assert our privileges. I maintain that our rights are embodied in the Constitution, and we may very well rely upon that. The easiest way out of the difficulty will be to return the Bill with a message striking out the preamble, and agreeing to the other two suggestions of the Senate. A most important matter has been referred to by the honorable and learned member for Bendigo, and that is in regard to the way this message is framed. The Constitution Act says in section 53 that- "The Senate may at any stage return to the House of Representatives any proposed law which the Senate may not amend, requesting by message the omission or amendment of any items or provisions therein." Not "suggesting" amendments, as the Senate seems to take it that the Constitution Act says, but "requesting" amendments or omissions. The message is not at all consistent with that provision of the Constitution

Act. As the honorable and learned member for Bendigo suggested, this opens up the question of whether we are not in this respect giving away more than we are called upon to. surrender. But I invite the attention of the honorable and learned member to section 57, which deals with the difficulties which may arise between the two Houses, and refers to amendments "which have been made, suggested or agreed to." There the term "suggested" is used. I do not know what that means, unless it refers to the provision which I have read about "requesting amendments." Therefore it seems that the Constitution itself, in regard to these two sections, is somewhat inconsistent. Further, in the concluding words of section 57 the same phraseology is adopted. It says that after the dissolution of two Houses, if the House of Representatives again passes the proposed law -

With or without any amendments Which had been made, suggested, or agreed to by the Senate. Thereby showing that it is taken for granted that the Senate may suggest amendments. Furthermore, suppose as the Prime Minister has taken for granted, that the Senate only sent down a message asking this House to make certain amendments, how could we deal with that message if we declined to consider suggestions from the Senate? If the Bill goes back to the Senate in the shape in which it was sent up, it has only the same effect as if we declined to accept the suggestion. Here again, however, I think we are only debating about "words, words, words." I repeat that from a layman's point of view it appears that the easiest way out of the difficulty would be to strike out the preamble altogether. The Prime Minister has said that the rights of this House are defined by the Constitution, and no form of words used in a Bill can abrogate them. Therefore this endeavour to frame a preamble by which we may assert our rights is a mistake, and the best way out of the difficulty, as I have already said, would be to strike out the preamble altogether.

Question - That the committee concur in the requested amendment of the Senate to insert the word "hereby" - put. The committee divided -

Ayes 37

Noes..... .. 12

Majority for the amendment 25

Motion (by Mr. Barton) put -

That the committee agree to the suggestion of the Senate to omit the words "for the purpose of appropriating the grant made by the House of Representatives" in the recital.

The committee divided -

Ayes 31

Noes 15

Majority 16

Question so resolved in the affirmative.

Amendments by Mr. Barton agreed to -

That the recital be amended by inserting after the word "Australia" the words "For the purpose of appropriating the grant originating in the House of Representatives."

That the Committee concur in the requested amendment of the Senate that the title be amended by the insertion after the words "An Act to" of the words "grant and."

Motion (by Mr. Barton) proposed -

That the Chairman do now leave the chair, and report to the House that the Committee have made the

requested amendments numbered 1 and 3, and the requested amendment numbered 2 with modifications, and have amended, the Bill accordingly.

Mr HIGGINS

- As we have made some alterations in this Bill, for the second or third time, may I ask if the Ministry have ascertained that in its present form the measure will be acceptable in another place? Last week I suggested that there should be a friendly talk between those responsible for upholding the dignity of this House, and those responsible for maintaining the dignity of the other Chamber, and I think, if my advice had been acted upon, the difficulty would have been much more readily solved than by all the talk which has taken place between the two Houses. Have the Ministry any ground for believing that the Bill, as now put forward, will be accepted in another place?

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Minister for External Affairs

Mr BARTON

. - I think the committee will see that it is not advisable that there should be negotiations between the two Houses except by the methods provided by the Constitution or standing orders. Of course, it is inevitable that there should be colloquial discussion as there is in all cases. I have had no more means than have been open to other honorable members of knowing how this Bill will be regarded in another place; but if I may judge by the tone and temper of the discussion in the Senate yesterday, I have not the slightest doubt that this solution will be acceptable to both Houses.

Question resolved in the affirmative.

Resolutions reported and agreed to.

QUESTIONS

AUSTRALIAN SOLDIERS IN SOUTH AFRICA

Mr CROUCH

asked the Minister for Defence, upon notice -

Whether the Commonwealth Government has taken over any, and, if so, what responsibility and arrangements of the States, in regard to the Australian soldiers in South Africa?

Mr BARTON

- With the concurrence of the Governments of the States, the Commonwealth Government has not taken over the responsibility of the expenditure in connexion with the South African Contingents, as it was considered that it would be more satisfactory to leave the completion of this work in the hands of those who had begun it, and who were familiar with the conditions of service and all other matters connected with the contingents.

MURDER OF MISSIONARIES

Mr HIGGINS

asked the Prime Minister, upon notice -

Whether his attention has been called to the explanation given by "H.C.W." in the Argus of 6th May, of the recent murders of missionaries and others in New Guinea and Matthias Island: whether there are means at the disposal of the Government whereby such abominable cruelty as is there detailed on the part of vessels recruiting for the sugar plantations can be prevented or punished?

A very clear statement was made in the newspaper mentioned, by one who said he was an eye-witness of certain occurrences in these islands, and the question appears to me to be a very important one, in relation to the recruiting that is going on for the sugar plantations.

Minister for External Affairs

Mr BARTON

, - I have seen the article referred to, which appears to relate to an outrage committed by persons, not British, on an island the territory of a foreign power. There is no suggestion that the recruiting being carried on by those persons was for sugar plantations within the Commonwealth. Under the regulations which govern recruiting for the Queensland plantations, only British subjects may be employed on the vessels, and an agent of the Government is on board each vessel.

Mr Higgins

- Do I understand that the Ministry have no remedy to propose?

Mr Barton

- So far as acts are done by foreign vessels, operating on territory which is not British, I fail to see how the Commonwealth can interfere.

Mr Higgins

- But these were British subjects who offended.

Mr Barton

- It was on Matthias Island, which is not British.

ALIENS IN QUEENSLAND

Ordered

- (on motion by Mr. Hume Cook for

Mr. Ewing)

-

That there be laid before this House a return showing -

The number of aliens in Queensland.

The nationalities to which they belong.

The localities in which they are employed.

The vocation they follow.

The numbers and particulars in detail in connexion with Nos. 3 and 4.

ADJOURNMENT

Factory Legislation: Aliens in Queensland: Old- Age Pensions.

Motion (by Mr. Barton) proposed -

That the House do now adjourn.

Mr. HIGGINS

(Northern Melbourne). I should like to ask the Prime Minister if he has in his mind any arrangement for dealing with the motion standing on the business paper in my name and relating to factory legislation. The right honorable and learned gentleman . was good enough to say last Friday that he would try to find some

portion

of Government time for dealing with it. I am being pressed by a number behind who are very much interested in the question, to have the motion brought forward as soon as possible ; and if last Friday's sittings had not been interfered with by the Supply Bill, I should have had an opportunity of submitting the motion.

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Minister for External Affairs

Mr BARTON

. - It is unfortunate that the motion, has been interfered with, as it has been, by the intervention of public business on Friday, I have already explained, in answer to a question by the honorable member for Wentworth, that I shall be prepared to move to extend the time available on Fridays by beginning earlier ; but there is no sign of congestion in Friday's business, and the two interruptions that have occurred have been accidental. The greater part of yesterday's sitting was occupied with a private member's motion which the Government consented to have heard out of the time otherwise available for public business. When I find that Government business may be likely to terminate at an earlier hour than usual upon any night, if the honorable member for Northern Melbourne will come and see me I will try and make the best arrangement I can.

Mr Higgins

- "But the members will not be here then.

Mr BARTON

- The bulk of those members whom the honorable member would wish to see present to discuss such a motion always attend on a Government night.

Mr W H GROOM

- I did not know exactly what return was being moved for just now, or I should have asked the House to accept an amendment. I now ask the Prime Minister whether in preparing a return of the number ' of aliens in Queensland - I cannot see why Queensland should always be picked out' as' a shocking example, as if there were no aliens anywhere else -he will extend the compilation so as to make it apply

to all the States of the Federation.

Mr Barton

- It would take a long time to get . out such a return as the honorable member suggests.

Mr Mauger

- The numbers could be got from the census returns.

Mr Barton

- On that understanding' I will undertake to supply the information asked for.

Mr O'MALLEY

- I have had my old-age pension motion put off from Friday to Friday, and even now it has not been reached. I have several other motions which are important, to my constituents at least. I pledged myself on the platform to submit those motions, and get the House to decide whether they should be carried or not. Why cannot the Government give some day of the week besides Friday, so that honorable members might sit at night and thrash those questions out ? I should like to make that suggestion to my right . honorable Prime Ministerial friend.

Question resolved in the affirmative.

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16:16:00

House adjourned at 4.16 p.m.