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1901-10-10

Senate.

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

PETITIONS

Senator CHARLESTON presented a petition from the South Australian Conference of the Australian Wesleyan Methodist Church, praying that the Senate would reject the Divorce and Matrimonial Causes Bill.

Senator Major GOULD presented a petition from the Standing Committee of the Synod of the Church of England for the Diocese of Sydney, containing a similar prayer.

Petitions received and read.

BOOKS OF REFERENCE

Senator Sir Frederick Sargood

Several times lately, Sir, senators have found it necessary to refer to May's Parliamentary Practice, and they have had to send into the Library for a copy. I venture to suggest that it would be a very great convenience to honorable senators if two or three copies of May and Bourinot were placed within the Chamber.

The PRESIDENT

- I quite agree with the honorable senator that we ought to have in the Chamber copies of all the standard books of reference on parliamentary practice, including not only May and Bourinot, but also Todd, Cushing, Jefferson, and other books of a similar nature. With the approbation of the Senate, I shall see that the books are procured. There is one difficulty, and that is, where are we to put them?

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Senator O'Connor

- In a stand on the table.

The PRESIDENT

- The table is pretty well encumbered. We have room on the left of the chair, and I shall see what can be done. It has also been suggested - and I think it ought to be done - that we should have copies of the statutes of the States in the Chamber. The some difficulty crops up there ; but I shall endeavour to make the necessary arrangements.

QUESTION

MILITARY SENATORS

Senator HIGGS

- In view of the talk of rebellion in the Pastoralists' Review, does the Vice-President of the Executive Council know of anything in the State Acts which would prevent the Commonwealth from utilizing the services of the military senators - Major Gould, Lt.-Col. Neild, and Lt.-Col. Sargood - to preserve its integrity?

Senator Major Gould

- What about the buccaneers?

Senator Sir Frederick Sargood

- I am on the retired list.

Senator O'CONNOR

- I think the honorable senator should give notice of a question of that sort.

POST AND TELEGRAPH BILL

In Committee- (Consideration of amendments of House of Representatives resumed from 9th October, vide page 5799).

Clause 27 (Registration of newspapers).

Postmaster-General

Senator DRAKE

. - The House of Representatives has made several amendments in this clause. The clause, as it left the Senate, provided that the proprietor of a newspaper should register at the office of the Deputy Postmaster-General, and that the Deputy Postmaster-General might at any time refuse to register or remove from the register any newspaper which contained certain objectionable matter. It is considered

that that would put rather too much power in the hands of the Deputy Postmaster-General, and would not sufficiently protect the rights of the newspaper proprietor. Therefore the clause has been amended so that the Deputy Postmaster-General shall have no power to refuse to register, but that if anything of an objectionable nature is published he may call upon the proprietor to show cause why the newspaper should not be removed from the register. After that the name may be removed, but an appeal is allowed to a justice of the

High Court or a Judge of the Supreme Court of the State.

Senator Major Gould

- Where is the clause providing for the appeal ?

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Senator DRAKE

- Perhaps it will be convenient if I read clause 27 as amended -

The proprietor, printer, or publisher of any newspaper may at such time and in such form, and with such particulars as may be prescribed, upon payment of a fee of 5s., register it at the General Post Office of any State, and the Deputy Postmaster-General of such State may from time to time, subject to appeal as hereinafter mentioned, revise the register, and may call upon the proprietor, printer, or publisher of any publication a posted copy of which contains indecent or obscene matter, or which, by reason of the proportion of advertisements to other matter therein, or for any other reason is not within the description aforesaid, to show cause why such publication should not be removed from the register, and if sufficient cause be not shown he may remove it accordingly, and any publication for the time being on the register shall, for the purposes of this Act, be deemed a registered newspaper.

No publication which after the expiration of one month from the commencement of this Act is tendered for transmission at any post office in the Commonwealth shall be sent by post as a newspaper, unless the provisions of this section have been complied with.

Any Deputy Postmaster-General may refuse to transmit or deliver any issue of a publication if such issue contains indecent or obscene matter.

Any posted newspaper found to contain indecent or obscene matter may be destroyed by order of the Postmaster-General.

No action shall be brought against the Postmaster-General or any officer of the department for anything done or purporting to be done under the provisions of this section, but any person aggrieved by anything done or purporting to be done by the Postmaster-General or a Deputy Postmaster-General under this section may appeal to a Justice of the High Court or to a Judge of a Supreme Court of a State by summons or petition in a summary manner. The Justice or Judge may decide whether the action taken under this section was justified in law or in fact, and may make such order as to restoration to the register or otherwise as to him may seem just and may award damages and costs or either in this direction.

All unregistered or irregularly posted newspapers, and all newspapers having any matter which is not a supplement accompanying them, shall be treated as packets.

The clause as amended provides that, instead of the Deputy Postmaster-General having the power of striking a newspaper off the register, he can only call upon the proprietor to show cause. If the proprietor does not show sufficient cause, the newspaper may be struck off the register, but subject to an appeal to a justice of the High Court, or to a Judge of the Supreme Court, by summons or petition. There are one or two other alterations. The words " seditious " and " blasphemous " have been struck out. The reason is that it is extremely difficult to define what is "seditious" or "blasphemous." The House of Representatives deem it sufficient to retain the words "obscene or indecent matter." The clause has been practically re-drawn in consequence of the amendments made ; but though these are numerous, there is no other amendment of substance to which I need call attention.

Senator Sir John Downer

-As I understand, the clause now provides that this power may be exercised only in respect of any publication containing indecent or obscene matter ; but a publication may contain slanderous, libellous, or seditious matter.

Senator DRAKE

- The alteration is in striking out the two words "seditious " and " blasphemous."

Senator Major Gould

- For what reason?

Senator DRAKE

- So far as I can judge from the reports, because there is a very great difficulty in defining what is " seditious " and what is " blasphemous."

Senator Walker

- "We know what "sedition " is, surely !

Senator DRAKE

- Every one knows that certain expressions are seditious, but it is extremely difficult to take any particular expression that is on the border line and say whether it is seditious or not. I move -

That the committee agree to the amendment of the House of Representatives inserting before the word "revise " the words "subject to appeal as hereinafter mentioned."

Senator Major GOULD

- I think the committee may well agree that the particular amendment now under discussion is an improvement on the clause as it left the Senate. There was a great deal of difficulty raised by a number of honorable senators with regard to placing such uncontrolled power in the hands of the Deputy Postmaster-General without any appeal to a Justice of the High Court of Australia, or a Judge of any Supreme Court. But this appeal has now been given, and I think the clause has been amended in a right direction.

Senator Sir Frederick Sargood

- It was subject to appeal before.

Senator Major GOULD

- Not so clearly. The clause calls upon a man whose newspaper is alleged to contain obscene or indecent matter to show cause, and if he is removed from the register' he may appeal. I should like to say a few words with regard to the omission of the words "seditious" and "blasphemous." There was a great deal of uneasy feeling, if I may so express it, amongst honorable senators as to how those words would be interpreted. Once it is made perfectly clear and certain that the interpretation is not to be left in the hands of a Government official, but will be, if necessary, in the hands of a Judge of the High Court or a Supreme Court Judge in any State, we safeguard the newspaper proprietors and the public generally. It would be a very reasonable thing to re-insert the words " seditious " and " blasphemous " and then accept the whole clause in its amended form. By that means we should agree to the amendment inserted by the other House with regard to the revision of the register being only made after notice has been given to the proprietor of the paper to show cause why his journal should not be removed. Then there is a further provision that if an officer says that a certain paragraph is seditious or blasphemous, the newspaper proprietor shall have a right to appeal from that official to a Judge. We know perfectly well that our Judges are placed in such a position that they are absolutely free from any pressure that might be brought to bear upon them.. In fact, no man would attempt to influence a Judge of one of our Supreme Courts. By this means we shall protect the newspaper people and the public. It would be a dangerous thing to say that a newspaper containing seditious or blasphemous matter should be allowed to be transmitted through the post. To do so would be to outrage the susceptibilities of a large section of the public, and to gratify a certain amount of malicious feeling that may exist amongst a few people in the community. We should be doing an intense injury to the community at large by allowing the Post-office to be used for the transmission of matter of that description.

Senator DAWSON

- The most insulting matter can be put upon a post-card.

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Senator Major GOULD

- I agree with the honorable senator, but that is safeguarded by another clause of the Bill. This clause only deals with newspapers, and I hold that if the words "seditious" and " blasphemous " are reinserted, we shall be safeguarding the general public, and not injuring newspaper proprietors. It will be perfectly safe to leave it to a Judge of the High Court or of any Supreme Court to determine whether matter is " seditious " or " blasphemous " if there is any doubt about it.

Senator McGregor

- A Judge of the Supreme Court cannot determine that any better than any one else.

Senator Major GOULD

- The honorable senator might as well say that a Judge cannot decide any matter that comes before him better than any one else. We must have some tribunal to decide such points, and if we are not satisfied to allow them to be determined by the deputy Postmaster-General, we shall be absolutely safe in leaving them to be decided by a Judge. This power of appeal will make the Deputy Postmaster-General more cautious than he would otherwise be, because it will be known that the exercise of the power conferred by the clause will be subject to consideration at the hands of the highest tribunal in the Commonwealth, the High Court of Justice. If we cannot trust a Judge of the High Court or of a Supreme Court to deal with matters of this kind, we are in a very parlous state indeed.

Motion agreed to.

Motion (by Senator Drake) proposed -

That the amendment of the House of Representatives omitting the words " seditious, blasphemous," be agreed to.

Senator Major GOULD(New South Wales). - I shall vote against the omission of these words for the reasons I have just stated.

Senator PEARCE

- I hope the amendment of the House of Representatives will be agreed to. I hold no brief for any one who would attempt to distribute through the Post-office blasphemous or seditious matter. But there is considerable difficulty in determining what is seditious or blasphemous. While, as the honorable and learned senator has said, it will be safer to leave the exercise of this power in the hands of a Judge, nevertheless a certain amount of inconvenience and damage may be done to a newspaper proprietor before the matter comes before the Judge. The Deputy Postmaster-General can call upon a newspaper proprietor to show cause why his paper should not be removed from the register on the ground that " seditious " or " blasphemous " matter has appeared in it. The proprietor will thereby be put to expense on account of what may be an unfounded suspicion on the part of the Deputy Postmaster-General. I do not know whether in that case the Judge would award costs against the Post-office. His power enables the Deputy Postmaster-General to persecute a newspaper proprietor by calling upon him to show cause why a certain edition of his paper should not be treated as containing "seditious " and " blasphemous " matter, and why he should not be liable to the penalty of having his name removed from the register of newspapers. A wide interpretation is sometimes placed on these words. What is " blasphemous " to one section of the community is not to another. To some extent the same remark applies to the word " seditious." After all, can we not rely on the good judgment of the people who keep these papers in circulation. If a paper uses seditious and blasphemous language will it not damage itself ? This is grandmotherly legislation, which will not have the effect intended. I have sufficient confidence in the people of Australia to believe that any newspaper that uses such language within the meaning of this clause will be so treated by the people as to make it unprofitable for it to be published. I trust that the committee will agree to the amendment made by the House of Representatives.

Senator FRASER (Victoria). - I hope we shall adhere to our previous decision, and not agree to the omission of these words. Senator Pearce says that we can rely upon the people. The people are right enough, but the minds of young persons could be easily poisoned and ruined were we to allow blasphemous and seditious stuff to go abroad. I think that to do so would be a danger and a menace to the welfare of the young of the community.

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Senator McGregor

- Can the honorable senator give us any definition of what " seditious " is ?

Senator FRASER. - I am quite willing to leave that to the Postmaster-General or a Judge, or to both. But I say that it is unsafe and dangerous to the welfare of the community to allow such stuff to be circulated broadcast. When it is said that we can rely on the people it must be remembered that the people, in the aggregate, do not take action. I should be quite willing to trust people of mature age, but we dare not, and ought not, to trust children in this matter. Why are children sent to school, and kept under discipline from their infancy to womanhood and manhood? Is it not in order to discipline and train their minds, and where shall we be if we allow this kind of matter to be circulated to counteract that training and discipline ? I hope we shall do what is right in this case. There will be no danger to the community if we follow on the

lines upon which the old country, and every other country whose history is worth talking about, have gone.

Senator WALKER

- I am surprised that we should be asked to accept this amendment. There is or is not such a thing as sedition in the world, and surely a Judge of the Supreme Court knows what sedition is. I believe that every member of the committee knows it, and if an article is seditious, we should not allow it to go through the post-office. With regard to the word "blasphemous" there may be a difference of opinion, but we shall, I think, be safe in keeping that word in also. We have seen something which was very like a rebellion in a part of Australia before now, and we may see such a thing again. I hope we shall adhere to our previous decision in this matter.

Senator Sir JOHN DOWNER

- In my opinion we should adhere to our decision, so far as the word "seditious" is concerned. Sedition is a term which is very well known, and there is no possibility of misunderstanding it. In this respect I think the alteration made by the House of Representatives is a distinct weakening of the protection we give to the community. I am in very much greater doubt as to the other word, because what is religion to-day, may be blasphemy tomorrow. About 50 years ago Darwin wrote his Origin of the Species, and if this provision had been in force, that famous work would have been held to be "blasphemous." Every Bishop in the land, and every dissenting clergyman too, would have agreed that it was abominable and blasphemous. We should not only have had Darwin, but also Huxley in gaol - a most religious man in reality, but not religious according to the religiosity of certain people. We should have had all the greatest intellects of enlightened humanity during the last 40 or 50 years wiped out by a term. I am prepared to move an amendment if necessary, but before doing so I ask the Postmaster-General to insist upon the word "seditious," but not to insist upon the word "blasphemous."

Senator Higgs

- Will the honorable and learned senator give us a definition of sedition'?

Senator Sir JOHN DOWNER

- No. In an hour and a half or two hours I might be able to give a fair idea of what sedition is, but nobody knows what it is better than Senator Higgs. I understand sedition to be something against the good order of the community. I consider that sedition and conspiracy are practically co-equal terms.

Senator Pearce

- Would the honorable and learned senator call the free-trade meeting held this morning seditious ?

Senator Sir JOHN DOWNER

- Certainly not, though probably the Government would take the view that it was a highly improper meeting. "Sedition" is a well-known term, and it means defiance of good order and Government, and is very much the same as conspiracy. "Blasphemous" is a term which has to be applied to the local beliefs of the moment, and there what might be true to-day might be wrong to-morrow in the equal opinion of the whole of the people.

Senator DRAKE

- I think really that it is almost as difficult to define "sedition" as it is to define "blasphemy." That has been shown by the speech of Senator Downer. The honorable and learned senator has said that he is not prepared at the present time to tell us what is "sedition." It has to be borne in mind that if the proprietor of a newspaper is guilty of sedition he can be got at in some other way. The only question arising here is as to whether he shall be punished by this method of striking his paper off the public register.

Senator DE LARGIE

- I hope the committee will support the amendment made by the House of Representatives. The word "seditious" is a word of very elastic meaning. What may be sedition to-day may be quite the opposite to-morrow.

Senator Fraser

- Each generation will decide for itself.

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Senator DE LARGIE

-- Political events sometimes move so quickly that it does not take a generation to make changes. In times of political strife and change, a statement might be considered seditious which a few months later

might be regarded as perfectly innocent. We might never have such things occurring in Australia as have occurred in the United States of America, but it is possible that they may occur. What was sedition before the American revolution was quite a different thing a few months after the revolution.

Senator Sir John Downer

- No ; it was the same thing, only the Government was different.

Senator DE LARGIE

- As a matter of definition it was different. I hold that we should stand by the amendment of the House of Representatives. Certainly very little danger or harm can follow from it.

Motion, by leave, withdrawn.

Motion (by Senator Sir John Downer) proposed -

That the amendment be amended by the omission of the word "seditious."

Senator HIGGS

- If I had to choose between the two words, I should prefer to retain the word blasphemous. I can well believe that on some occasions a newspaper proprietor may find it necessary in his opinion to write an article against the King, or against some vice-regal personage, and while it may not be very seditious it may be deemed to be so by the Postmaster-General. Again, if some enthusiastic journalist were to write a seditious article, and it were to be circulated throughout the Commonwealth by means of the Post-office, I cannot believe that the same harm would accrue as from the circulation in the same way of a filthy, blasphemous article which would, as Senator Fraser very forcibly put it, besmirch the minds of the children of the community. I should prefer that seditious should be left out rather than blasphemous, and I shall, therefore, vote against Senator Downer's amendment.

Senator O'KEEFE

- I hope the committee will accept the amendment made by another place. When this question was before us on a previous occasion I was one of those who voted for striking out the words " seditious and blasphemous," and I am still of opinion that they should be omitted. It can readily be imagined that their retention in the Bill would be an interference with the liberty of the press.

Senator Major Gould

- With the licence of the press.

Senator O'KEEFE

- I anticipated that interjection. I do not believe in a licensed press, nor would I allow it to be circulated through the Post-office. We shall be taking a backward step in this age of progress and enlightenment by insisting upon the retention of these words. Senator Downer has well pointed out the difficulty of defining the word "blasphemous." I am sorry he did not refer also to the difficulty which surrounds the definition of the word " seditious." I think we might leave it to the common sense of the Australian public not to support any newspaper which circulates seditious, blasphemous, obscene, or indecent matter. I am not exactly in favour of allowing the words " indecent and obscene " to remain in the Bill, but it would be far easier for the Postmaster-General to determine what is indecent and obscene than to decide what is seditious or blasphemous. I objected to the retention of the words "seditious and blasphemous " before, and my objection is equally strong to-day.

Senator Major GOULD(New South Wales). - As there seems to be some difficulty with regard to the interpretation of these words, I may point out to the committee that they are defined in " Wharton's Law Lexicon," which may very well be accepted as an authority. The definition given of the word " blasphemy " is as follows : -

An offence against God and religion, by denying to the Almighty His being and Providence, or by contumelious reproaches of our Saviour Christ. Also all profane scoffing at the Holy Scripture, and exposing it to contempt and ridicule.

Senator Pearce

- What religion is referred to?

Senator Major GOULD

- The Christian religion, I presume. Then the definition of the word " sedition " given by " Wharton's Law Lexicon" is as follows : -

An offence against the Crown and Government, not capital, and not amounting to treason. All contempts against the Sovereign and the Government, and riotous assemblies for political purposes, may be ranked

under the head of sedition.

It would be definitions of this character which the postal authorities would give, subject to appeal to the High Court or Supreme Court, in cases of this kind.

Senator O'Keefe

- The greater the danger, therefore, in placing such power in the hands of the Postmaster-General.

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Senator Major GOULD

- As the law stands to-day a man is liable to punishment for sedition or blasphemy. That being the case, honorable senators may ask why we should interfere with a newspaper. My reply to such an argument is that if these are offences against the State, the Government should not be the means of disseminating them broadcast throughout the country when committed through the medium of a newspaper. If we say it is a crime for a man to be guilty of sedition, then by what process of reasoning can we justify the demand that the Postmaster-General should spread sedition over the country. The same argument applies to blasphemy. If blasphemy is a crime, how can we say that the Government should spread a blasphemous publication all over the Commonwealth?

Senator Pearce

- We do not say that. We ask - "What is blasphemy or sedition?"

Senator Major GOULD

- I have given the committee a definition. An honorable senator has suggested that by inserting these words in the Bill we shall interfere with the liberty of the press. The interjection that it would be an interference with the licence, and not the liberty, of the press was well justified. Then it is said that the public themselves will be the judges in this matter. Do we not know, however, that at times certain newspapers are guilty of gross sedition and blasphemy, and yet they live, to the disgrace, be it said, of the community in which they exist. I am not going to name any newspapers, but we must recognize that fact. These words constitute no menace to any respectable well-conducted journal which is prepared to expose with no sparing hand abuses that exist in our midst. If honorable senators say it is improper to permit the Postmaster-General to distribute through the Post-office newspapers that contain indecent or obscene matter, how much more justified are they in declaring that seditious or blasphemous publications should not be permitted to go through the post?

Senator Glassey

- A definition of indecent and obscene literature can be given, but it is difficult to define what is seditious or blasphemous.

Senator Major GOULD

- I have already shown that there is a definition of these words in existence. If a Deputy Postmaster-General determines to remove a newspaper from the register, and the matter goes on appeal to the High Court or to the Supreme Court, the presiding Judge will not manufacture a definition or a law in order to mete it out to any particular newspaper. He will take a broad definition and say - "Does this publication come within that provision? If I have any doubts in my mind I will uphold the appeal against the Deputy Postmaster-General."

Senator O'Keefe

- Let the Judge decide it, and do not let the Deputy Postmaster-General interfere.

Senator Major GOULD

- The Judge does decide. The Deputy Postmaster-General is only the medium by which the case is brought under his notice. He says to the newspaper proprietor, "I want you to show cause why your publication should not be removed from the register because of this seditious matter." Then the proprietor can show cause.

Senator Pearce

- In the meantime he is being ruined.

Senator Major GOULD

- In the meantime the newspaper is going through the Post-office. If a Deputy Postmaster-General gives a decision with which a newspaper proprietor is dissatisfied, the matter will go at once before a Judge of the High Court or of the Supreme Court, who will determine it according to the liberty of the subject, and not with a view of imposing any artificial restraint.

Senator Staniforth Smith

- The circulation of the newspaper through the post is not stopped in the meantime. .

Senator Major GOULD

- No, under the clause as it stands, it cannot be removed from the register until the matter has been dealt with finally. That is a big concession to give to a newspaper if the article complained of is really seditious or blasphemous. I admit that fresh copies of the newspaper containing seditious or blasphemous matter might be brought forward as a justification for stopping it.

Senator DAWSON

- The honorable and learned senator considers that fresh copies should not be allowed to go through the post.

Senator Major GOULD

- My argument is that we should allow the newspaper to go through the post until it is finally decided by the highest tribunal that it should be removed from the register.

Senator Higgs

- Why did not the honorable and learned senator help to bring the Argus to book for publishing the article on King James the other day ?

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Senator Major GOULD

- I did not see the article, and I did not consider it was my business any more than it was that of the honorable senator to take action.

Senator Higgs

- The honorable and learned senator voted against the motion that the editor of the Argus should be brought to the bar of the Senate for publishing that article.

Senator Major GOULD

- I voted against the motion as I would vote against any motion placed on the notice paper by an honorable senator for the purpose not only of ridiculing Parliament, but of covering himself with ridicule. I have no desire to put a newspaper in an unfair position, but I have a desire to protect public decency in matters of this kind. I shall always endeavour to do so, but fairly and justly, and with full consideration for the proprietor of the newspaper. I trust that honorable senators will see that it is not unreasonable to ask them to insist on the retention of the words which they declined to omit in the first instance.

Senator MILLEN(New South Wales).There is one argument which has been addressed to the committee, to which I should like to refer. Senators Pearce and O'Keefe have expressed a desire to have these words, blasphemous and seditious, eliminated because of the faith they have in the common sense and good instincts of the people. That is a very fine sentiment.

Senator O'Keefe

- It is a very true one.

Senator MILLEN

- It is one that is absolutely true, particularly when expressed from a public platform upon the eve of an election. It is one of those things which I have never heard contradicted by any audience to which it was addressed. But the honorable senators who enunciated that sentiment here do not act up to it. They show, by agreeing to the inclusion of certain words in this clause, that they have not got that good faith in the common sense and good instincts of the people which they profess. They decline to believe that people would support a newspaper which contains seditious or blasphemous matter. How much more should they be prepared to believe that the public would decline to support a newspaper publishing indecent or obscene matter 1 Yet they place a restriction in the Bill against the circulation of obscene or indecent literature. Having provided that restriction, they show at once that they still consider that a portion of the community would be prepared to support a newspaper of the kind. Therefore, their protestations of belief in the common sense of the community has its limitations. I am of opinion that there is a section of the public which would support newspapers containing seditious or blasphemous matter, just as I believe that there is a section which would support newspapers containing obscene or indecent matter if they could do so. It is for that reason that I propose to support the amendment suggested by Senator Gould.

Senator DELARGIE (Western Australia). - The attitude of the Opposition has made me a much firmer

believer in the amendment made by the House of Representatives than I was when I last addressed the committee. The position taken up by them reminds me of their inconsistency. A few months ago scandalous references to a deceased monarch of England, which appeared in the Argus, were brought under the notice of the Senate. Senator Gould has the audacity to talk of the desire of those who brought the matter forward as ridiculing Parliament and making themselves ridiculous. But I contend that his inconsistency shows how dangerous is the proposition made by him and by certain honorable senators who share his views.

Senator Millen

- Did not the honorable senator bring on the motion relating to the article in question as a matter of buffoonery?

The CHAIRMAN

- The honorable senator must not discuss that matter.

Senator DE LARGIE

- I only refer to it by way of illustration. I brought on the motion in order to show how a so-called respectable free-trade newspaper could publish sedition when it desired to do so. No doubt such a journal would not be brought to book by our free-trade friends, but if it were the Bulletin or Sydney Truth that offended-

The CHAIRMAN

- I will ask Senator De Largie not to deal with the free-trade party. That question has nothing to do with the matter before the committee.

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Senator DE LARGIE

- I only want to show that if such an article were published in reference to the present monarch of England the Government would not allow it to go through the post; yet it is quite safe for a newspaper to traduce a deceased monarch of England. These respectable loyalists overlook that fact, and try to cover those with ridicule who brought the matter forward.

Senator Millen

- It is not seditious to attack the personal character of a sovereign.

Senator Higgs

- Of course it is.

Senator DE LARGIE

- I think it is. "Seditious" is a word of such elastic definition that it ought to be knocked out. The word "blasphemous" is also a word of very elastic definition. We are told that it means traducing religion. What religion? I suppose it is the Christian religion which is meant. But what about the highly philosophical religions of other countries? The religions of certain countries can be traduced, but one must be very cautious in speaking of the Christian religion. Supposing that a case of blasphemy came before Chief Justice Madden; what he would look upon as blasphemous no doubt Mr. Justice Williams would consider very harmless. We should be very cautious before we insert a provision of this kind in the Bill.

Senator O'KEEFE (Tasmania). - I rise to correct a wrong impression which may get abroad from the remarks of Senator Millen. I was rather surprised to hear the honorable senator, who is generally so clear and logical in his remarks, misinterpret what I had said. I believe he did it unintentionally. I ask him to remember that I objected to the words "seditious" and "blasphemous," mainly because of the difficulty which the Postmaster-General would have in determining what was seditious or blasphemous. I do not object to the words "indecent or obscene" remaining in the clause. I was also surprised to hear such a high authority as Senator Millen say that an attack on the personal character of a monarch is not sedition, because, if I remember aright, it is not very long since a Member of Parliament lost his seat through an attack of that character.

Senator MCGREGOR

- I hope that the committee will agree to the amendment of the other House. Surely if a House of 75 members has calmly reasoned out a question of this kind and come to the conclusion that the words seditious and blasphemous can be eliminated, a Senate of 36 members has no greater right - not even so great a right - to its opinion as that House has, if we agree with the maxim that "in the multitude of counsellors there is wisdom." Suppose that Mrs.

Besant delivered a lecture in an Australian capital and that it was reported verbatim in some newspapers. There are persons in the Commonwealth who would consider the lecture the height of blasphemy, and there are Members of this Parliament, too, who would hold that view. But would it be blasphemy?

Senator Millen

- She did give lectures and they were fully reported, and she was not prosecuted.

Senator McGREGOR

- But these words were not in the State law. Do Senators Millen and Gould consider her teachings for the last twenty years blasphemous ? There is not a word of blasphemy in them, but there are thousands of persons who have said that they are blasphemous.

Senator Fraser

- A Judge did not say so.

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Senator McGREGOR

- There are some Judges narrow-minded enough to say anything and they have done so. Judges have banished and hanged people in Ireland for saying far less than appears in the newspapers to-day without any notice being taken of them. Again, suppose that a teacher of the Mohammedan religion visited Australia and gave us an idea of the tenets of his religion and that a report of his lecture appeared in some newspapers. No doubt some of the expressions he used would be considered blasphemous, and yet there would be no blasphemy in them. The definition which Senator Gould quoted from Wharton's Law Lexicon did not refer to the Christian religion but only to religion. He interpolated the word Christian. I have heard leading men amongst the Brahmins give lectures in Australia and in Glasgow. There are doctrines involved in their teachings which thousands of our Christian friends, even amongst the Judges, would be inclined to call blasphemous from their point of view. But there is no blasphemy in them so far as the Brahmins are concerned. It requires as keen an intellect to understand sedition as it does to understand blasphemy. I remember once being in a very important town in the North of Ireland, and at two different times in the year. When a friend of mine went into one portion of the town, he was asked - "Are you a Lanty," and as soon as he said, "yes," down he went; he was seditious. When he went to another portion of the town to get peace and quietness, he was asked if he was a Tague. He said he was a

Tague, and down he went again ; he was seditious. These things occurred in the nineteenth century, and probably will occur in this century. It shows the inclination of narrow-minded people. Surely Senator Fraser does not imagine that the Judges either here or elsewhere have lost all these prejudices ? The Lanty might be seditious and the Tague might be seditious. Whenever you come to a question of defining what is or is not your true relationship to your country, your Government, and your creed, if I might refer again to blasphemy, there is a multiplicity of opinion not only in the old world but in Australia. It would be more to the credit of the Senate to leave out of the clause words upon which honorable senators do not all agree. I am sure that Senator Fraser and myself will never agree on some expressions either in respect of sedition or in respect of blasphemy. There is any amount of room in the State Parliament to deal with such situations. I think we had plenty of evidence recently that they are always prepared to act. Therefore I recommend that we agree to the amendment.

Senator CHARLESTON

- I am sorry that such warm feeling has been exhibited. From the arguments of honorable senators, it is quite clear that there is almost a unanimous opinion that the word blasphemy might be omitted. The word seditious is not so difficult to define as the word blasphemous. One word deals with spiritual matters, and the other with material matters ; and seeing that sedition is practically opposition to the civil law, we might retain that word and omit the other. I know there is sometimes a feeling that even the very active spirits in a strike over labour matters may be charged with being seditious. But I do not think there is any possibility, in a fair strike for better conditions, of any of the actions of the parties concerned being brought under the word seditious, so long as it is a legitimate agitation for better conditions socially or politically. I do not think we shall jeopardize our liberty one bit by retaining the word. We want to prevent a newspaper or a person from using the post-office to stir up an agitation against civil law which may lead the people into an insurrection. In the present state of society, we are perfectly justified in retaining the word "seditious," but I shall support the omission of the word "blasphemous."

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

Ayes 11

Noes 14

Majority 3

Question so resolved in the negative.

Motion agreed to.

Question - That the amendment, as amended, be agreed to- put. The committee divided -

Ayes..... 14

Noes..... 11

Majority..... 3

Question so resolved in the affirmative.

Amendment, as amended, agreed to.

Motion (by Senator Drake) proposed -

That the committee agree to the amendment of the House of Representatives inserting after the word "aforesaid" the words "to show cause why such publication should not be removed from the register, and if sufficient cause be not shown, he may remove it accordingly."

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Senator PLAYFORD

- I find a very great difficulty in ascertaining how these amendments fit in with the Bill, through not having a proper copy of the measure before me. We ought to be able to compare the amendments made by the House of Representatives with the Bill as it was sent up to them.

Senator GLASSEY

- I wish to make a personal explanation with regard to the two divisions which have just taken place. I regret not having been able to take part in them, and I make the explanation in order that the matter of which I complain may be rectified. I was called away a little while ago to receive a deputation, and before going I stated to the Postmaster-General that I should be in the waiting-room, and that as soon as the division bell rang I would come in and vote. But there seems to be no bell in the waiting-room. No sound came to me to warn me that any division was about to take place. Otherwise I should have been in my place. Surely it is too bad that honorable senators who are called away to discharge duties in connexion with public matters should not be informed when divisions are about to take place on most important matters. I trust that this defect will be rectified. I strongly object to being excluded from any division through the lack of proper appliances in the waitingrooms. I resent what has happened very much.

Senator DRAKE

- I can corroborate what Senator Glassey has said with regard to the fact that he informed me that he had been called out of the chamber on important public business. I thought he was within hearing of the division bell, or I should have taken steps to find him.

The CHAIRMAN

- I can assure Senator Glassey that I can quite recognise that the matter of which he has complained requires attention, and I will bring it under the notice of the proper authorities.

Senator GLASSEY(Queensland).- I desire to say that if I had been here I would have voted with the Postmaster-General.

Motion agreed to.

Amendments Nos. 19 and 20 consequentially amended, and agreed to.

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

Senator DRAKE

- We are dealing now with the celebrated 55th clause, and the amendments which have been made by the House of Representatives do not alter the sense in any way except with regard to one amendment - the omission of the words " not sanctioned by law."

Senator Clemons

- The honorable and learned senator has changed his opinions slightly.

Senator DRAKE

- I have not changed my opinions. These words " not sanctioned by law " were put into the Queensland

statute in order that the provisions of the clause might not apply to the case of a lottery, or church bazaar ; which had been sanctioned by the Attorney-General. The clause, as we passed it, provided for the interference of the Postmaster-General, if he had reasonable ground to suppose any person to be engaged in the Commonwealth, or elsewhere, in receiving money or any valuable things - For promoting or carrying on a scheme connected with any such assurance, agreement, or security, or a lottery, or scheme of chance not sanctioned by law, or an unlawful game.

Some of these amendments may be said to be exceedingly hypercritical. I move -

That the amendment of the House of Representatives, omitting the words "if he," be agreed to.

Motion agreed to.

Senator DRAKE

- I have already referred to the subsequent amendment. I move -

That the amendment of the House of Representatives, omitting the words "not sanctioned by law," be agreed to.

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Senator CLEMONS

-The Postmaster-General will admit that this amendment raises the original question discussed upon the clause. I do not propose to reopen it. My opinions on the subject are as strong now as when we previously debated it ; but I am always willing to give my adherence to the majority, as the voting in this Chamber indicates. I rose to ask a question of the Postmaster-General with respect to the expression "not sanctioned by law." I pointed out when we were discussing the matter previously that if the Senate wanted the wishes of the majority carried into effect these words " not sanctioned by law" should be left out. The Postmaster-General at the time said he could not agree with me. If I felt that the Postmaster-General were now of the same opinion as he was when we previously discussed the matter I should deem it my duty to urge the committee to restore the words ; but I am convinced that the honorable and learned senator, like the rest of us, occasionally makes a mistake, and freely recognises it. I therefore do not propose to move for the restoration of these words. We all know that this clause 55 aims at suppressing the institution known as Tattersalls, and aims at suppressing what has received the sanction of Tasmanian legislation.

Senator DAWSON

- It aims at all of them.

Senator CLEMONS

- Yes ; but it particularly aims at the institution known as "Tattersall's," and I remind Senator Dawson that these very words " not sanctioned by law " have been carefully taken out in another place in order that " Tattersall's " should not be allowed to go on. I do not rise to plead on behalf of " Tattersall's," but I deem it my duty to remind the committee that in this case we are proposing to suppress something that has the legislative sanction of one of the States forming the Commonwealth. I am not demanding compensation in any way, but in the case of private individuals it is generally recognised as a fair business transaction, that before we suppress something which has acquired a vested right, we should at least give some notice to the persons affected. We know that " Tattersall's " has acquired rights sanctioned by the law of the State ; and I desire to ask the Postmaster-General if he can give me any indication as to when he proposes to put this clause into force. Before the honorable and learned senator answers the question, I desire to say that I should be satisfied, and, I believe, the State of Tasmania would be satisfied also, if this clause were not enforced until that State had an opportunity of appealing to the Federal High Court. That, I think, is a suggestion which should meet with the support of every honorable senator, however desirous of .suppressing " Tattersall's " he may be. It is purely a State question, and if this clause is enforced at once, as it may be, the State laws of Tasmania will be entirely ignored. I submit that it would not be fair treatment to a private individual to suppress him without notice, and I submit that where we are dealing with one of the States forming an integral part of the Commonwealth, it is worthy the serious consideration of every honorable senator who hates gambling, that he should give the State a right of appeal where there is some distinct question of State rights being infringed. This appeal has no reference whatever to gambling, and I am not instigated, in the slightest degree, by any desire to defend the position of the proprietor of these sweeps. In what I am saying I am representing the State of Tasmania, and I think I may fairly ask that she should be given an opportunity of appealing

before the Postmaster-General interferes with her direct legislation.

Senator Playford

- This is not interfering with her direct legislation. They can go on gambling in Tasmania as much as they like.

Senator CLEMONS

- Senator Playford is much too fair-minded a man to look at the matter from that narrow point of view. The honorable senator knows as well as I do, that it is directly interfering with the State legislation of Tasmania. If the honorable senator does not know it, let me assure him that by this legislation Tasmania is going to lose £15,000 a year. That is taking the very lowest ground, and I am sure Senator Playford is not going to limit his view of the question in the way he has suggested. I am not dealing with the legal aspect as to whether we can stop it, but I do say that in all fairness we should give Tasmania the right of appeal, if she is of opinion that her rights have been infringed.

Senator Pearce

- We cannot take it away from her.

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Senator CLEMONS

- If this is enforced at the present time, Tasmania will have no right of appeal, because there is no court to appeal to. All that I am urging now is that the Postmaster-General should not attempt to enforce the clause until the Federal High Court is established. I am urging this on behalf of my State, and I put it to every honorable senator, however anxious he may be to suppress gambling, whether it is not a fair and rightful thing to give Tasmania an opportunity of appealing directly this clause is put into force. If it is put into force before the High Court is established, the legislative action of the State will have been interfered with without giving her an opportunity of redress, even though her demand for redress may be based upon solid grounds. If the Postmaster-General will give me an assurance to that effect, I shall say no more. I have deemed it necessary to draw the attention of the committee to the existing state of affairs, and to remind honorable senators that if the clause is passed as it stands, and enforced, Tasmania will have no right of appeal. "Tattersall" will be suppressed at once, and Tasmania will have no opportunity of making a formal and legal protest.

Senator DRAKE

- With regard to the earlier remarks made by Senator Clemons, my frame of mind corresponds with his own. I am prepared to bow loyally to the views of the majority in regard to the amendment omitting the words - "Not sanctioned by law." I pointed out before that they are in the Queensland statute, and that they were placed in this Bill in order that the provisions of this clause should not apply to a bazaar or art union lottery, for charitable purposes, which had been expressly sanctioned by the Attorney-General. I admit that it seems somewhat inconsistent that one lottery should be exempted while another is not. At the same time, my feeling has been that if these particular lotteries can be exempted without violating any principle, it is advisable to do so. The House of Representatives have, however, omitted these words, and I am bound to admit that the clause is more logical without them. I am prepared to consent to the amendment. As to the second matter referred to by Senator Clemons, all I can say is that I propose to ask the committee to insert "the 1st of December" in clause 1, as the date on which this Bill shall come into operation. What departmental action will be taken after that it is impossible for me to say, because I may not be in office. If the 1st of December is fixed upon as the date upon which the measure shall come into operation, I shall then be able to frame a resolution, and it will become competent for the Postmaster-General of the day to insert a notice in the Gazette in the terms prescribed by this clause.

Senator Major Gould

- Until that notice appears no action can be taken.

Senator DRAKE

- No. As I am advised at the present time, it will be competent for the Postmaster-General to publish a notice in the Gazette, setting forth that letters addressed to a certain person or name shall not be delivered after a certain date. The notice may be put in the Gazette, to take effect at a later date. I believe that can be done under the clause as it stands. Of course, it is impossible for me to say what action will be taken by the Postmaster General.

Senator MACFARLANE (Tasmania). As one of the representatives of Tasmania I desire to say that I do not

agree entirely with my honorable and learned friend

Senator Clemons, that the whole of Tasmania wish to have proceedings taken in this matter with a view of testing it on appeal. I certainly think, however, that as Tasmania is to be deprived in this way of so much revenue, it is only fair that the Commonwealth should compensate her to the extent of the loss incurred.

Senator Sir Frederick Sargood

- Compensate her for encouraging gambling ?

Senator Sir Josiah Symon

- Surely the honorable senator does not think that Tasmania should be compensated because the power of vice is taken away from her.

Senator MACFARLANE

- That is the honorable and learned senator's opinion.

Senator Major Gould

- The business only went to Tasmania after it had been driven out of every other State.

Senator MACFARLANE

- All that I wish to say is that I think it is fair that Tasmania should receive some compensation.

Motion agreed to.

Clause 78 (Postmaster-General to have exclusive rights in respect of telegraphs).

Senator DRAKE

- I move -

That the committee agree to the amendment of the House of Representatives inserting after the word "railways" the following words - "and (b) the owners of any railway or tramway may maintain for the time and to the extent authorized by any State Act any telegraph lines which were erected before the commencement of this Act in pursuance of rights conferred by any State Act, and which are required for the working of the railway or tramway."

This perhaps is rather important. We come now to the telegraph clauses of the Bill, and it is right that the amendments should be understood before they are passed. The new paragraph inserted by the House of Representatives has probably been introduced because of the powers that have been given, mostly by the Queensland Government to private companies to work telegraph lines in connexion with their own railways and tramways. It seems to me to be reasonable that where such powers have been conferred by State Acts they should be continued under the Commonwealth. I do not see that in taking over the Post and Telegraph department we can claim the power to interfere with rights which have been conferred on those companies under State Acts.

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Senator Major GOULD

- I should like to point out to the Postmaster-General that the amendment requires some amendment in order to make it perfectly clear. It provides that -

The owners of any railway or tramway may maintain for the time, and to the extent authorized by any State Act any telegraph lines which were erected before the commencement of this Act. . . .

These companies have power under the State Acts to erect telegraph lines, and some may be in course of erection at the time of the coming into operation of the measure. Therefore, I would suggest that the amendment be amended, so as to read that the owners of these railways or tramways may maintain the lines, which were erected before -

Or may be erected after the commencement of this Act in pursuance of the rights conferred by any State Act passed prior to the coming into operation of this Act.

Senator DRAKE

- That would apply to telegraph lines erected under the authority of any future Act. I will ask leave to withdraw my motion, and to postpone the consideration of the amendment so that I may look into it. I quite agree with the principle suggested by Senator Gould.

Motion, by leave, withdrawn.

Amendment postponed.

Clause 83 -

A person so authorized may whenever it is necessary for continuing or completing a telegraph line cause a wire or cord to be supported by affixing or annexing the same to in or upon through or against any part

of a house building or other structure in a city town or village. . . .

Senator DRAKE

- I move -

That the committee disagree with the amendment of the House of Representatives omitting the words "in or."

This is a very important amendment. Although it looks very simple, it means a great deal so far as it affects the carrying out of the work of supplying telephone communication. In a great many cases it is necessary for the department to pass its wires through a building, and more particularly through cellars in connexion with the underground system, and it will cause an immense amount of inconvenience and loss if we have to go round an intervening building' in all cases in order to reach the premises to which it is proposed to take the wires. It is no hardship to the proprietor of the intervening building for the department to take the wires through the basement or the cellar. The provision has never caused any inconvenience where it has been in operation, but it has been amended in such a way as to deprive us of the opportunity of going through a building if desired.

Senator Sir Frederick Sargood

- Quite right too.

Senator DRAKE

- I know that is the honorable senator's view, because he expressed it when the matter was before us on a previous occasion. I only desire to point out, on the authority of the officers of my department, that the amendment of the clause in this way will cause a very great deal of inconvenience.

Senator Sir Frederick Sargood

- The department can carry its wires over buildings.

Senator DRAKE

- We could not do that with a cable. We are introducing the underground system, and to carry a cable containing probably 100 wires over a building would involve an enormous expenditure. Surely it is much better that we should be able to take the wires through the cellar or basement of any intervening building.

Senator Sir FREDERICK SARGOOD

- I entirely disagree with the Postmaster-General. It is quite right that permission should be given to the department to attach their wires to buildings, but it is a different thing altogether to allow the wires or cables to be carried through private buildings. Such a course would not only cause inconvenience, but would carry with it the right of the officers of the department to go through the premises at all reasonable times in order to see if the wires were in repair. It might seriously interfere with the title to a property. Such a power is not taken in London. There all the wires are carried over or along and not through buildings. I would give the department every legitimate assistance in carrying out its work for the benefit of the community, but we should not interfere unnecessarily with private rights.

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Senator GLASSEY

- I think that the omission of the words " in or " would destroy the ordinary meaning of the clause, to say nothing of the principle involved. It would make the clause absolutely nonsensical. . It is not readable or acceptable in its present form. But, coming to the principle, why should the Minister and his officers be hampered in their desire to serve the public?

Senator Sir Frederick Sargood

- Why should he go through private property ?

Senator GLASSEY

- No property should stand in the way of the public good. That principle must be insisted upon in all legislation without attempting to confiscate property. It is clearly the duty of a proprietor to give way to the Postmaster-General in order that the public weal may be served. Senator Sargood says that the authorities do not ask for this power in Great Britain. I should be sorry indeed to see the proprietary rights of Australia placed on all fours with the proprietary rights of Great Britain. I know Great Britain very well, and the enormous power which the property owners wield in legislation and elsewhere. In our legislation the rights of property must in no way stand against the rights of the people, and if it be necessary that the Postmaster-General should fix a wire upon, through, on, or over a property, then private rights must give way. At the same time if it be necessary to give reasonable compensation, that is another matter.

Senator Sir WILLIAM ZEAL

- I am entirely with Senator Sargood in this matter. If the word " over " is retained instead of the word " in," it will answer all the purposes of the department. There is no case on record of an electric cable going through a man's house. In the neighbourhood of Malvern, about twelve months ago, a young lad had seen something pitch on the wire. Boy-like he clambered up to endeavour to take it down. His hands happened to be wet, and in catching hold of the wire he destroyed the insulation. It was impossible for him to leave go. He was killed on the wire; his hands were positively roasted. The telephone wire is not placed in my house, but on the top of the roof, and comes down to the proper place where the machinery is put. That is all the Minister requires power to do here.

Senator Drake

- We want to take our cables through.

Senator Sir WILLIAM ZEAL

- Then the Minister should not get that power, because if a wire is taken through a building, and is not properly cared for, it is dangerous to human life. There seems to be no reason to have a wire going through a building. Can the Minister cite one case where a wire goes through a building? If he can, it should receive proper consideration. We do not object to telegraph wires being laid through private gardens and cutting off angles and crossing streets, but the Postmaster-General should stop there. . We should, at any rate, prevent him going into a dwelling-house with a dangerous wire which might cause the death of some person.

Senator DRAKE

- I think Senator Zeal did not hear my explanation, because he has been speaking entirely of aerial wires. The difficulty does not occur there at all. When the ordinary cables are run up to a height, and distributed from there and become aerial wires, we can take them over a house just as well as through it. The officers tell me that this power is necessary in order, where we have the wires underground already, we may take them through the cellar of a house or underneath the house, in order to reach any other. We are responsible for the safety of the wires. It is almost unthinkable that when we have these cables underground with perhaps 100 wires in a cable, we should have to raise them above ground, carry them over one house, take them down again, and' then bring them underneath the street.

Senator Sir William Zeal

- Where does that happen? I have not heard of one case.

Senator DRAKE

- It has not happened. The wires have been taken through buildings, and no difficulty has ever arisen.

Senator Sir Frederick Sargood

- Has it been done in Queensland ?

Senator DRAKE

- Certainly, and it gives no trouble. It simply enables the department to get their wires taken by the shortest possible route and in the safest way to the place where they have to be distributed.

Senator Sir William Zeal

- Why don't they go round the street ?

Senator DRAKE

- If the department wants to take a cable to a big building in order to distribute the wires, and there is another building right in its way, surely it is a most sensible thing to take it through the cellar or under the building, instead of taking it all round the street.

Senator Sir Frederick Sargood

- Is it intended that it should be buried in the cellar?

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Senator DRAKE

- It may be buried or put up against the wall. I have seen the cables carried through in that way in Brisbane. If any damage is done, compensation is given to the individual, and no harm is done.

Senator Sir Frederick Sargood

- What about the risk of fire ?

Senator DRAKE

- There is no risk of fire.

Senator Sir Frederick Sargood

- Not with 2,000 volts in your wire 1

Senator DRAKE

- That means telephones.

Senator Sir Frederick Sargood

- It means both.

Senator DRAKE

- It is for our telephone system. We are not an electric lighting company, or a traction company. We are not using wires with enormous currents of electricity, which can set anything on fire. We are only using wires with very weak currents.

Senator Sir Frederick Sargood

- They are short circuit very often, and might get hot. .

Senator DRAKE

- I do not think there is any danger.

Senator MACFARLANE(Tasmania).I wish to ask the Postmaster-General whether the department would have any difficulty in taking a cable round a house in ordinary water-pipes? Every house has a water-pipe, but the main is not taken under a dwelling. I do not see why the Post and Telegraph department should want more power than a municipal council has.

Senator DRAKE

- When the telephone system is laid on to every house, and every proprietor has to pay, whether he wants the service or not, the same as he has to do for his water, no doubt we shall be able to run cables all round the streets to every man's door. We want this power, not for the telegraph system, but for the telephone system. Supposing that a large building is put up, and that a number of persons there desire to be connected with the Exchange, they may want a dozen wires laid on to the building. We wish to take the wires in a cable by the shortest route through private property. If they are aerial wires, the difficulty will not occur, because then we can attach them to the building, and go by the shortest route. But if we can get them underground, which we are trying to do as much as possible, we claim that we should be allowed to take them by the most direct route.

Senator PLAYFORD

- The Postmaster-General might allow these words to be struck out, because as long as the word " through " remains in the clause he will accomplish all he really wants. It is wise for us to meet the wishes of the House of Representatives in every way we can.

Senator FRASER

- The telephone business can be very well carried on without giving this power to the department. It is a dangerous power to give. It may be all very well in Queensland, where there are many buildings that are erected on piles 10 or 12 feet high. One can drive a cart and horse under some of them.

Senator Glassey

- The principal buildings in Rockhampton and Brisbane are not built on piles.

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Senator FRASER

- A good many of them are, and it is a good practice in hot countries. Such a power as this may be applicable in cases where goats and cattle are allowed to browse under buildings. It does not matter about running an electric wire through under such circumstances. But it would not be applicable to buildings such as those erected in the city of Melbourne.

Senator Sir FREDERICKSARGOOD (Victoria). - I must again impress upon the committee the undesirableness of this clause. Senator Drake suggests that it is necessary in some cases to take a wire through a building. To show how undesirable that would be in many cases in Melbourne let me take my own case. First of all, the wire would have to be taken through foundations 4 feet thick. It is not an easy matter to punch a hole through masonry of that thickness. Then the Postmaster-General says that the cable would be taken through the cellar. It would have to be either buried under the ground or fastened to the walls. In either case when repairs are needed it will necessitate workmen entering the buildings at all reasonable times. That in itself is not desirable. In addition, there is a certain amount of danger. I admit that it is not as dangerous as if the wires were used for electric lighting purposes ; but still, if repairs are

needed the repairers will have to use braziers, and all these things tend to increase the risk of fire. We have sufficient risks at present, in the city of Melbourne at all events, without adding to them ; and it is not fair that property should be interfered with in the way proposed. I do not think this power is needed. I venture to say that there is not a single building in Melbourne in regard to which it is needed. If such a power can be dispensed with in connexion with the enormous telephonic system of London, surely it is not needed for the Commonwealth.

Senator DRAKE

- We are continually being pressed to adopt the underground system, and we all admit that that would be better. I am informed by the officers of the department that, if an underground telephone system is to be adopted at moderate expense, we must have the right to go through buildings with our wires.

Senator Sir WILLIAM ZEAL (Victoria). - I will mention to the Postmaster-General a case in point, so far as his own department is concerned. There is a Post-office in connexion with the Stock Exchange in Collins-street, Melbourne. The department rents the office from the Stock Exchange proprietary, and there are wires running into the building connecting it with the telephonic system. Would the Postmaster-General contend that it is necessary to burrow underneath that large building in order to take a wire to Queen-street, just round the corner ?

Senator McGregor

- The department would not do that ; the honorable senator does not understand it.

Senator Sir WILLIAM ZEAL

- It is my business to understand matters of this kind, and I say that the power asked for is not necessary at all. What is the use of spending money when there is no necessity for it ? What is the use of making a nuisance of the telephone system? It is not desirable that a cable should be put through any man's house, whereby his children and family will be liable to be maimed for life. Honorable senators know very well that the law prevents a man from keeping gunpowder or other explosives in his house, but they are not half so dangerous as an electric cable.

Senator McGregor

- Oh !

Senator Sir WILLIAM ZEAL

- Let the honorable senator put his hand on an electric wire and get a shock. If he does, it will be a long while before we see him in his seat again. Apparently some honorable senators do not understand the force of the current that runs along these wires. Is it desirable that people should be subject to such risks when there is no necessity for it ? I am in favour of giving the department every facility that is required, but I would not go further than that.

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Senator MCGREGOR

- I do not like to have any misunderstanding with Senator Zeal, who is always so genial. When I said that he did not understand something, he was referring to burrowing under a large building like the Stock Exchange when it would be easy to go round. It is very often cheaper to go round a building than through it. What the Postmaster-General wants is that the department shall have a choice. He wants to do whatever would be best in the interests of the department and of the public. He does not mean that in every instance where a telephone wire has to be taken from one place to another the department is going to burrow under a building. That in some cases may be the most expensive way of doing the work. The cheapest method will always be followed. With respect to the great harm that some honorable senators fear is going to be done, I reply that in the first place a child cannot receive a shock unless that child is burrowing in the cellar, doing something that it ought not to be doing. Moreover, the wires would be properly insulated, It is all nonsense to talk of the matter as being dangerous simply because a boy once climbed up a telegraph pole and was killed - probably by lightning. If there is such danger in connexion with the use of telephones, we ought to do away with the civilizing influences which these instruments exert. Judging from the way the subject has been discussed, one would think that for the next 50 years the Telegraph department was going to do very little else except make rabbit holes between one building and another. I maintain that the provision is in the interest of the public, and I trust the committee will negative the amendment made by the House of Representatives.

Question - That the amendment be disagreed with - put.

The committee divided -

Ayes 17

Noes 6

Majority 11

Question resolved in the affirmative.

Motion agreed to.

Motion (by Senator Drake) agreed to -

That the amendment of the House of Representatives, clause 83, line 26, omit " through," be disagreed to.

Clause 84 (Trees obstructing telegraph lines may be cut or lopped).

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Senator DRAKE

- There are three amendments in this clause, and I propose to ask the committee to accept two of them, and to disagree to the other. I should like to say a few words on the clause generally in order to explain the reason of my objection to one of the amendments. In connexion with the last clause, we have been speaking of the underground system of telephones, and I want the Senate to understand some of the difficulties we have to meet with in connexion with the aerial system in consequence of the growing of ornamental trees in towns and suburbs. The practice is very commendable, indeed, from a health and aesthetic point of view, but the difficulty is that the local authorities plant a row of trees just underneath our telegraph wires, and as they grow up in the course of a few years, they come into contact with the wire. We desire to have the power to lop the trees where they interfere with the telephone service. The minimum height of our wires is 18 feet, and what we ask is that when the trees grow so high as to interfere with the wires, we shall have authority to lop them. We endeavour to meet local authorities by giving them an opportunity to lop their trees themselves, but if they do not do so, we want to have the authority to lop them. We are now confronted with this difficulty that the local authorities have taken up the position sometimes of saying - "We want to have our trees, and we will not allow you to cut them. If you do cut them we shall bring an action for damages against you." They go so far as to say that we cannot compel them to cut their trees, and that if we do not like it we should take our wires away and put them under ground. When we consider the miles and miles of trees planted, it must be seen that we must continue the aerial system or else have no telephone service at all in some of the suburbs, because of the enormous expense that would be incurred in putting the wires under ground. The Bill has been so amended by the House of Representatives that we have no absolute right to interfere with the trees, and another provision has been altered in such a way that a local authority may claim damages against the department for lopping their trees and may insist upon their claim being submitted to arbitration. That would mean that the cost of carrying on the telephone service would be altogether beyond what could be borne. I have a statement here with reference to one instance which came under my notice for the first time the other day. It is a New South Wales case and the statement is as follows : -

Some time since owing to the complaints that were made regarding the unsatisfactory working of a telephone exchange, it was considered necessary by the Post and Telegraph authorities in Sydney to lop some of the limbs of the trees which came in contact with the wires, and interfered with the proper working of the telephone system. Several depositions from the residents waited upon the Postal authorities in Sydney to protest against any interference with the trees, and, as a result, it was decided to defer the matter for further consideration. It was then suggested to the department that it should place the wires underground, but the expense involved (over £3,000) would have been so great that this request was declined. The next proposal was that the wires should be raised about 60 feet from the ground ; this was declined, but the department expressed its willingness to meet the wishes of the residents by providing higher poles, on condition that the expense involved would be borne by the residents, but this was not agreed to. Suggestions have since been made to the department by the Mayor to overcome the difficulty by a zigzag system in regard to the poles and wires, the adoption of which, however, has been reported against by the chief electrician in Sydney on the grounds of expense and impracticability. I am informed by the department in Victoria that at the present time there is more or less trouble in connexion with this matter with from eight to ten municipalities in this State. I do not object at all to the first amendment proposed by the House of Representatives, amendment No. CO, providing for the insertion

of the words "after notice to the local or other authority having the care and management thereof," or to amendment No. 61, proposing the insertion of the words " after consultation with such authority." There can be no objection whatever to giving notice to the local authorities and consulting with them before taking action. The practice already has been, as I say, to give the local authority - if it will take it - the power to do the work itself to its own liking; but, in their amendment, the House of Representatives proposes the omission of sub-clause (2), which says : -

This Act shall be sufficient to indemnify the Postmaster-General and his officers servants agents and workmen and all other persons whomsoever for what he or any of them shall reasonably do by virtue of the powers by this section granted.

That has to be read in conjunction with an alteration in clause 87, the compensation clause, and it will be seen that the effect of it is to put the local authority in every case in a position of being able to refuse to allow anything to be done, and then to make a claim for damages if anything is done. I move -

That the amendments of the House of Representatives inserting after " may " line 36, the words " ' after notice to the local or other authority having the care and management thereof," and after " officer " line 37, the words "after consultation with such authority " be agreed to.

Motion agreed to.

Motion (by Senator Drake) agreed to-

That the amendment of the House of Representatives omitting sub-clause (2) be disagreed to.

Clause 86 (Laying lines under streets).

Senator DRAKE

- The House of Representatives propose in this clause also the insertion of the words, " after notice to the local or other authority having the care and management thereof." I move -

That the House of Representatives' amendment be agreed to.

Motion agreed to.

Senator DRAKE

- I move -

That the committee agree to the amendment of the House of Representatives inserting the following new clause: - 88a (1) The Postmaster-General may, after giving six months' notice, resume any private telegraph or telephone line.

The compensation, if the amount cannot be otherwise agreed on, shall be settled by arbitration.

This is a very important amendment, but I think it is a very desirable one.

Senator Sir FREDERICK SARGOOD

- This is indeed a very important amendment. Honorable senators will recollect that when the Bill was first introduced the Postmaster-General claimed the right of control over all telephone and telegraph lines, whether they went through private land or not. The proposal created a great deal of disturbance throughout the States, and protests against this power being held by the Postmaster-General came from all parts, inasmuch as on many large stations there are a number of private telephone lines. Ultimately the Postmaster-General himself saw the fairness of the complaint, and certain new clauses were put in to allow private owners to erect and maintain telephone lines, and provision was made also for the crossing of roads by private lines. It is now proposed by this amendment that the Postmaster-General shall, after six months' notice, be given the power to resume any or the whole of these lines. I can hardly think the honorable and learned senator is serious in making such a proposal as this. It will not be a small matter in the case of telegraph and telephone wires on station properties. They extend all over the States, and there are many thousands of miles of them. The provision also affects telephones in private houses. They can be resumed under it by the Postmaster-General. I do not imagine that the power would be used so absurdly, but it certainly does embrace all private telephone and telegraph lines. To my mind, it is a most monstrous proposal, and to agree to it would be to conflict with the action that we took on a previous occasion, after very grave consideration of important representations made to us. I should like to hear from the Postmaster-General the reason that has led to his change of opinion, because he acquiesced in the fairness of the former amendment. It is idle to talk of compensation. What compensation could be given to a large stationholder if he received six months' notice that the whole of the telegraph and telephone lines on his runs were to be taken over by the department ?

Senator Sir John Downer

- How could the compensation be estimated ?

Senator Sir FREDERICK SARGOOD

- It could not be estimated. These lines are erected on station properties for business purposes, just as in cities and towns telephones are. put up in large and small establishments. No compensation could possibly meet such cases. Apart from that consideration, however, if we adopt this proposal we shall destroy absolutely the principle laid down by us, after grave consideration, that the Postmaster-General should not have anything to do with private lines.

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Senator PLAYFORD

- I object on principle to this power being given to the Postmaster-General. I am opposed to giving power to him to purchase any telegraph line. In all matters of this kind the proper course for the Postmaster-General to adopt, when he wants to purchase a line, is to consult Parliament, so that the owners may have their views represented before Parliament. We should not place ourselves in the position of allowing the Postmaster-General to play ducks and drakes with the public money, by acquiring unpayable lines, or by agreeing to pay compensation where it should not be allowed. The fact is that by adopting this provision we should open the door to all sorts of objectionable practices. It is far better that Parliament should exercise control over the purchase of these lines. If the Postmaster-General desires at any time to acquire a telegraph or a telephone line he should go before Parliament with the proposal that a certain sum be appropriated for the purpose, and in that way obtain parliamentary approval. If he could not do it in that way, then he should bring in a short Bill providing for the purchase of the line, and containing proper conditions as to arbitration and other matters. Under no circumstances would it be wise for us to give the Minister such a power as this, which an unscrupulous man would be able to abuse to the advantage of his friends. If I were Postmaster-General I should rather not possess such a power. I should far rather consult Parliament in regard to a proposal to purchase any private line, let the fact be made public, and allow the light of public opinion to be thrown upon it. Then there would be no chance of abuses creeping in. This hole-and-corner business, this immense power of spending thousands and thousands of pounds of public money without the knowledge of Parliament, is most objectionable. I hope Senator Drake will say he is opposed to it. I see no reason why it should be exercised.

Senator DRAKE

- This amendment seems to me to be in conformity with the principle laid down in clause 78 with regard to telegraphs. That clearly states that, with certain exceptions, the telegraph system is a monopoly, the exception being made, we may say, in the case of private lines. This clause carries out the principle which is generally accepted in democratic communities, that everything connected with communications within the country shall be subject to State control. In agreements for the building of private railways a clause is carefully inserted, in nearly every case, providing for the right of the State to come in at some time or other and acquire the line.

Senator Playford

- But they cannot be acquired without the consent of Parliament.

Senator DRAKE

- We make provision in the Bill by which telegraph lines may be constructed by private persons for their own use.

Senator Sir Frederick Sargood

- On their own property.

Senator DRAKE

- But the property might cease to remain in the possession of the person to whom the power to construct the line was given.

Senator Staniforth Smith

- It might be only a leasehold.

Senator DRAKE

- Such a case might happen. But as settlement extends and increased telegraphic communication becomes necessary, why should not the department have the right to acquire any private line on fair and just terms instead of putting up a special line?

Senator Playford

- The Minister should not have the right to do it off his own bat.

Senator DRAKE

- No doubt this would be an extremely high-handed proposal, if provision was not made for compensating fairly the person from whom a line is taken over. Seeing that the telegraph system is a State monopoly, I do not think it is unreasonable to provide that the Postmaster-General shall have power to acquire these lines and convert them into public ones, if it is necessary to do so, in the public interest. It is all very well to say that the Postmaster-General should shrink from taking such a power, but if it is for the public good, then it is for him to undertake it. That is what Parliament has to consider. The House of Representatives has inserted this provision, and if we assent to it, it will become the duty of the Postmaster-General, as public necessity requires, to exercise this power.

Senator Staniforth Smith

- Could we not say that the Postmaster-General may " with the consent of Parliament"?

Senator Drake

- That would not be of any use.

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Senator PEARCE

- If we provide that the Postmaster-General may " with the consent of both Houses of Parliament" acquire these lines, the objection raised by Senator Playford will be met. We know that it is not the practice of the Postmaster-General to take it upon himself to erect telegraph lines on his own responsibility, yet clause 78 provides that he may do so.

Senator Sir William Zeal

- This takes away an existing right.

Senator PEARCE

- Not any more than clause 78 does.

Senator Sir William Zeal

- This is something to be done. Clause 78 refers to something that is done.

Senator PEARCE

- With all due respect to Senator Zeal, I fail to say any difference between the two cases. If the Postmaster-General could see his way clear to insert the words I have suggested, the objection which has been raised would be removed. I certainly think we should have some such power as this in the Bill. We have to remember that in Queensland there are long lengths of telegraph lines at present in the hands of railway companies, which it may be desirable to resume at some future date. The railway companies there have such lines, I believe, and surely the Postmaster-General should have the light, in the interests of the public, to resume them ? I do not think he would do so without consulting Parliament, where a large expenditure was involved. I admit there is a good deal in Senator Playford's argument. We have had brought under our notice the case of a cable owned by a company which, it was said, it would be unfair to resume, as it is unworkable.

Senator Drake

- That was denied.

Senator PEARCE

- But assuming that was the case, the Postmaster-General might resume the cable and make a bad bargain for the Commonwealth, whereas if he had to obtain the consent of Parliament some honorable member might object and point out that it was not a suitable time to exercise this power. If the Postmaster-General thinks he should have this power - and I believe he should - he might amend the provision in the way I have suggested.

Senator DRAKE

- I do not think it would be of any service to put this provision in the Bill with the proviso that the consent of both Houses of Parliament shall be obtained before it is exercised. How could it be secured ?

Senator Playford

- By joint resolution of both Houses.

Senator DRAKE

- Would it not be almost as easy to bring in a Bill 1 Senator Pearce has put the strongest possible case in referring to a certain cable which is not under the control of the department at the present time. But let us

put a case on the opposite side ; the case of a few miles of telegraph line required by the department. Should the Postmaster-General have to wait for Parliament to meet and seek a joint resolution of both Houses empowering him to acquire it ?

Senator Playford

- There is no hurry in such matters.

Senator DRAKE

- If the transaction was of such importance that the consent of Parliament was desirable before the purchase was made, it would be better to bring in a Bill. What would be the advantage of saying that the consent of both Houses should be obtained?

Senator Pearce

- It is only trusting to the responsibility of the Minister.

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Senator DRAKE

- The Minister is charged with a good deal of responsibility. It is not at all likely that he would enter upon any large transaction, such as the purchasing of a cable or an extensive private line, without going to Parliament. He would probably put the amount required on the Estimates, and then under our Constitution the expenditure of that amount would have to receive the approval of both Houses of Parliament.

Senator PLAYFORD(South Australia), - The Postmaster-General does not appear to thoroughly understand how these things work. If we were to add the words suggested by Senator Pearce, we should not interfere with the taking over of a small line where it was required at once. All that the Postmaster-General would have to do in such a case would be to take the responsibility on his own shoulders. He would say to the owner, "We want this line for certain purposes. I am prepared to give you a certain sum for it if I can obtain the approval of Parliament to the purchase." Subsequently he obtains the approval of Parliament if it is necessary. Although in some cases it may be a line of a mile or two, and worth only a few hundred pounds, still it carries the principle that the Minister can expend thousands or tens of thousands of pounds. Although the Minister may say that he may not exercise the power, still it is a great deal better that Parliament should always be made acquainted with what he proposes to do in that respect. It is a mistake for the Parliament to give this power. It is also a mistake on the part of the Minister to have the power. If I were the Postmaster-General, I should never desire to have this power. I should prefer to be able to point to the Act of Parliament, and to say - "I am willing to purchase your line for a certain sum, subject to the approval of Parliament." On many occasions in South Australia we have purchased land for closer settlement, but each purchase had to be approved of by Parliament. Very often the Ministry enters into negotiation with the owner of an estate; he agrees to purchase the property subject to parliamentary approval ; and directly it meets each House is asked by resolution, generally simultaneously, to approve of its purchase at a certain sum. Senator Drake says it is of no use to insert the words, because it would be just as easy to pass a Bill through both Houses. It requires time to pass a Bill. It has to go through three readings, in one - House, besides the Committee stage, and then it has to go through a similar procedure in the other, whereas a motion can be given notice of one' day and carried next day after a few hours' debate. As a rule Parliament will be in session* nearly six months every year. Surely that will give the Minister plenty of opportunity to get Parliamentary authority to purchase a telegraph line. It is not likely that a few days after Parliament is prorogued there will be an urgent desire to purchase a private line. Do not let Parliament lose its hold on the purchase of telegraph lines ; let it retain its hold on the expenditure of its money. Always make the Ministry come to Parliament and get authority for the expenditure of public money. I move -

That the amendment of the House of Representatives be amended by the insertion of the words - "with the consent of the Parliament, and," after the word " may" in sub-clause (1).

Senator Sir John Downer

- That will mean a Bill.

Senator PLAYFORD

- It does not mean a Bill. The consent of Parliament can be given by resolution.

Senator DRAKE

- I think the amendment will destroy all the use of the clause. If it is made we may just as well bring down

a Bill. It will prevent the Minister, if necessary, from acquiring a small length of line which it might be very desirable to acquire, in order to save the expense of erecting one.

Senator Sir Frederick Sargood

- He has to give six months' notice, and Parliament is sure to meet within that time.

Senator DRAKE

- The six months' notice seems to be a sort of safeguard against any wrongful action on the part of the Minister. He could not do anything to-morrow or next week before public attention would be drawn to it. If there were any objection to his acquiring a length of line, there would be ample time for anyone to enter a protest.

Motion (Senator Playford's) agreed to.

Clause 90 (Certain lines, &c, to belong to Postmaster-General).

Amendment, as amended, agreed to.

Senator DRAKE

- In clause 90, the other House, in order to prevent any possibility of question arising as to the legal ownership of the lines, has inserted the following sub-clause: -

All telegraph lines erected or maintained by the Postmaster-General, whether before or after the commencement of this Act, are hereby vested in the Postmaster-General.

Senator Sir Frederick Sargood

- As the Minister has just taken power to acquire a line, will not this sub-clause require to be altered ?

Motion (by Senator Drake) agreed to -

That the amendment of the House of Representatives adding a sub-clause, be amended by the insertion of the word "acquired " after the word "erected."

Amendment, as amended, agreed to.

Clause 92 (Blasphemous, obscene, and scandalous telegrams may be refused).

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Senator DRAKE

- I confess I do not like the amendment of the other House in clause 92. At the beginning of sub-clause (1) it has substituted the word " postmaster" for the words "person employed in the telegraph-office " so that it now reads -

Any postmaster may refuse to receive or transmit a telegram containing blasphemous, indecent, obscene, offensive, or scandalous matter in its contents, address, or signature.

When the clause was before the Senate on a previous occasion, I explained that the reason why the expression " person employed in a telegraph-office " was used was in order that a telegram of that nature might be stopped at once. The person into whose hands it will probably come will be a telegraph operator and he has no power to refuse to receive it or to transmit it under the amendment of the other House. The person we want to authorize to stop a telegram of this nature is the telegraph operator.

Senator Pearce

- Would not the operator refer it to the postmaster?

Senator DRAKE

- If the postmaster were there he might, or he might not. But under this amendment he has no authority to refuse to receive or transmit it. The postmaster is not necessarily there the whole time. The House of Representatives has also struck out sub-clause (2), which reads -

Telegrams which appear to contain seditious language shall be submitted to the Deputy Postmaster-General in the State of origin before being transmitted.

I do not know exactly why that has been struck out.

Senator Sir Frederick Sargood

-If the Minister uses the words "postmaster or officer " he will cover everything.

Senator DRAKE

- There are some places in the States where there is no postmaster. I think in sub-clause (1) we had better stick to the original term, which was very carefully considered and had stood fire before. I feel sure that the amendment has been made by the other House without a full knowledge of the circumstances. I move -

That the committee disagree to the amendment of the House of Representatives, in sub-clause (1),

omitting the words "person employed in a telegraph-office," and inserting the word " postmaster."
Senator PEARCE(Western Australia). - I would draw the attention of the committee to the definition of the word " postmaster." It means -

The officer in charge of a post-office or post and telegraph office.

I contend that if there is only one employe in an office, no matter what status he occupied, he would be in charge of that office, and would be the postmaster within the meaning of that definition.

Senator Drake

- I do not think so.

Senator PEARCE

- If he is the only employe in the office, he must be in charge of that office. Seeing that that definition practically means that there is an officer in charge of every post - office, I think the House of Representatives has made this amendment with a view of giving to every telegraph officer in charge of an office the power to refuse a telegram if it contains libellous matter. If there is a postmaster in charge, the operator will not act upon his own responsibility, but must refer the matter to the judgment of the officer in charge, who is responsible for the acts of his subordinates. It is just as well that we should be careful about this provision, because the stoppage of a telegram might involve a question of law, and might involve the department in damages. I trust that, in the interests of his own department, the Minister will withdraw his motion.

Senator DRAKE

- Of course there would be no difficulty if Senator Pearce's reading of the definition were correct, and if any person who was left alone in an office might be taken to be the postmaster. But I do not think that is so. That reading strains the interpretation clause. Senator Pearce will notice that the interpretation clause commences by saying that these definitions apply - " Unless the context otherwise indicates." I do not think that the Bill in any part could be taken to mean that a person who happens to be casually left in charge of an office is the postmaster within this definition.

Senator Pearce

- Does the Postmaster-General think that such a person should have a right to stop a telegram ?

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Senator DRAKE

- The idea is to give authority to the person to whom the telegram comes, in the natural order of things. The person authorized to receive and transmit telegrams is by this clause authorized to refuse to receive and transmit them.

Senator Sir FREDERICKSARGOOD (Victoria). - I think I am right in saying that a good many of the offices upon our railways are used as telegraph offices, and that the officers in charge there are not in the employment of the Post and Telegraph department. The term " telegraph office " is defined to mean - A house, building, room, or other place or structure, occupied by or under the authority of the Postmaster-General.

I do not suppose that telegraph offices upon the railways are under the control of the Postmaster-General. As a matter of fact many of these telegraph offices are also booking-offices, which are under the control of the railway authorities.

Senator PEARCE(Western Australia). - I would suggest to the Postmaster-General that he should make the clause read - " Any postmaster, or, in his absence, any person under the authority of the Postmaster-General." That would provide that the senior officer would take the responsibility if he were present ; but where there was no senior officer in charge the operator in charge would take the responsibility.

Senator DRAKE

- I think we might get over the difficulty by making an amendment upon the amendment carried by the House of Representatives. I will therefore withdraw my previous motion.

Motion, by leave, withdrawn.

Motion (by Senator Drake) proposed -

That the amendment of the House of Representatives be amended by omitting the word "postmaster," and inserting in lieu thereof the words ' person employed under the authority of the Postmaster-General."

Senator PLAYFORD(South Australia). - Practically every person employed in a telegraph office is

employed under the authority of the Postmaster-General.

Senator Sir Frederick Sargood

- It is questionable in the case of railway officers, who are employed under the railways commissioners.

Senator PLAYFORD

- Then we are to understand that, so far as the railways are concerned, a man can go to a railway telegraph office and get all sorts of indecent and libellous telegrams sent, and that no one can stop him?

Senator Drake

- Under the motion which I propose, such an officer would be under the authority of the Postmaster-General. That would cover a railway officer.

Motion agreed to.

Amendment, as amended, agreed to.

Clause 93 (Regulations).

Senator DRAKE

- The House of Representatives have inserted in this clause, which gives the Governor-General power to make regulations upon certain subjects, the following new paragraphs after paragraph (o) - (o1) Voting by post at elections under the law of the Commonwealth or that of a State, but in the latter case only at the request of the Governor of the State, and on such terms as the Governor-General prescribes. (o2) Providing for the payment by the receiver or by the Governor of any State, instead of the sender of the rate payable on any postal article.

The matter dealt with is important, and I intend to propose an amendment upon the amendment inserted by the House of Representatives. The new paragraphs enable the Post-office to make arrangements with a State for the transmission of postal matter, to be paid by the person receiving it instead of by the person who posts it. I mentioned previously the question of voting by post. In

Queensland that method of voting has been adopted, and regulations are required so that the voter may be enabled to post his ballot-paper, the postage upon which will be paid on receipt by the electoral officer.

But there is also another matter in regard to which we desire to co-operate with the State Governments.

That is in reference to correspondence with Friendly Societies. In most of the States, Friendly Societies have been in the habit of having certain of their reports transmitted through the post free. A difficulty arises under the clause as it stands in the Bill. A member of a friendly society sends his contribution card to a local secretary, who gets the cards of the members together and sends them to the general secretary; whereupon the general secretary sends them to the registrar. It is desired that all this correspondence shall go through the post free so far as concerns the friendly societies. I take up the same position as I have done before, that this is business that concerns the Government of each particular State. If those Governments like to frank the correspondence of friendly societies, they can do so on terms which are just to the whole of the States.

Senator Sir John Downer

- Is this work done free in any of the States now?

Senator DRAKE

- Yes ; in Victoria, New South Wales, South Australia, and Queensland, at any rate. I think Tasmania is an exception.

Senator Playford

- It is returns to the Government that are concerned ?

Senator DRAKE

- Yes ; and also returns to the secretary. I do not propose that this correspondence should be carried free so far as concerns the Federal Government, but simply that we shall provide the machinery by means of which the States may carry the correspondence at their own cost if they like to do so. Under these new paragraphs, the postmaster at any place concerned would say - " There are so many letters coming through the post from members of friendly societies ; we charge the State Government so much postage upon them."

Senator Sir John Downer

- Is the effect that each State is to please itself ?

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Senator DRAKE

- That is exactly the principle. All we want to do is to provide machinery so that if a State says that it desires tins postal matter for friendly societies to go through the post free, we shall be ready to make regulations for the purpose, but always with the proviso that the Federal department is to be paid the postage.

Senator Sir John Downer

- Each State may please itself at its own expense.

Senator DRAKE

- I propose to move the amendment of paragraph (p2) by omitting the words " by the receiver or," and by the insertion of the words "or by any persons " after the word state.

Senator Dobson

- After the bookkeeping period we should have to make all these things uniform.

Senator DRAKE

- After the bookkeeping period, of course all this will cease, because then any deficit there may be will be borne equally by the whole of the population, and we assume that the benefits of the postal service will be enjoyed equally by all. I move -

That the words "by the receiver or" in paragraph (oS) of the House of Representatives, amendment, be omitted.

Senator Sir FREDERICK SARGOOD

- I understand that clause 93 is the clause giving power to make regulations for certain purposes under the Bill. But since we passed it clause 25a has been inserted providing for electoral lists and ballot-papers, where there is voting by post and so on, and providing that the State shall pay the cost of postage in such cases. Hence it is necessary to add to clause 93 a power to make regulations dealing with that matter. But the amendment the Postmaster-General now proposes goes further than that, and provides for the payment " by any persons." I point out that we have not provided an enacting clause dealing with " any persons," and I think it would be better to postpone the amendment.

Amendment postponed.

Clause 126 (Injuries to telegraphs).

Senator DRAKE

- The House of Representatives proposes three amendments in this clause which I think must have been made under a misapprehension. There are three paragraphs, the first two of which commence with the words " unlawfully or maliciously," but those words do not occur in paragraph (c). I think the view taken in the House of Representatives must have been that the words had been inadvertently omitted in paragraph (c), and to put the clause into proper form the House of Representatives has proposed amendments which have the effect of striking the words " unlawfully or maliciously " out of paragraphs and (6) and of making them applicable to paragraph (c). I desire to show why they ought not to be made applicable, to paragraph (c). I have no objection to the words appearing in paragraphs (a) and (>), but on no account of the peculiar nature of the offence referred to in paragraph (c) -

Interrupts or impedes the use of any line or the transmission of any messages.

I think they ought not to be made applicable to that paragraph. Referring particularly to the interruption of a line of telegraph, the offence is of such a character, and is of such great importance that we should not give any one any excuse for committing it. A person should not be permitted to take the law into his own hands, and if, for instance, a telegraph line has sagged down, no one has a right to cut the wire. Our wires are supposed to be 18 feet from the ground, and that would be clear of all ordinary traffic. But a difficulty has occurred' in this way. I am informed that in Victoria there are people engaged in removing houses on trollies, and they come along and simply break through our wires. That has been done on several occasions. The practice has been that if they give notice to the department, a gang of men is sent to cut the wires for them, and when they have passed through, the wires are immediately replaced. On more than one occasion they have broken right through the wires, and when that is complained of, they say - " Your wire was less than 18 feet from the ground, it was interfering with us, and so we went through it." Such a thing as that ought never to be permitted. Honorable senators can quite understand that if the clause were amended as proposed it might lead to telegraph lines being cut in the interior, and in consequence to enormous loss and injury to the community. Cutting a line of telegraph communication is a very grave offence, and it should be distinctly understood that under no circumstances is a person

justified in cutting a telegraph wire. I move -

That the committee disagree to the amendments of the House of Representatives, inserting in line 23, and omitting from lines 24 and 29 the words ' 1 unlawfully or maliciously. "

Motion agreed to.

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Senator DRAKE

- I move -

That the committee agree to the amendment of the House of Representatives inserting the following new clause after clause 137: - 137a. In the case of an electric tramway or electric lighting system the electric authority using such tramway or lighting system shall not be held responsible for its lines or works affecting the lines of the Postmaster-General on which an earthed return is used if such electric authority has adopted all known and reasonable precautions to avoid such injurious affection and has complied with the regulations.

The amendment that we agreed to just now was top ave the way for this new clause. I have considered this matter very carefully. I do not like it altogether. It is not quite fair to the department to throw upon it all the responsibility of having an earthed return. On the advices I have received from the officers of the department I am inclined, to think, however, that, with the proviso contained in this clause, it may be accepted. The latter part of this proposed new clause safeguards us, although it seems hardly fair that the whole of the responsibility should be thrown upon the department if it was an earthed return.

Senator PEARCE

- Before this amendment is agreed to I should like a little fuller explanation from the Postmaster-General as to the meaning of "earthed returns." We are not all experts. I have in my mind the case of overhead lines, which was thoroughly debated on a former occasion, when we came to the conclusion that the Postal department ought to be thoroughly guarded. The overhead line of the Perth Electric Tramway Company interfered with the Postal department's lines, and involved the Government in serious expense.

Senator DRAKE

- Every line must have either a metallic circuit or an earthed return. A current of electricity must be either brought back by means of a metallic circuit or through the earth. The metallic wire is by far the better, but it is also the more expensive system. We have earthed returns in many cases, because we have not been able to go to the expense of providing a metallic circuit.' This proposed new clause provides that if the line of any electrical authority injuriously affect a Government line in connexion with which the more expensive system is not employed, that authority is not to be liable for the damage if it can show that it has adopted all known and reasonable precautions to avoid it, and has complied with the regulations. If we have a metallic circuit, then the case comes under clause 142, and if our wires affect those of any private authority the question arises as to which was erected first. The unfairness of this proposal is that it compels us to adopt the metallic circuit, but does not compel the electric lighting authorities to do the same.

Senator CLEMONS

- Does the Postmaster-General say that the Commonwealth is being compelled to adopt a system which is the least efficacious while private companies are forced to adopt the more expensive one ?

Senator Drake

- No ; quite the reverse.

Senator CLEMONS

- I am glad to have that explanation, because it seems to me to be undesirable that the Commonwealth should adopt a cheap and nasty method while it compels private individuals to do that which is deemed to be efficacious.

Senator PEARCE (Western Australia). - I think this clause might very well be postponed. It seems to me at first sight to be safeguarding the interests of private companies, while it makes no provision for safeguarding the public. I would draw the attention of honorable senators to the case of the Perth Electric Tramway Company. That company erected lines along the route of existing lines owned by the Government. The company's line was erected in the centre of the streets, and every telephone wire along those streets was thrown out of order. The result was that the Government had to spend some thousands of pounds in establishing proper communication. I do not know whether any other clause covers the case

of a Government line that is erected first ; but it seems to me that a company might very well say - " We did not know when we erected our lines that it was going to have an injurious effect on the Government wires. We acted according to the provision in the latter part of this clause. We took every known and reasonable precaution, but it was not until our line was in operation that we found it had an injurious effect upon yours." In the case of the Perth Tramway Company the Government recovered no compensation, although I think it should have been able to do so.

Senator Playford

- The Government lines being there first, the company was an interloper.

Senator Pearce

- In the Western Australian case the whole cost of making the alterations was borne by the department.

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Senator DRAKE

- In answer to Senator Pearce I would point out that clause 142 provides that when any line owned by the Postmaster-General is injuriously affected by any line erected by an electric lighting company he may serve notice upon them requiring them to take such action as will correct the error and prevent the injurious affection. If that notice is not complied with the Postmaster-General may order that the supply of electricity shall be discontinued until the fault ceases. Then we have sub-clause (3), which provides - Where such electric lines or works have been lawfully constructed prior to the erection of the telegraph line of the Postmaster-General injuriously affected thereby, the Postmaster-General shall pay to the person owning or using or entitled to use such electric lines or works the amount of any costs reasonably incurred or damages sustained by him by reason of compliance with such conditions and restrictions.

That is to say, if a company's wire is erected before that put up by the department, we give the compensation for any damage done. What I think is the safeguard in the amendment we are now considering is the proviso that if a company does any injury to a line owned by the Postmaster-General, it has to show that it adopted all known and reasonable precautions, and complied with the regulations. We make certain regulations, and if the company can show that it has complied with them and taken all known and reasonable precautions to avoid the injurious affection, the expense of correcting the injurious affection is thrown upon the department. I propose to accept the amendment, because it contains those words. They throw upon us the responsibility of making such regulations - probably like those of the Board of Trade - that the lines will be protected.

Motion agreed to.

The CHAIRMAN

- The committee have now to deal with the postponed amendments.

Clause 1 (Short title and commencement).

Motion by (Senator Drake) agreed to -

That the amendment of the House of Representatives be agreed to, and that the blank in clause 1 be filled by the insertion of the words " first day of December, 1901."

Amendment, as amended, agreed to.

Clause 78 (Postmaster-General to have exclusive right in respect of telegraphs).

Senator DRAKE

- I propose to ask the committee to amend the amendment of the House of Representatives so as to make it read in this way - and (b) The owners of any railway or tramway may maintain for the time, and to the extent authorized by any State

Act, any telegraph lines erected in pursuance of rights conferred by any State Act in force at the commencement of this Act, and which are required for the working of the railway or tramway.

I think that will carry out the object of the Council, and meet the objection which was suggested.

Amendment amended accordingly, and agreed to.

Clause 93 (Regulations).

Senator DRAKE

- The amendment inserting two paragraphs in clause 93 was postponed in order to give me an opportunity of taking advice with regard to whether we could carry out the object sought to be attained. During the interval I. have seen the Parliamentary Draftsman, and he is of opinion that the amendment which he suggested, and which I moved, will best give effect to what is desired. I move -

That the amendment of the House of Representatives, inserting paragraph (o2), be amended by the omission of the words " by the receiver or," and by the insertion of the words "or by any person " after the word " State."

Motion agreed to.

Amendment, as amended, agreed to.

Remaining amendments agreed to.

Resolutions reported and adopted.

Resolved(on the " motion of Senator Drake) -

That Senator Sargood, Senator O'Keefe, and Senator Drake be appointed a committee to prepare and bring up reasons for disagreeing to amendments, Nos. 6, 58, 09, 62, 87 to 89 of the House of Representatives.

PUBLIC SERVICE BILL

In Committee(consideration resumed from 2 October, vide page 5458) :

Clause 5 -

. For the purposes of this Act the Governor-General may from time to time appoint some fit and proper person to be Public Service Commissioner and not exceeding six fit and proper persons to be inspectors..... Each inspector shall exercise during the pleasure of the commissioner such powers duties and authorities of the commissioner or inspectors as the commissioner thinks fit to assign to him.

Upon which Senator Pearce had moved, by way of amendment -

That the words "during the pleasure of the commissioner " be omitted.

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General

Senator DRAKE

. - When I was speaking on this Bill before, I pointed out, after consultation with my colleague, who had charge of the measure in the House of Representatives, and who will have the administration of it, that the words " during the pleasure of the commissioner " were put in, not with the idea of having any meaning in connexion with the power of suspension, but simply to make it clear that the inspectors should discharge certain duties during the pleasure- of the commissioner. That is to say, the commissioner shall at any time have power to transfer an inspector from one place to another. I do not think there is any ambiguity about the provision.

Senator Sir Frederick Sargood

- But there is the power without these words.

Senator DRAKE

- The words make it clearer, perhaps. If the words to which Senator Pearce takes exception are omitted, it would be advisable to put in, after the word " fit," the words "from time to time." There is really nothing in the point, but rather than devote any more time to it I will allow Senator Pearce's amendment to go, and will afterwards move an amendment to the effect I have described.

Amendment agreed to.

Amendment (by Senator Drake) agreed to-

That after the word "fit" the words "from time to time " be inserted.

The commissioner and inspectors shall each be appointed for a term of seven years, and shall be eligible for re-appointment.

Senator HIGGS

- I move -

That after the word "commissioner" in subclause 2, the following words be inserted : - " Shall hold office during good behaviour, and shall not be removed except by the Governor-General in Council on an address from both Houses of the Parliament in the same session, praying for such removal on the ground of proved misbehaviour or incapacity.

It will be remembered that when we were discussing the appointment of a Public Service Commissioner, and the probable influences which would be at work to determine his course of conduct, some honorable senators considered that an appointment for seven years would, to a considerable extent, undoubtedly influence the commissioner, and might make him fear that if he were not amenable to the desires expressed, publicly or otherwise, by the Ministry of the day, he might not be reappointed. It was thought

that he might therefore accede to Ministerial requests. I see very little difference between the powers of this Public Service Commissioner and the powers of a Judge or of an Auditor-General. In appointing our Judges and Auditors-General, we desire, as far as we possibly can, to place them beyond the reach of political and party influences. We wish to give them a feeling of confidence, in order that they may do their duty by the country, without the fear of removal by the Ministry, or at the instigation of some particular Minister who has influence over the cabinet.

Senator Playford

- The commissioner would be a regular autocrat if this amendment were carried.

Senator HIGGS

- Are the Judges' and the Auditors-General autocrats?

Senator Playford

- Pretty much so.

Senator HIGGS

- If so, is it not a good thing for the country that they are so to some extent ? If we desire to challenge the conduct of a Judge on the Bench, or to find fault with an Auditor-General, we may come to Parliament, and move a resolution criticising the action of the official in question. If a good case is made out the majority in Parliament will beyond question agree to displace the Judge or Auditor-General.

Senator Drake

- How many cases has the honorable senator known of a Judge being removed ?

Senator HIGGS

- I do not know, of my own knowledge, of a case.

Senator De Largie

- I know of two or three who should have retired.

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Senator HIGGS

- If the honorable senator had been in Parliament at the time those cases came under his notice he could have moved a resolution. During the short time I was in the Queensland Parliament I did not notice any particular instance of bad conduct on the part of a Judge, and I had no evidence to warrant me in moving a resolution, asking that a Judge should be brought down from the Bench. If I had known of such a case I venture to hope that I should have taken action. If the Public Service Commissioner is appointed during good behaviour we have the same control over him as we should have if he were appointed for seven years. Honorable senators have agreed that in appointing the commissioner for seven years we can, if there is any fault to be found with him, bring the matter before this or the other Chamber, have it debated, and come to a resolution thereupon. There is something in the contention that if the Public Service Commissioner is appointed merely for seven years he will towards the end of that term commence to consider his position. Naturally, he will ask himself how he stands with the Ministry and how the Ministry stands with Parliament. If the Ministry has a good following and a big majority, and if the Public Service Commissioner knows this, he will perhaps, say to himself, " It will not pay me to get at loggerheads with the Prime Minister or the members of the Cabinet." Honorable senators have mistaken my attitude if they think I have changed my opinion upon this subject. I stated formerly that I disagreed with the appointment for seven years, and I argued that the commissioner should be appointed for life, because I wanted him to be placed as far as possible beyond any unconscious bias which might prompt him to act in a certain direction if he felt he was beholden to the Government of the day. Being anxious that the Public Service Commissioner should try to make our Public Service effective, I am desirous that if any man has any fault to find with the commissioner he shall come either to the Senate or to the House of Representatives, and that a resolution shall be moved. The matter can then be fully debated, the person making the charge can bring up his evidence, and if it be proved that the commissioner has been guilty of misconduct, or that the Service is not being carried on as it should be, in the interests of the Commonwealth, he may be removed. Senator Drake has asked if we know of any instance in which a Judge has been displaced by a resolution of both Houses.

Senator Playford

- There is one case in the model State where we displaced a Judge called Boothby by resolution of both Houses.

Senator HIGGS

- Senator Playford has answered himself. The honorable senator asked whether the Public Service Commissioner would not be an autocrat if appointed during good behaviour, and yet the honorable senator has himself mentioned an instance in which a Judge so appointed was removed by resolution of both Houses of Parliament. I see no reason why we should not appoint this Public Service Commissioner during good behaviour. If the Ministry find that he is not carrying out his duty, they can bring down to Parliament the resolution necessary to remove him.

They can advise the Governor-General to suspend him in the meantime, while they consult Parliament as to what they should do. If the Public Service Commissioner is not to be placed beyond the reach of the Ministry, he will be of very little use. I consider there is very little difference between an appointment for three years and an appointment for seven years, and we know what the appointment of a Public Service Board for three years means. We know that the Public Service Board in such cases have one eye on the public and the other on Ministers, and they simply act as a buffer between the Ministry of the day and the public, shouldering the responsibility of any erratic or inefficient appointment. It is because I do not wish to see the Public Service Commissioner made a mere buffer between the Ministry and the public that I make this suggestion, under which, if Ministers want to attack him, they must bring a motion before Parliament, and he may be satisfied if he has done his duty that he shall get defenders enough to keep him in his position.

Senator DRAKE

- I think Senator Higgs is now going to the opposite extreme. Since the Bill has been before the Senate we have heard a good deal about the undesirability of placing the Public Service Commissioner in the position of an autocrat, yet Senator Higgs now proposes to go further, and give him his office during pleasure. I think that would be a great mistake, because it would make him practically irremovable. Of course I know that Senator Higgs proposes that the commissioner shall only be removed on an address to both Houses of Parliament, but we know that such a course would never be taken except in very extreme cases indeed.

Senator Sir Frederick Sargood

- It has been taken in the case of a Railway Commissioner in Victoria.

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Senator DRAKE

- We have one instance quoted in Victoria, but that does not detract from what I say, that a man appointed during good behaviour is appointed for life, and until he is dropping into the grave. I think that is not desirable. Seven years seem to be a long enough term, and there should be some term fixed after which Parliament may have an opportunity to reconsider the whole matter. This matter of boards and commissioners has been before several of the States, and there is hardly one State Parliament that has not had cause to alter its mind, not within seven years, but within three or four years. We are commencing our history now under new circumstances, and it is desirable that within the next seven years the Parliament of the Commonwealth should have an opportunity of reconsidering this whole matter. We have had this Bill subjected during the last few weeks to the severest criticism, and are we now to assume all at once that the Parliament of the Commonwealth will not change its mind, not in the next seven years, but in a much longer period, and that it is desirable for us now to appoint a man to this position practically for life? I think it far better to appoint him for the term provided for, and I cannot accept the amendment.

Senator DE LARGIE

- I intend to support Senator Higgs in his amendment, but I do not agree with the honorable senator that the appointment ought to be for life. I think it would be far better to set out with the idea that in this case there shall be no fixed term of office at all, because I feel that, before the half of seven years is over, the Public Service Commissioner we are appointing will be very much discredited, and the Commonwealth Government will desire to do away with him altogether.

Senator Drake

- How are we to get rid of him? If he is to be appointed during good behaviour, as proposed, we cannot get rid of him except for proved incapacity or misbehaviour.

Senator DE LARGIE

- I should have preferred an amendment striking out subclause (2) altogether, and having no provision as

to the term of office at all. By doing that we should place the commissioner on the same footing as any other officer in the service, and for the life of me I cannot see why he should be in any other position. I do not see why the " Commissioner of Toorak " should hold office for a term of seven years, and " George Jones" the postman should only hold his position so long as he does his duty. I hold that, no matter how high and responsible a position may be, the officer appointed to it should not hold it upon different terms to the humblest employe in the service.

Senator Drake

- And yet the honorable senator says he will support Senator Higgs' amendment.

Senator DE LARGIE

- I have already said that I should prefer, had Senator Higgs waited and allowed me, to move the omission of sub-clause (2.)

Senator PLAYFORD

- I was not strictly accurate in an interjection just now to the effect that the Parliament of South Australia had passed a resolution which practically removed a Judge. The Parliament did not pass the resolution. The House of Assembly passed it, but the Legislative Council refused to pass it. The House of Assembly being the dominant House, honorable senators can imagine that the Ministry soon found a way of removing the Judge.

Senator Drake

- Did they give him some compensation ?

Senator PLAYFORD

- So far as the Public Service Commissioner is concerned, I oppose the appointment, and, in fact, I oppose the whole Bill in so far as it provides for this commissioner and inspectors. I believe that if we passed a simple Civil Service Bill, leaving it to Ministers to 'manage, so long as we laid down the principles regulating appointments and promotions in the service, we should do better. The Ministry would be bound to obey, and we might fairly leave it to Ministers to carry out the provisions we made as they have been carried out in South Australia from the beginning of responsible Government there, and so far as I know, without the slightest hitch. I can only account for the different experience of Victoria, New South Wales, and Queensland by the fact that the moral sense of the people of those States must be upon a lower standard than that of the people of the model State. If we passed a proper Civil Service Bill, and had honest and intelligent Ministers, there is no reason why it should not work fairly and well.

The CHAIRMAN

- I draw the honorable senator's attention to the fact that we have already discussed the general question, and there is an amendment immediately before the committee dealing with the tenure of office only.

Senator PLAYFORD

- This is by way of introduction to the point to which I wished to direct the attention of the committee. I bow to the will of the Senate in deciding to appoint a Public Service Commissioner.

Senator Dobson

- The clause is not yet passed, and I do not think the majority are in favour of it.

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Senator PLAYFORD

- If one or two absent senators had been present, I believe the majority would have been on the other side, but when a fair division has been taken, I am not one of those who, when beaten turn round and continually weary honorable senators. I say that honorable senators should, when they vote, make sure that they vote in the right direction, and when a decision has been arrived at, they should bow to it with the best grace they can assume. I recognise that the Senate has agreed that there shall be a commissioner, and the question now is as to how the commissioner shall be appointed. Senator Higgs was under a misapprehension with respect to an interjection which I made, because I was under the impression that the honorable senator was referring to the inspectors whom he wished to make autocrats as well as the commissioner. I think it a great mistake to appoint the commissioner for any fixed term, and for exactly the reasons given by Senator Higgs that just before the term is up he will be " kotowing " to the Ministry of the day, and doing all he possibly can to placate Members of Parliament who may have any power at all for the purpose of securing his reappointment. It would be a great deal better to appoint the commissioner exactly as we appoint the heads of departments on the understanding that he shall retain

his office during good behaviour, or until the office is abolished.

Senator Higgs

- That is my amendment.

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Senator PLAYFORD

- And I am supporting it so far as it regards the commissioner, and also as regards the inspectors. There is a question to be considered which has not yet been brought before the Senate. We have two classes of public servants. We have a class appointed under special Acts of Parliament, and another class of ordinary public servants. The first class includes the Governor-General, in our case, and the Governors in the various States ; the Ministers, the Auditor-General, who stands between Parliament and the Ministry, and is the servant of Parliament, and is not responsible to the Ministry, and also the Agent-General, whose appointment has only been for a limited time, of late years. We appoint all these officers under special Acts, and put them on an absolutely higher and different plane from any of the ordinary officers of the public service. What are we going to do in this 5th clause? We are absolutely proposing that, so far as this Public Service Commissioner is concerned, we shall take him out of the ordinary category of civil servants. We might find some excuse for that in the case of the Public Service Commissioner, because he will be an exceedingly important officer, and it might not be convenient that Parliament should have the right to discuss yearly questions connected with his department unless a special motion is brought forward. But why on earth we should put these inspectors, who are his underlings, on a higher place than the heads of the Customs department and the Post-office department, I cannot understand at all. We are going to put these inspectors, who are merely servants of the commissioner, in a position above that of the Deputy Postmaster-General. I say it is simply monstrous to place these men in that position. This Public Service Commissioner has no more difficult work and no more important functions to fulfil than the Auditor-General, and we propose to give him £1,500 a year, while we propose to give our Auditor-General only £1,000 a year. The Auditor-General is a far more important officer. He is an officer of Parliament, standing between Parliament and the Ministry, and he has to see that the sums of money voted by Parliament are properly expended, and reports to Parliament, if there are any laches on the part of the Ministry of the day. This Public Service Commissioner will only have to carry out provisions of a special Act of Parliament, under which we regulate how men shall be received into the service, and how they shall be promoted. He will have no independent functions to perform as the Auditor-General has, and yet we are giving him a position equal to that of the Auditor - General. If we appoint inspectors to an equally high position, and if they travel about the public offices in the States standing on a higher platform than the heads of the departments in the States, we shall make a great mistake. The salaries of the inspectors ought to be voted by Parliament, year by year, just as the salaries of civil servants are voted. The more numerous you make the body of men who are not subject to parliamentary criticism and control, the greater mistake you will make. Why should the inspectors be above the criticism of Parliament when the Deputy Postmaster-Generals and Collectors of Customs, who occupy far more important positions, are liable to its criticism? The proposition is perfectly monstrous. Not a word can be said in favour of putting the inspectors on this high plane. I would strike out all reference to the inspectors, and allow the commissioner to appoint his own men, and to call them what he likes. It is outrageous to single them out for special consideration and special appointment. Why should not the Ministry have to come before Parliament and say, " We want so many inspectors - we want a man for little Tasmania at £600 a year, and a man for big New South Wales at £800 a year," varying the salary according to the work which the man has to do. Directly the Bill is passed the Ministry can appoint six inspectors.

Senator Drake

- What about the amendment?

Senator PLAYFORD

- I am going with the amendment. I heard Senator Drake say that it will place the commissioner in a much higher position. It will do nothing of the sort. It will place him in exactly the same position as any other civil servant. The endeavour to secure a reappointment will lead to trouble, and certainly to suspicion, which is bad under any circumstances, even if no wrong is done. It would be a great deal better to appoint a commissioner during good behaviour until the office is abolished.

Senator Drake

- The honorable senator could not have heard the amendment. The commissioner is only to be removable, on an address by both Houses, on the ground of proved incapacity or misbehaviour.

Senator PLAYFORD

- I do not necessarily approve of all the amendment. I approve of that part which makes the appointment during good behaviour, or until the office is done away with. But I do not approve of the provision that the commissioner is not to be removed until an address is presented from both Houses. There is no necessity for that provision. He ought not to be placed on the same plane as the Judges, or in a better position than the heads of the big departments.

Senator PEARCE

- I agree with a good deal of the sentiment which has been expressed by Senator Playford, but I do not arrive at the same conclusion. If he votes for the amendment of Senator Higgs, he will go a long way to defeat the end he aims at, because it provides that the commissioner shall only be removable by a joint resolution of both Houses, and then for proved misbehaviour or misconduct. If in the opinion of Parliament it became advisable to do away with the office, then under that amendment it would be necessary to prove misbehaviour or misconduct on his part. It would be better to strike out the sub-clause, and then to alter clause 6 so that he shall hold office during the pleasure of Parliament in the same way as any other civil servant. If we had had this discussion on the second reading I do not think clause 5 would have got through at all. The more it is considered, the more unworkable it is discovered to be. The further we debate this subject the more convinced do we become that the commissioner should not be appointed. I suggest to Senator Higgs that he would better meet the end he has in view by withdrawing the amendment, and negating sub-clause (2) with a view to dealing with the question in clause 6.

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Senator GLASSEY

- I find that we are to have a renewal of the discussion on the question of the appointment of a commissioner. I do not propose to discuss either the appointment of a commissioner, or of inspectors, because I regard those matters as settled. If a question is to be re-opened on every occasion because certain honorable senators are dissatisfied, it will lead to no end of trouble and wrangling. We have had the old argument advanced that prior to the close of the seven-year term the commissioner would pander to the Ministry, or surround himself with a number of influential Members of Parliament, with a view to getting a re-appointment. I contended on a previous occasion, as I contend now, that there is no proof that that course would be taken. I gave information to the contrary. I am not here to be influenced by theory ; I am here to be influenced by facts. In Queensland our experience dates from 1888. A Board of Railway Commissioners was appointed in that year for a term of seven years. With three commissioners, there were everlasting wrangles and disagreements, and Parliament had to intervene, and to make the best terms it could with the commissioners, and to appoint one commissioner. One commissioner, who went to England, had been paid a considerable sum - the whole of his salary for the balance of his unexpired term of seven years' engagement. Another commissioner came down here, and we were glad to get clear of him. The other, Mr. Gray, ran his full term of seven years. Did he, towards the end of his term, pander to the Government, in order to get a fresh appointment? Not at all. He was successful in his administration of the railways, and at the end of his term the Government and the Parliament unanimously agreed to renew his appointment for three years. I was in Parliament all the time. When the term of three years expired, what did Parliament do at the end of its ten years' experience? Mr. Gray was continued in office. The greatest contentment that has ever prevailed amongst the railway employees has prevailed under his successful administration. Did Mr. Gray sneak round the Minister, or gather round him a number of honorable members, in order to get a re-appointment ? No; his administration was so thoroughly successful that the Ministry and Parliament unanimously agreed to re-appoint him for three years.

Senator DAWSON

- Not unanimously. I objected.

Senator GLASSEY

- There was some opposition to the increase of his salary by £500, which he got, but I am not aware of any opposition to the renewal of his appointment. There is an instance of successful administration by one commissioner as against three commissioners. There is an instance in which a Government and a

Parliament did not find any fault with a commissioner. His administration was so successful, his actions so honest and pure, and his administrative ability so clearly demonstrated, that he was reappointed. Again in 1889 a Civil Service Board was appointed in Queensland. I supported the proposal. Although it has not given absolute satisfaction, yet it has worked fairly well. The appointment was for a term of seven years, and towards the close of the term the commissioners did not sneak round the Ministry, but the Ministry and the Parliament agreed to renew the appointment. Their term has a little more than expired, and I venture to say that, in consequence of the transfer of so many officers to the Commonwealth, in a very short time there will be a new Act passed in that State which will recognise the value of the services rendered by the board since it was established. I deny that our Public Service Commissioner will indulge in any sneaking habits towards the end of his term. If he is a capable, self-respecting man, his administration will be such that Parliament will be only too anxious to renew his appointment. He will not be found crawling round Ministers and fawning upon Members of Parliament to get his appointment renewed. He would be unfit to hold the position if he did what some honorable senators anticipate he will do. If I should find him doing anything of that kind, I should not hesitate to protest strongly against his re-appointment, and do what I could to expose such fawning. My honorable friend, Senator Playford, says that we are going to put the commissioner on a higher plane than either the head of the Customs department or the head of the Post-office. Quite right. That is one strong reason why I support the appointment of a commissioner. I want him to be above the head of any department. I want him to stand between the Ministry on the one part and the Parliament on the other. I want him to be the servant of the Parliament and not the creature of the Government. Therefore, I do not agree with Senator Playford and others who say that the commissioner should be appointed like an ordinary civil servant. He ought to be appointed differently, because he is to be head of the whole civil service. He should, therefore, have some security of tenure, and should not stand on the same plane as an ordinary civil servant. I do not agree that the commissioner and his inspectors will not come under review by Parliament.

Senator Playford

- He could only come under review by special resolution.

Senator GLASSEY

- In the State of Queensland we have officers holding their positions for a term of years, and their salaries are not voted on the annual Estimates, but are appropriated by Act of Parliament. Yet, when I was a member of that Parliament, we were never deprived of the opportunity of discussing the shortcomings, or, so to speak, the "longcomings" of any person occupying a public position in that State.

Senator Playford

- Surely there had to be a special resolution in order to do so ?

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Senator GLASSEY

- Not at all. The departments administered by the officers in question came under review, and when those Estimates were under discussion, any member was at liberty to discuss the departments, and all their branches. Of course, we did not lightly pass criticisms upon the Judges, but on several occasions I, myself, have discussed the travelling allowances paid to Judges when thought they were too high. I think seven years is a reasonable term for which to appoint a commissioner. If he discharges his duty so as to give satisfaction, he need have no fear that at the end of his term his position will not be renewed at the hands of Parliament or at the hands of the Ministry who are the executive of Parliament. I feel certain that there will be no difficulty whatever in regard to the renewal of the commissioner's term of office, and I think it would be a mistake when we are passing the first Public Service Bill of the Commonwealth to fix any other term than that fixed in the Bill.

Senator STANFORTH SMITH

- It may truly be said that honorable senators are possessed of great originality of thought. It seems to me that almost every honorable senator has a different idea of the functions of the commissioner and the term for which he should be appointed, and of the ruling body for our civil service. The Government have proposed the appointment of one commissioner. An amendment has been moved that there shall be two commissioners. Senator Dobson has proposed that a peripatetic commissioner shall be appointed, who shall perambulate throughout the confines of the Commonwealth, and administer justice in the various centres. When we come to the question of tenure of office, we find that the opinions expressed by

honorable senators are as diverse as those with regard to the number of commissioners. It is proposed in the Bill that the term shall be seven years. Senator De Largie says that that is more than twice as long as it ought to be. Senator Higgs has proposed that the commissioner shall be appointed for life, or that he shall hold office during good behaviour and shall only be removed on the vote of the two houses of Parliament. I am rather surprised that some senator has not proposed to make the post hereditary, so that the civil service shall be controlled for ever by one family. Then Senator Playford says that the commissioner should be appointed like any other civil servant. I can quite understand Senator Playford advocating that idea, because he is absolutely opposed to any commissioner at all, and wants to nullify the effect which the appointment is intended to produce. The object of appointing this officer for a term of years is to make him independent of the Ministry of the day. We want to have parliamentary control, but as far as we can to do away with political influence. We do not propose to make the commissioner an autocrat, because he only has power to recommend. If a person goes to the Minister and asks that certain benefits shall be conferred upon a civil servant, the Minister has no power to grant it, and the advantage, can only be given to the civil servant by the commissioner, who is not under political control.

Senator Playford
- The Minister will say - "I will speak to the commissioner about it."

Senator STANFORTH SMITH

- The commissioner will not care for Members of Parliament : he is appointed for seven years. If we take the ordinary political life of a Member of Parliament, it is not seven years. Perhaps the average political life of a member of this Senate will be longer, because honorable senators are giving such satisfaction to the country. If we take the ordinary political life of a Ministry, it does not amount to seven years, though if the present Government live as long as they wish, they will remain in office for life. Senator Playford has said that in South Australia nothing like political influence has ever been resorted to, and that therefore a Civil Service Commissioner has never been required there.

Senator Playford

- I never said anything of the sort.

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Senator STANFORTH SMITH

- I have no doubt that South Australia has reached a pinnacle of moral rectitude that is not approached by the people of the other States. I will admit that the South Australians dwell in a loftier moral atmosphere and breathe a higher ether than the people of any other State. The South Australians must make due allowances for the inhabitants of the other parts of Australia, and if they do that they will see the necessity for appointing a commissioner. In the other States political influence has been exerted. In Victoria it grew to such a pitch that one election was practically fought upon the question whether the civil service should be governed by political influence or by commissioners. In Queensland the system of political influence has been condemned in the most unmeasured terms. In New South Wales, as I have previously shown from quotations from Senator Neild, Mr..

Reid, and other statesmen, the effect of political influence was to overman the service.

Senator DAWSON

- That is not correct as regards Queensland, which objects to a commissioner.

Senator STANFORTH SMITH

- At any rate Queensland has changed from the political system to control by a commissioner. In a former speech I quoted the opinions of the Premiers and leaders of Oppositions with regard to system of political influence.

Senator DAWSON

- Those opinions must have been expressed a long time ago.

Senator STANFORTH SMITH

- The whole question with regard to the appointment of a commissioner practically rests on whether that officer, during his term of office, shall be amenable to political control or not. If we are going to appoint him for a short term there is a grave possibility of his being amenable to political control. Only the other day Senator Dobson alleged some awful cases of political influence that had occurred in connexion with the Federal Government. He denounced in the most unmeasured terms the "scandalous action of some Members of Parliament in approaching a Minister. I do not know whether the honorable and learned

senator had approached a civil servant himself, and was championing his cause. Such political influence can only be wiped out by appointing a commissioner for a term of years ; and while I do not agree with Senator Higgs, who practically wants to make the term hereditary, I am certainly opposed to any shorter term than seven years.

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Sir JOHN DOWNER

- The question is, I understand, whether the commissioner shall be subject to the will of the Government, or whether he shall be placed in such a position as a Judge of the Supreme Court occupies, and shall only be removed on the vote of both Houses of Parliament. For my own part I am not prepared to put any civil servant in the position of a Judge. I think it would be most inexpedient and exceedingly disastrous to do so. If we placed him in that position he could not live there, because there would be such divergence of opinion in regard to the working of the departments, and such a protest on the part of the very honorable senators who make the proposal, against making any official -superior to the people who are governing the country, that they would certainly remove him from it. For a long while in past years the Judges held office simply during the pleasure of the Crown. They were removed from that position because it was found that the administration of justice became corrupt through the Crown having any will in the matter. A judicial office is quite apart from any ordinary appointment. Politicians may come and . go ; laws may be passed, to this effect or that ; opinions may vary ; but the only duty of persons on the judicial bench is to administer the law precisely as they find it. Judges are not subject to any alteration ; their position remains the same, no matter what changes go on in the political world. It is not the business of Judges to make laws, but to administer the laws that are made. But what is the position of civil servants ? It is entirely different. I care not what we call the head of the service - commissioner or anything else - he has got to do what he is told. I have said over and over again, and will repeat the remark, that it is simply impossible to place civil servants above the control of Parliament. We may appoint a commissioner to hold office under certain conditions, and say that he shall hold office quite apart from Ministerial control, but do honorable senators think it possible that he really will? . If - we appoint him for seven years do we suppose that he will not, as a matter of course, want to make himself grateful in his office in the sense that he will make himself agreeable to the persons who may continue him there ? In all these affairs we have got to remember that there is such a thing as human nature. We may lay down all the statutory rules we like, and say that he shall hold office for seven years, and be absolutely superior to the Government, but still he holds office only for seven years and away goes the whole position. If we made his tenure of office larger, in respect even to transitory matters which occur from day to day, he would still have to be subservient to the powers in authority, and he still would be, whether he said he was or was not. I look upon this question in much the same way as my honorable friend, Senator Playford, from the point of view of experience and common knowledge. We say that these people shall be removed from political influence. Magnificent term ! We put them above the Minister so that they shall not be subject to him or to anybody else. We give them a certain tenure of six months or seven years - it does not matter' which - and then we assume that we have removed all possibilities of corruption, and have insured the perfect purity of the public service, for the six months or the seven years, whichever honorable senators like. What tomfoolery ! I mean to say that these are mere platitudes which have no sense in them. I have always been what they call a conservative, but I have never tried to fool myself or to fool anybody else by supposing that these boards will not be subject practically to the political feelings of the day, or by supposing that they acquire purity simply by terms being placed in an Act of Parliament. What I have always said about them, even when I have supported boards of this description, has been - "Make no mistake, gentlemen, they are going to be subject to Parliament."

The CHAIRMAN

- I remind the honorable and learned senator that the question of tenure is before the committee, and not the question of boards as against Ministerial control.

Senator Sir JOHN DOWNER

- The whole question is involved in the length of tenure. If the tenure is for life, as in the case of Judges, we should understand it, but if the tenure is for anything short of life, the whole question that I have been discussing is opened. I have always said that we may appoint these boards, and they are very good, because they give the Ministry a good way of getting out of a lot of trouble they would otherwise be

placed in. They make a most convenient buffer between the Ministry and Parliament.

Senator DAWSON

- And give them a chance to shirk responsibility.

Senator Sir JOHN DOWNER

-No, no ; they give them a chance to avoid great injustice, and to avoid a multiplicity of details which they have no time to deal with properly. They are, therefore, good. But when it comes to a substantial question of real responsibility, the Ministry have got to bear it. Under all constitutional governments we are acquainted with, these temporary boards are something between the Ministry and Parliament, by which the Ministry throw off from themselves, when they please, responsibilities which their numerous occupations prevent them properly attending to, and which are very well thrown off. They relieve them from importunities which would otherwise be placed on them, but ultimately, when it comes to a truly crucial question, then let the boards be what they will, and appoint them for seven years, or for fourteen years if we like, and the responsibility ultimately comes back to the Government, which means to Parliament. And it is a bad thing for these so-called independent boards, whether they are appointed for six months, seven years, or fourteen years, if they do not obey the requests of the Government and the Parliament.

Senator Dobson

- Then what is the good of appointing them 1

Senator Sir JOHN DOWNER

- There I disagree with my honorable and learned friend. I think there is some good in appointing them. I think it is a very convenient system, because in ninety-nine cases out of a hundred the answer to an application to the Minister will be - " You must go to the commissioner."

Senator Dobson

- The Postmaster-General says he does not want this buffer.

Senator Drake

- When did he say that 1

Senator Sir JOHN DOWNER

- The Postmaster-General does not want them called names.

Senator Charleston

- How long would the honorable and learned senator appoint them for?

Senator Sir JOHN DOWNER

- I should not appoint them for life. I do not care whether it is for six months or for seven years, but if honorable senators dream that they are going to get a board of this kind that will not be amenable to public opinion through Parliament and the Ministry they are mistaken.

Senator McGregor

- It is a very good way of spending money.

Senator Sir JOHN DOWNER

- It is a very good way of controlling public affairs, because these gentlemen will be much better able to judge what is proper to be done than a Minister, importuned by his political friends or fearful of his political enemies. When it comes to the last the Public Service Commissioner will have to be- subservient to the Government whether we say he is independent or not. That, however, will only happen occasionally, and in the meantime he will relieve the Ministry of much importunity, and he will relieve the public of very much expenditure that might otherwise be entailed.

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Senator CHARLESTON

- After a long and hard fight, those who contended against the appointment of a Public Service Commissioner and inspectors -were defeated. I have no desire now to return to that question. We have now to consider for how long the commissioner and inspectors are to be appointed, and those who have been against the appointment of a commissioner are justified in saying that his appointment should be from year to year, the same as that of the Deputy Postmaster-General's, and other public servants. After all, the purpose in appointing a Public Service Commissioner and inspectors, is to organize the public service of the Commonwealth, and we do not suppose for a moment that it will take seven years for the commissioner and his inspectors to properly organize the two departments we have taken over.

Senator Walker

- There will be others.

Senator CHARLESTON

- Then let us wait until we have taken over the others, and until we have taken over such great departments as the railway departments of the different States.

Senator Fraser. - That will not be in our day.

Senator CHARLESTON

- Just so ; and what I am contending is that the commissioner and inspectors are to be appointed practically to organize the two departments of the Custom's and Post-office, which we have taken over, and to see that there are no more officers employed in them than are required.

Senator Staniforth Smith

- We have seven departments now.

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Senator CHARLESTON

-We are dealing particularly with two departments only. Having decided that there shall be a commissioner and inspectors, we have to consider what services they will have to render to the Commonwealth. We see that their work will be to organize these two departments, to see that no more officers are employed than are necessary, and that appointments shall be made according to the principles of justice. Surely they will not take seven years to do that work? According to the estimates which have been sent to us we find that this department of the public service commissioner and inspectors will cost nearly £10,000 a year, and in the course of seven years the department will have cost us some £70,000. I say we shall not get an equivalent for that large amount of money. If, as honorable senators think, it is necessary for someone to be appointed to organize our service, let us appoint this commissioner and his inspectors yearly. Let us place their salaries upon the Estimates where they may come up for consideration year by year, when, if we find that the services rendered by these gentlemen are worth the money we are paying for them we can continue to vote their salaries. If, on the other hand, we find that they have done their work, and that having organized the departments the service will be able to go forward under certain regulations which will be made, we may see our way clear to dispense with these worthy officers. I see no reason why we should not be in a position to do that in any year when we think their services are no longer required. Let us take the case of the Deputy Postmaster-General we have had for years in South Australia. He has given every satisfaction to the State. He has thoroughly organized his department, and has been above all political influence. I question very much whether any legislator in South Australia has ever attempted to bring political influence to bear upon him, yet his service is the same, and his salary is voted year by year on the Estimates in the same way as those of other members of the civil service. We should adopt the same principle with regard to this commissioner. If we say that he is to be appointed during good behaviour, that will practically mean until we can prove that he is unworthy of the position he holds. If we struck out sub-clause (2) altogether the salary of the Public Service Commissioner would appear from year to year on the Estimates. The idea of putting the Public Service Commissioner on the same level as our Judges is monstrous. I quite agree that the Auditor-General should be placed in such a position that he could not be removed except by a resolution of both Houses of Parliament. We have to trust him to give us correct statements as to expenditure of money, and he may often have to check Ministers in extravagance, and bring such matters before us. He is not the servant of Ministers but of Parliament, and should be subject to removal by Parliament only. But this commissioner and his inspectors will be dependent upon the Ministry of the day for re-appointment, and they should be placed in such a position as I have suggested. They are officers who will be doing routine administrative work of Government, and their position should come before us from year to year on the Estimates, that we may discuss the value of their services, and say whether it is desirable to continue their employment or not. I shall oppose the amendment proposed by Senator Higgs, and if no other senator does so, I shall move the omission of sub-clause (2).

Progress reported.

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21:27:00

Senate adjourned at 9.27 p.m.