



COMMONWEALTH OF AUSTRALIA

PARLIAMENTARY DEBATES



House of Representatives Official Hansard

No. 26, 1903
Thursday, 25 June 1903

FIRST PARLIAMENT
SECOND SESSION

BY AUTHORITY OF THE HOUSE OF REPRESENTATIVES

PARLIAMENT OF THE COMMONWEALTH.

GOVERNOR-GENERAL.

His Excellency the Right Honorable **THE EARL OF HOPETOUN**, a Member of His Majesty's Most Honorable Privy Council, Knight of the Most Ancient and Most Noble Order of the Thistle, Knight Grand Cross of the Most Distinguished Order of Saint Michael and Saint George, Knight Grand Cross of the Royal Victorian Order, and Commander-in-Chief of the Commonwealth of Australia. (Sworn, 1st January, 1901; Recalled.)

Succeeded by

His Excellency The Right Honorable **HALLAM, BARON TENNYSON**, Knight Grand Cross of the Most Distinguished Order of Saint Michael and Saint George, and Commander-in-Chief of the Commonwealth of Australia. (Sworn as Acting Governor-General, 17th July, 1902. Sworn as Governor-General, 9th January, 1903.)

BARTON ADMINISTRATION.

(*1st January, 1901, to 24th September, 1903.*)

Minister of External Affairs	...	The Right Honorable Sir Edmund Barton P.C., G.C.M.G., K.C.
Attorney-General	The Honorable Alfred Deakin.
Minister of Home Affairs	The Honorable Sir William John Lyne, K.C.M.G. (to 11th August, 1903). The Right Honorable Sir John Forrest, P.C., G.C.M.G. (from 11th August, 1903).
Treasurer	The Right Honorable Sir George Turner, P.C., K.C.M.G.
Minister of Trade and Customs	...	The Right Honorable Charles Cameron Kingston, P.C., K.C., (resigned office, 24th July, 1903). The Honorable Sir William John Lyne, K.C.M.G. (from 11th August, 1903).
Minister of Defence	...	The Right Honorable Sir John Forrest, P.C., G.C.M.G. (to 10th August, 1903). The Honorable James George Drake (from 10th August, 1903).
Postmaster-General	...	The Honorable James George Drake (to 10th August, 1903). The Honorable Sir Philip Oakley Fysh, K.C.M.G. (from 10th August, 1903).
Vice-President of Executive Council		The Honorable Richard Edward O'Connor, K.C.

DEAKIN ADMINISTRATION.

(*From 24th September, 1903.*)

Minister of External Affairs	...	The Honorable Alfred Deakin.
Minister of Trade and Customs	...	The Honorable Sir William John Lyne, K.C.M.G.
Treasurer	The Right Honorable Sir George Turner, P.C., K.C.M.G.
Minister of Home Affairs	The Right Honorable Sir John Forrest, P.C., G.C.M.G.
Attorney-General	The Honorable James George Drake.
Postmaster-General	...	The Honorable Sir Philip Oakley Fysh, K.C.M.G.
Minister of Defence	...	The Honorable Austin Chapman.
Vice-President of Executive Council		The Honorable Thomas Playford.

MEMBERS OF THE SENATE.

FIRST PARLIAMENT.—SECOND SESSION.

President—The Hon. Sir Richard Chaffey Baker, K.C.M.G., K.C.

Baker, Hon. Sir Richard Chaffey, K.C.M.G., K.C.	...	South Australia.
**Barrett, John George	...	Victoria.
*Best, Hon. Robert Wallace	...	"
Cameron, Lt.-Col. Cyril St. Clair	...	Tasmania.
Charleston, David Morley	...	South Australia.
Clemens, John Singleton	...	Tasmania.
Dawson, Anderson	...	Queensland.
De Largie, Hugh	...	Western Australia.
**Dobson, Hon. Henry	...	Tasmania.
Downer, Hon. Sir John William, K.C.M.G., K.C.	...	South Australia.
Drake, Hon. James George	...	Queensland.
§Ewing, Norman Kirkwood	...	Western Australia.
††Ferguson, John	...	Queensland.
Fraser, Hon. Simon	...	Victoria.
Glassey, Thomas	...	Queensland.
Gould, Lt.-Col., Hon. Albert John	...	New South Wales.
Harney, Edward Augustine	...	Western Australia.
Higgs, William Guy	...	Queensland.
Keating, John Henry	...	Tasmania.
Macfarlane, James	...	"
§§Mackellar, Charles Kinnaird, M.B., C.M.	...	New South Wales.
Matheson, Alexander Perceval	...	Western Australia.
McGregor, Gregor	...	South Australia.
Millen, Edward Davis	...	New South Wales.
**Neild, Lt.-Col. John Cash	...	"
††O'Connor, Hon. Richard Edward, K.C.	...	"
O'Keefe, David John	...	Tasmania.
Pearce, George Foster	...	Western Australia.
Playford, Hon. Thomas	...	South Australia.
Pulsford, Edward	...	New South Wales.
†Reid, Hon. Robert	...	Victoria.
‡Sargood, Lt.-Col. Hon. Sir Frederick Thomas, K.C.M.G.	...	"
Saunders, Henry John	...	Western Australia.
Smith, Miles Staniforth Cater	...	"
Stewart, James Charles	...	Queensland.
Styles, James	...	Victoria.
Symon, Sir Josiah Henry, K.C.M.G., K.C.	...	South Australia.
Walker, James Thomas	...	New South Wales.
Zeal, Hon. Sir William Austin, K.C.M.G.	...	Victoria.

* Chairman of Committees.

† Deceased reported, 26th May, 1903.

** Temporary Chairman of Committees.

§ Resignation reported 26th May, 1903.

‡ Elected by the Parliament of Victoria to fill the vacancy caused by the death of Senator Sargood; sworn in 26th May, 1903.

|| Appointed by the Governor and afterwards elected by the Parliament of Western Australia to fill the vacancy caused by the resignation of Senator Ewing; sworn in 4th June, 1903.

†† Resignation reported 30th September, 1903.

‡‡ Seat declared vacant, 13th October, 1903.

§§ Elected by the Parliament of New South Wales to fill the vacancy caused by the resignation of Senator O'Connor; sworn in 14th October, 1903.

MEMBERS OF THE HOUSE OF REPRESENTATIVES.

FIRST PARLIAMENT.—SECOND SESSION.

Speaker.—The Hon. Sir Frederick William Holder, K.C.M.G.

Bamford, Frederick William...	Herbert. (Q.)
†Barton, Right Hon. Sir Edmund, P.C., G.C.M.G., K.C.	Hunter. (N.S.W.)
Batchelor, Egerton Lee	South Australia.
Bonython, Sir John Langdon	"
Braddon, Right Hon. Sir Edward Nicholas Coventry, P.C., K.C.M.G.	Tasmania.
Brown, Thomas	Canobolas. (N.S.W.)
Cameron, Donald Norman	Tasmania.
*Chanter, John Moore	Riverina. (N.S.W.)
Chapman, Hon. Austin	Eden-Monaro. (N.S.W.)
Clarke, Francis	Cowper. (N.S.W.)
Conroy, Alfred Hugh	Werriwa. (N.S.W.)
Cook, James Hume...	Bourke. (V.)
Cook, Joseph	Parramatta. (N.S.W.)
Cooke, Hon. Samuel Winter...	Wannon. (V.)
Crouch, Richard Armstrong	Corio. (V.)
Cruickshank, George Alexander	Gwydir. (N.S.W.)
Deakin, Hon. Alfred	Ballarat. (V.)
Edwards, George Bertrand	Sth. Sydney. (N.S.W.)
Edwards, Richard	Oxley. (Q.)
Ewing, Thomas Thomson	Richmond. (N.S.W.)
Fisher, Andrew	Wide Bay. (Q.)
Forrest, Right Hon. Sir John, P.C., G.C.M.G....	Swan. (W.A.)
Fowler, James Mackinnon	Perth. (W.A.)
Fuller, George Warburton	Illawarra. (N.S.W.)
Fysh, Hon. Sir Philip Oakley, K.C.M.G.	Tasmania.
Glynn, Patrick McMahon	South Australia.
Groom, Arthur Champion	Flinders. (V.)
†Groom, Littleton Ernest	Darling Downs. (Q.)
†Groom, William Henry	Darling Downs. (Q.)
Harper, Robert	Mernda. (V.)
\$Hartnoll, Hon. William	Tasmania.
Higgins, Henry Bourne, K.C.	Nthrn. Melbourne. (V.)
Holder, Hon. Sir Frederick William, K.C.M.G.	South Australia.
Hughes, William Morris	West Sydney. (N.S.W.)
Isaacs, Hon. Isaac Alfred, K.C.	Indi. (V.)
Kennedy, Thomas	Moira. (V.)
Kingston, Right Hon. Charles Cameron, P.C., K.C.	South Australia.
†Kirwan, John Waters	Kalgoorlie. (W.A.)
Knox, William	Kooyong. (V.)
Lyne, Hon. Sir William John, K.C.M.G.	Hume. (N.S.W.)
Macdonald-Paterson, Hon. Thomas	Brisbane. (Q.)
Mahon, Hugh	Coolgardie. (W.A.)
Manifold, James Chester	Corangamite. (V.)
Mauger, Samuel	Melbourne Ports. (V.)
McCay, Hon. James Whiteside	Corinella. (V.)
McColl, Hon. James Hiers	Echuca. (V.)
†McDonald, Charles	Kennedy. (Q.)
McEacharn, Sir Malcolm Donald	Melbourne. (V.)
McLean, Hon. Allan	Gippsland. (V.)
McLean, Francis Edward	Lang. (N.S.W.)
McMillan, Sir William, K.C.M.G.	Wentworth. (N.S.W.)
O'Malley, King	Tasmania.
Page, James	Maranoa. (Q.)
Paterson, Alexander	Capricornia. (Q.)
Phillips, Hon. Pharez	Wimmera. (V.)
†Piesse, Hon. Frederick William	Tasmania.

* Chairman of Committees.

† Temporary Chairman of Committees.

‡ Sworn in 25th September, 1901.

§ Sworn in 4th April, 1902.

|| Deceased reported 8th August, 1901.

¶ Deceased reported 6th March, 1902.

†† Resignation reported 20th September, 1908.

MEMBERS OF THE HOUSE OF REPRESENTATIVES.

FIRST PARLIAMENT.—SECOND SESSION—*continued.*

Poynton, Alexander	South Australia.
Quicke, Sir John	Bendigo. (V.)
**Reid, Right Hon. George Houstoun, P.C., K.C.	East Sydney. (N.S.W.)
Ronald, James Black	Sthrn. Melbourne. (V.)
+Salmon, Hon. Charles Carty	Lanecoorie. (V.)
Sawers, William Bowie Stewart Campbell	New England. (N.S.W.)
Skeene, Thomas	Grampians. (V.)
Smith, Bruce	Parkes. (N.S.W.)
Smith, Hon. Sydney	Macquarie. (N.S.W.)
Solomon, Elias	Fremantle. (W.A.)
+Solomon, Vaiben Louis	South Australia.
Spence, William Guthrie	Darling. (N.S.W.)
Thomas, Josiah	Barrier. (N.S.W.)
Thomson, Dugald	North Sydney. (N.S.W.)
Tudor, Frank Gwynne	Yarra. (V.)
Turner, Right Hon. Sir George, P.C., K.C.M.G.	Balaclava. (V.)
Watkins, David	Newcastle. (N.S.W.)
Watson, John Christian	Bland. (N.S.W.)
Wilkinson, James	Moreton. (Q.)
Wilks, William Henry	Dalley. (N.S.W.)
Willis, Henry	Robertson. (N.S.W.)

** Resignation reported 18th August, 1903; re-elected and sworn in 9th September, 1903.

† Temporary Chairman of Committees.

OFFICERS.

Senate.—E. G. Blackmore, C.M.G., Clerk of the Parliaments; C. B. Boydell, Clerk Assistant, G. E. Upward, Usher of the Black Rod.

House of Representatives.—C. G. Duffy, Clerk; W. A. Gale, Clerk Assistant; T. Woppard, Serjeant-at-Arms.

Reporting Staff.—B. H. Friend, Principal Parliamentary Reporter; D. F. Luimsden, Second Reporter.

COMMITTEES OF THE SESSION.

SENATE.

STANDING ORDERS COMMITTEE.—The President, the Chairman of Committees, Senators Lt.-Colonel Gould, Sir John Downer, Sir W. A. Zeal, Dobson, Higgs, Harney, †O'Connor, Playford. (Appointed 28th May, 1903.)

LIBRARY COMMITTEE.—The President, Senators Matheson, Sir J. H. Symon, Keating, Barrett, Millen, Stewart. (Appointed 28th May, 1903.)

PRINTING COMMITTEE.—Senators Pulsford, Clemons, Pearce, Charleston, Dawson, Styles, Staniforth Smith. (Appointed 28th May, 1903.)

HOUSE COMMITTEE.—The President, Senators Lt.-Colonel Neild, De Largie, Playford, Fraser, Cameron, Glassey. (Appointed 28th May, 1903.)

COMMITTEE OF DISPUTED RETURNS AND QUALIFICATIONS.—Senators De Largie, Sir John Downer, Glassey, Macfarlane, Sir Josiah Symon, Walker, and Lt.-Colonel Neild. (Appointed 3rd September, 1903.)

HOUSE OF REPRESENTATIVES.

STANDING ORDERS COMMITTEE.—Mr. Speaker, the Chairman of Committees, the Prime Minister, Mr. McCay, Mr. A. McLean, *Mr. Reid, Mr. V. L. Solomon, and Mr. McDonald. (Appointed 5th June, 1901.)

LIBRARY COMMITTEE.—Mr. Speaker, Sir Langdon Bonython, Sir Edward Braddon, Mr. Isaacs, Mr. Macdonald-Paterson, Mr. Bruce Smith, Mr. Spence. (Appointed 5th June, 1901.)

HOUSE COMMITTEE.—Mr. Speaker, Mr. Fisher, Mr. Glynn, Sir Malcolm McEacharn, Sir William McMillan, Mr. Salmon, Mr. Manifold. (Appointed 5th June, 1901.)

PRINTING COMMITTEE.—Mr. Ewing, Mr. Fowler, Mr. Harper, Mr. Poynton, Sir John Quick, Mr. E. Solomon, Mr. Watkins. (Appointed 5th June, 1901.)

ELECTIONS AND QUALIFICATIONS COMMITTEE.—Mr. Batchelor, Sir Edward Braddon, Mr. Clarke, Mr. Joseph Cook, Mr. Kirwan, Sir John Quick. (Appointed 5th June, 1901.)

*Resigned 18th August, 1903.

†Resigned 30th September, 1903.

ACTS OF THE SESSION.

APPROPRIATION ACT (No. 14 of 1903)—

An Act to grant and apply a sum out of the Consolidated Revenue Fund to the service of the year ending 30th June, 1904, and to appropriate the supplies granted for such year in this session of the Parliament. [Initiated in House of Representatives by Sir George Turner, 21st October, 1903. Assented to 22nd October, 1903.]

APPROPRIATION (WORKS AND BUILDINGS) ACT (No. 16 of 1903)—

An Act to grant and apply a sum out of the Consolidated Revenue Fund to the service of the year ending 30th June, 1904, for the purposes of Additions, New Works, and Buildings. [Initiated in House of Representatives by Sir George Turner, 29th September, 1903. Assented to 22nd October, 1903.]

COMMONWEALTH PUBLIC SERVICE AMENDMENT ACT (No. 19 of 1903)—

An Act to Amend the Commonwealth Public Service Act 1902. [Initiated in House of Representatives by Mr. Deakin, 15th October, 1903. Assented to 22nd October, 1903.]

DEFENCE ACT (No. 20 of 1903)—

An Act to provide for the Naval and Military Defence and Protection of the Commonwealth and of the several States. [Initiated in House of Representatives by Sir John Forrest, 30th June, 1903. Assented to 22nd October, 1903.]

ELECTORAL DIVISIONS ACT (No. 9 of 1903)—

An Act relating to Elections. [Initiated in House of Representatives by Sir William Lyne, 27th August, 1903. Assented to 11th September, 1903.]

EXTRADITION ACT (No. 12 of 1903)—

An Act relating to Extradition. [Initiated in Senate by Senator Drake, 1st October, 1903. Assented to 22nd October, 1903.]

HIGH COURT PROCEDURE ACT (No. 7 of 1903)—

An Act to regulate the Practice and Procedure of the High Court. [Initiated in House of Representatives by Mr. Deakin, 9th June, 1903. Assented to 28th August, 1903.]

HIGH COURT PROCEDURE AMENDMENT ACT (No. 13 of 1903)—

An Act to amend the High Court Procedure Act 1903. [Initiated in Senate by Senator Drake, 8th October, 1903. Assented to 22nd October, 1903.]

JUDICIAL ACT (No. 6 of 1903)—

An Act to make provision for the Exercise of the Judicial Power of the Commonwealth. [Initiated in House of Representatives by Mr. Deakin, 26th May, 1903. Assented to 25th August, 1903.]

NATURALIZATION ACT (No. 11 of 1903)—

An Act relating to Naturalization. Initiated in Senate by Senator Drake, 24th June, 1903. Assented to 13th October, 1903.]

NAVAL AGREEMENT ACT (No. 8 of 1903)—

An Act to approve of an Agreement relating to the Naval Force on the Australian Station entered into by the Commissioners for executing the office of Lord High Admiral of the United Kingdom and the Governments of the Commonwealth and of New Zealand and to appropriate moneys for the purposes of that Agreement. [Initiated in House of Representatives by Sir Edmund Barton, 2nd July, 1903. Assented to 28th August, 1903.]

PATENTS ACT (No. 21 of 1903)—

An Act relating to Patents and Inventions. [Initiated in Senate by Senator Drake, 26th June, 1903. Assented to 22nd October, 1903.]

RULES PUBLICATION ACT (No. 18 of 1903)—

An Act for the Publication of Statutory Rules. [Initiated in House of Representatives by Mr. Deakin, 20th October, 1903. Assented to 22nd October, 1903.]

SENATE ELECTIONS ACT (No. 2 of 1903)—

An Act to make further provision for the Election of Senators. [Initiated in Senate by Senator Drake. 26th May, 1903. Assented to 15th July, 1903.]

SUGAR BOUNTY ACT (No. 4 of 1903)—

An Act to provide for a Bounty to Growers of Sugar Cane and Beet. [Initiated in House of Representatives by Sir George Turner, 10th June, 1903. Assented to 30th July, 1903.]

SUGAR REBATE ABOLITION ACT (No. 3 of 1903)—

An Act to abolish the Rebate of Excise Duty on Sugar. [Initiated in House of Representatives by Sir George Turner, 10th June, 1903. Assented to 30th July, 1903.]

SUPPLEMENTARY APPROPRIATION ACT 1901-2 AND 1902-3 (No. 15 of 1903)—

An Act to grant and apply out of the Consolidated Revenue Fund a further sum for the service of the year ended 30th June, 1902, and a further sum for the service of the year ended 30th June, 1903.
[Initiated in House of Representatives by Sir George Turner, 1st October, 1903. Assented to 22nd October, 1903.]

SUPPLEMENTARY APPROPRIATION (WORKS AND BUILDINGS) ACT 1901-2 AND 1902-3 (No. 17 of 1903)—

An Act to grant and apply out of the Consolidated Revenue Fund for Additions, New Works, and Buildings, a further sum for the service of the year ended 30th June, 1902, and a further sum for the service of the year ended 30th June, 1903. [Initiated in House of Representatives by Sir George Turner, 1st October, 1903. Assented to 22nd October, 1903.]

SUPPLY ACT (No. 1) (No. 1 of 1903)—

An Act to grant and apply out of the Consolidated Revenue Fund a sum for the service of the year ending 30th June, 1904. [Initiated in House of Representatives by Sir George Turner, 1st July, 1903. Assented to 4th July, 1903.]

SUPPLY ACT (No. 2) (No. 5 of 1903)—

An Act to grant and apply out of the Consolidated Revenue Fund a sum for the service of the year ending 30th June, 1904. [Initiated in House of Representatives by Sir George Turner, 28th July 1903. Assented to 30th July, 1903.]

SUPPLY ACT (No. 3) (No. 10 of 1903)—

An Act to grant and apply out of the Consolidated Revenue Fund a sum for the service of the year ending 30th June, 1904. [Initiated in House of Representatives by Sir George Turner, 17th September, 1903. Assented to 29th September, 1903.]

BILLS OF THE SESSION.

APPROPRIATION BILL (No. 1)—

[Initiated in House of Representatives by Sir George Turner, 29th September, 1903; Order of the Day discharged, bill laid aside, 21st October, 1903.]

CLAIMS AGAINST THE COMMONWEALTH ACT AMENDMENT BILL—

[Initiated in Senate by Senator Neild, 28th May, 1903; Order of the Day discharged, 19th August, 1903.]

CONCILIATION AND ARBITRATION BILL—

[Initiated in House of Representatives by Mr. Deakin, 28th July, 1903; lapsed at prorogation.]

CONSTITUTION ACT AMENDMENT BILL—

[Initiated in House of Representatives by Mr. V. L. Solomon, 19th August, 1903; lapsed at prorogation.]

FEDERAL TERRITORY BILL—

[Initiated in Senate by Senator Higgs, 8th October, 1903; lapsed at prorogation.]

PAPUA (BRITISH NEW GUINEA) BILL—

[Initiated in House of Representatives by Sir Edmund Barton, 16th July, 1903; lapsed at prorogation.]

PAPUA CUSTOMS TARIFF BILL—

[Initiated in House of Representatives by Sir Edmund Barton, 24th July, 1903; lapsed at prorogation.]

PARLIAMENTARY EVIDENCE BILL—

[Initiated in Senate by Senator Neild, 28th May, 1903; Order of the Day discharged, 19th August, 1903.]

POST AND TELEGRAPH ACT AMENDMENT BILL—

[Initiated in Senate by Senator Dobson, 25th June, 1903; lapsed at prorogation.]

SEAT OF GOVERNMENT BILL—

[Initiated in House of Representatives by Sir William Lyne, 1st October, 1903; lapsed at prorogation.]

P A R L I A M E N T C O N V E N E D.

F I R S T P A R L I A M E N T — S E C O N D S E S S I O N .

(*Gazette No. 14, 1903.*)

Parliament was convened by the following Proclamation :—

P R O C L A M A T I O N .

A U S T R A L I A T O W I T . By His Excellency the Right Honorable HALLAM, BARON TENNYSON,
(Sgd.) TENNYSON, Knight Commander of the Most Distinguished Order of Saint
Governor-General. Michael and Saint George, Governor-General and Commander-
in-Chief of the Commonwealth of Australia.

W H E R E A S by the Commonwealth of Australia Constitution Act it was amongst other things enacted that the Governor-General might appoint such times for holding the Sessions of the Parliament as he thinks fit, and also from time to time by Proclamation or otherwise prorogue the Parliament: And whereas on the thirty-first day of March, One thousand nine hundred and three, the Parliament was further prorogued until Twelve o'clock noon on Tuesday, the twenty-sixth day of May, One thousand nine hundred and three, then to meet for the despatch of business: Now therefore I, the said HALLAM, BARON TENNYSON, do hereby further announce and proclaim that the place for the meeting of the said Parliament for the despatch of business as aforesaid shall be the buildings known as the Houses of Parliament, situated in Spring-street, in the City of Melbourne, and the Members of the Senate and the House of Representatives respectively are hereby required to give their attendance at the said time and place accordingly.

Given under my Hand and the Seal of the Commonwealth of Australia aforesaid, this seventeenth day of April, in the year of our Lord One thousand nine hundred and three, and in the third year of His Majesty's reign.

By His Excellency's Command,

EDMUND BARTON,
Prime Minister.

G O D S A V E T H E K I N G !

CONTENTS

THURSDAY, 25 JUNE 1903

CHAMBER

Petitions	1402
Question	
PACIFIC ISLAND LABOURERS ACT	1402
Press Accommodation.....	1402
Question	
ELECTORAL ROLLS	1403
Question	
FEMALE TELEPHONE OPERATORS	1403
Judiciary Bill.....	1440
Adjournment	
Electoral Rolls.....	1455

appointment of a nominal defendant to enable him to pursue an action against the Commonwealth Government.

Mr. MCCOLL presented a petition from certain residents on the northern and southern banks of the Murray, between Albury and Wentworth, praying the House to cause steps to be taken for the locking and utilization of the waters of that river.

Petitions received and read.

PACIFIC ISLAND LABOURERS ACT.

Mr. FISHER.—In paragraph 6 of a communication made by Lord Tennyson, when acting Governor-General, to the Secretary of State for the Colonies, dated Melbourne, 30th September, 1902, the following sentence occurs :—

It seems to me important that these regulations should be drawn up and approved of by Parliament as explanatory of the Kanaka Bill before the Royal assent is given.

I wish to know from the Prime Minister whether that suggestion; and the communication, generally, was despatched by the Governor-General on the advice of his responsible Ministers? If the Governor-General was not acting on such advice, has the Prime Minister communicated with him in such a way as will protect the rights of responsible government within the Commonwealth?

Sir EDMUND BARTON.—The despatch in question has not been considered by the Cabinet; but I have ascertained from the Governor-General that, although it has been included among the papers laid before Parliament in England, it was confidential.

Mr. FISHER.—It is not so marked.

Sir EDMUND BARTON.—It does not appear to be so marked, but His Excellency assures me that that is the fact. The honorable member asked me whether the Ministry had advised His Excellency the Governor-General in this matter. Upon that point I may say that the despatch was evidently written by His Excellency confidentially, in the course of his own relations with the Secretary of State for the Colonies. With respect to communications of that kind it is not the practice to consult Ministers.

PRESS ACCOMMODATION.

Mr. SYDNEY SMITH.—Some days ago I brought under your notice, Mr. Speaker, the fact that the press representatives from the other States were being put to considerable

House of Representatives.

Thursday, 25 June, 1903.

Mr. SPEAKER took the chair at 2.30 p.m., and read prayers.

PETITIONS.

Mr. SYDNEY SMITH presented a petition from Magnus Goldring, agent, of Sydney, praying the House to inquire into certain alleged grievances in regard to the administration of the Customs Department, and to grant him redress by procuring the

inconvenience owing to their having no room set apart for their use. I know that you are anxious to do everything you can to provide facilities for those who have duties to perform in connexion with our proceedings; but as three or four weeks have elapsed, and no room has been allotted to these press representatives, I should be very glad if you could see your way to meet their wishes as speedily as possible.

Mr. SPEAKER.—I fully recognise the importance of providing for the press representatives a room, if possible on the same floor as this chamber, in which they can transcribe their notes. Several of the press representatives waited upon me at the beginning of the session with regard to this matter, and I told them that if there was any room on this side of the building that would be suitable for their purposes, they need only direct my attention to it, and I would place it at their disposal. I understand that there is no such room available, and I can, therefore, do nothing. I believe, however, that there is a probability of another room on the other side of the building, which is not under my control, being placed at their disposal shortly.

ELECTORAL ROLLS.

Mr. SKENE asked the Minister for Home Affairs, *upon notice*—

Whether he has any intention of affording the Federal electors of Victoria a similar opportunity to that which he is giving the electors of New South Wales to inspect the rolls at the various post-offices throughout the State; and, if not, does he intend by any other means whatever to attempt to correct the apparently inaccurate rolls upon which the maps for the redistribution of electorates in the State of Victoria are based?

Sir EDMUND BARTON.—The answer to the honorable member's question, supplied to me by the Minister for Home Affairs, is as follows:—

The franchise of New South Wales closely approximates to that of the Commonwealth, and the rolls of that State are being utilized very largely by me at a trifling expense, but the Victorian franchise diverges to such an extent from that of the Commonwealth that the rolls are of little or no service for the purposes of comparison, and ascertaining what male or female electors have been omitted by the police in their canvass. The printing of the rolls collected by the police would involve an expenditure of £3,500, and would be in such a form (the State districts) that they could not be utilized for any other purpose in the Electoral Act subsequently. I am, however, preparing lists showing the names of electors grouped round polling places, which will be placed in the hands of the printer within a

few days, and as soon as printed will be exhibited at post-offices, State schools, and police offices, for the information of electors, who will thus be in a position to ascertain whether their names have been included or not. This is being done in anticipation of the Revision Court, which cannot be held until after the divisions of the State have been approved by both Houses of Parliament.

FEMALE TELEPHONE OPERATORS.

Mr. McDONALD, for Mr. HUGHES, asked the Minister for Home Affairs, *upon notice*—

1. Whether the female telephone operators in the New South Wales General Post-office have to pass any examination before being eligible to receive the minimum wage of £110 per annum?

2. If not, whether there are any qualifications other than age and length of service as prescribed by the Commonwealth Public Service Act?

Sir EDMUND BARTON.—The answers to the honorable and learned member's questions, supplied to me by the Minister for Home Affairs, are as follow:—

1. No.

2. No other qualifications are required than length of service and age.

SUPPLY (*Formal*).

GOLDRING CASE : INCREMENTS TO VICTORIAN PUBLIC SERVANTS : GOVERNOR-GENERAL'S DESPATCH : TELEPHONE AND TELEGRAPH SERVICES : SUBLETTING MAIL CONTRACTS : DEFENCE REGULATIONS : TRANSCONTINENTAL RAILWAY : MILITARY EQUIPMENT : MINIMUM WAGE : CUSTOMS ADMINISTRATION : FREMANTLE POST OFFICE AND CUSTOMS HOUSE.

Question.—That Mr. Speaker do now leave the chair, and that the House resolve itself into Committee of Supply—proposed.

Mr. SYDNEY SMITH (Macquarie).—I desire to bring under the notice of honorable members a matter of very great importance. I asked the Attorney-General a question some days ago with reference to the case of Mr. Goldring, and the Minister in his reply mentioned that the case was then *sub judice*, because certain proceedings had been instituted against the Government. I have since consulted the honorable and learned member for Illawarra, the honorable and learned member for Parkes, and the honorable and learned member for South Australia, Mr. Glynn, and others, who assure me that until a writ is issued a case cannot be said to be *sub judice*. In order to make sure that no writ had been issued, I telegraphed to Sydney yesterday, and received a reply that matters

had not yet reached that stage. I understand an application has been made in respect to an overpayment of duty, and it has been necessary to adopt this course, because if the overpayment is not claimed within six months it will be forfeited. I mention these facts in justification of my present action in bringing this matter before honorable members. So far as the merits of the case are concerned, I can only give the facts as they are submitted to me. Honorable members must see from the petition presented to-day that a very strong case has been made out against the Government. Mr. Goldring does not fear to have his case debated in the full light of day. He has repeatedly appealed to the Customs authorities, and has also asked the law courts to insist that the Government should return his books and papers, or give some reason for retaining them. The Government instructed Sir Julian Salomons to undertake their defence, and to raise the point that the courts had no jurisdiction, and as the court supported that view Mr. Goldring was unable to obtain any redress. I have a summary of the whole of the facts of the case which I shall proceed to lay before honorable members. It is as follows:—

17th November, 1902.—Entry tendered for goods ex *Australia* on the Melbourne Customs, and duty paid, £26 10s. 3d.

21st November.—Invoices and books demanded by Customs officers in Sydney, and same handed to them.

22nd November.—Attended acting-collector with batch of invoices to arrive; requested to know what was the trouble. Unable to get reply. Made appointment for 24th.

24th November.—Called on acting-collector, when he stated he could give me no relief, and informed me that I could not get any goods. Pointed out the hardship. Made many suggestions to get the goods, as Christmas was at hand. Offered guarantee or deposit to any amount required. Was promised that offer would be forwarded on to Melbourne, and would ask for reply by wire, as they could not entertain any offer in Sydney.

24th November to 1st December.—Called almost daily, but with no result.

1st December.—Extract from agent's letter respecting goods of 17th November:—"Did not know reason why goods stopped. Commissioners will not receive personal interviews, and to write to Department."

5th December.—Letter to Commissioner for Customs, Melbourne, asking to be allowed to clear goods to prevent business from being brought to a standstill, on such conditions as they may be disposed to allow, and asking for information how to get the goods.

(Never replied to.)

Mr. Sydney Smith.

9th December.—Wire to Minister for Customs, Melbourne: "Waiting reply; business brought to standstill."

(No reply.)

11th December.—Wire, Minister for Customs, Melbourne—"When may I expect reply to letter?"

(No reply.)

17th December.—Letter to Commissioner for Customs, that letters unanswered; pointing out hardship and offer to Collector of Customs, Sydney. (See November 24th.)

(No reply.)

19th December.—Sight entries passed on certain goods in Sydney which were obtained and brought into warehouse. Values fixed the same as in our invoices.

20th December.—Waited on by two officers and threatened unless I handed them over goods, a search warrant would be issued and the goods seized. Pointed out that I had made various offers to give bond or guarantee. Was then threatened with immediate seizure unless bond signed.

Sir William McMillan.—Was that after the sight entry had been passed?

Mr. SYDNEY SMITH.—Yes.

Sir William McMillan.—This is surely not a civilized country?

Mr. SYDNEY SMITH.—It looks as if we were under the law of Russia and not of a free country. I now ask honorable members to listen to the next statement—

Executed bond.—The form of bond demanded was:—"I hereby deposit—, being amount of duty short paid." The endeavour was to make me incriminate myself. I refused to sign in that form, and it was then altered by inserting word "claimed."

Will honorable members notice that the Customs authorities endeavoured to make Mr. Goldring incriminate himself, but he refused to sign the bond, and its form was altered by the omission of the word "paid," and the substitution of the word "claimed." They endeavoured to induce Mr. Goldring to incriminate himself—

Mr. KINGSTON.—Nonsense.

Mr. SYDNEY SMITH.—The Minister will have an opportunity of contradicting me if he can.

Mr. L. E. GROOM.—Who was the officer concerned?

Mr. SYDNEY SMITH.—I have not the name of the officer, but that is a matter of no importance, because the Minister is responsible. Mr. Goldring has not been able to obtain any satisfaction from the Customs authorities, and he is now appealing to the House to grant him redress, and has the same right in that respect as any other citizen who may consider himself aggrieved. I did not meet Mr. Goldring until after the

facts of his case had been reported in the newspapers. When I referred to this matter some weeks ago, I did not even know who Mr. Goldring was. From the facts published in the press, however, I gathered that he had been very harshly treated, and subsequently I obtained the information which I am now giving to honorable members—

20th December.—Waited on by two officers and threatened unless I handed them over goods a search warrant would be issued and the goods seized. Pointed out that I had made various offers to give bond or guarantee. Was then threatened with immediate seizure unless bond signed. Executed bond. The form of bond demanded was:—I hereby deposit being amount of duty short paid. This endeavour to make me incriminate myself. I refused to sign in that form, and it was then altered by insertion word "claimed."

20th December.—Letter to Melbourne agent to clear goods and offer bond.

24th December.—Reply from Melbourne agent, "Authorities could not accept, as matter not finally settled."

That was on the 24th December.

Mr. CONROY.—Of last year?

Mr. SYDNEY SMITH.—Yes.

24th December, 1902, to 27th January, 1903.—Business brought to a stand-still. Numerous representations to Customs in Sydney, but they either would not or could not afford any information.

27th January.—Sent certain invoices to Customs with the request to be supplied with bond to enable goods to be cleared. Offer refused.

29th January.—Sent invoices to Customs, Sydney, and asked if duty paid on same could I obtain delivery. Was told "No." Asked for reasons. Was told that under instructions from Melbourne I was not to be allowed to clear any goods.

2nd February.—Presented entry and duty for goods mentioned above. Duty was retained but entries returned. Letter from my solicitor to Collector of Customs pointing out extreme hardship, asking for reasons for action, and that goods may be cleared on any reasonable agreement. Letter not replied to.

11th February.—Letter from solicitor to Collector of Customs complaining that letters not replied to, and threatening proceedings by mandamus or detention.

12th February.—Letter from collector to solicitor asking me to attend to answer questions.

16th February.—Attended collector and answered questions, and requested that some assistance should be given me to enable me to carry. Was given to understand there was no reason why I should not get my goods.

I ask honorable members to take special notice of that.

Mr. CONROY.—What was the personal enmity between him and the Minister for Trade and Customs?

17th February.—Presented entries for further goods and paid duty. Certain goods were free. Samples were taken out and shown to customers with particulars of invoiced prices.

19th February.—Delivery refused of free goods unless bond entered into. Letter to collector, Sydney, asking if bond required for free goods, and protesting against detention of same, also protesting against goods being shown to competitors. No reply to letter.

That is to say, he complains that the invoices of his goods were shown to his customers.

Sir WILLIAM McMILLAN.—Did the Customs authorities show the cost price of the goods to his customers?

Mr. SYDNEY SMITH.—I am informed that they did. I am simply stating the facts as they have been presented to me. Honorable members will then be able to arrive at their own conclusions after hearing the reply of the Minister for Trade and Customs.

23rd February.—Letter to collector, Sydney, asking for reply.

25th February.—Letter from collector that goods would be delivered on security.

I pause here, because it may be said that the Department agreed to accept a bond in connexion with the goods; but I would point out that the letter of the 25th February relates only to certain jewellery and some free goods, and has no reference whatever to the watches. It has no reference to the original seizure, but was written in reply to a communication with regard to free goods and certain jewellery—25th February cable from principals—"Foreign Office will intervene at the request of Swiss Ministers."

That is to say, this firm actually had to appeal to the Swiss Minister—a large quantity of the goods came from Switzerland—to request Lord Lansdowne to intervene and see that justice was done. The Swiss Minister communicated with Lord Lansdowne, asking him to see that the business carried on by the firm in Australia was not interfered with and practically closed for seven or eight months.

Mr. THOMSON.—Goldring could not get his goods, nor any reason for the withholding of them, notwithstanding that the Department would not take action against him.

Mr. DEAKIN.—These are all *ex parte* statements.

Mr. SYDNEY SMITH.—I repeat that I am detailing the facts as they have been presented to me. The action of the Customs authorities during the last few days goes to

show that it does not think that Goldring should be proceeded against criminally. As I stated in the discussion which took place upon the Address in Reply, if he has been guilty of any fraud I would not attempt to justify him, and proceedings should be instituted against him. But certainly his goods should not be seized and his books detained for eight months without any reasonable cause.

Mr. CONROY.—No doubt the Minister for Trade and Customs has had a quarrel with him.

Mr. SYDNEY SMITH.—I have no desire to introduce the personal element into this debate. Mr. Goldring has appealed to the Law Courts in vain, and now he appeals to this House. I repeat that the bond which was asked for by the Department could not possibly have any reference to the consignment of watches, because upon the 25th March—

Mr. THOMSON.—He had offered to enter into any bond that the Department might require.

Sir WILLIAM McMILLAN.—Up to this period, was an embargo placed upon the whole of his watches?

Mr. SYDNEY SMITH.—Yes! So seriously did the action of the Customs Department interfere with his business, that I understand he communicated with the London firm advising them not to send any more goods to Australia until this matter had been settled. Still quoting from the document, which I hold in my hand, I find that—

On 25th March, duty paid on further parcel of watches, but entry refused.

Mr. THOMSON.—The duty was tendered.

Sir WILLIAM McMILLAN.—Where were the goods?

Mr. SYDNEY SMITH.—They were held by the Customs.

Sir WILLIAM McMILLAN.—What reason was assigned for their action?

Mr. SYDNEY SMITH.—No reason whatever was assigned.

26th March, duty paid on further parcel of watches, but entry refused.

31st March, attended to obtain watches, and informed that matter referred to the Comptroller-General.

8th April.—Attendance to demand passage of entries as above, and I was informed matter would be referred to Melbourne. I insisted he should refuse or pass them, and finally the acting collector said he would not pass; and further said he could give no answer or reason why the goods were detained.

Sir WILLIAM McMILLAN.—That means the Collector of Customs in Sydney?

Mr. SYDNEY SMITH.—Yes.

1st May.—Watches, consignment, duty paid.
19th May.—Wrote to ask if I could get certain goods or bond.

21st May.—Reply—“We refer you to Crown Solicitor.”

Then Mr. Cargill, the Crown Solicitor, informed Mr. Mitchell, who was Goldring's solicitor, that he knew very little about the matter.

Sir WILLIAM McMILLAN.—Upon what date?

Mr. SYDNEY SMITH.—I cannot give the exact date, but it was after Goldring had been referred to the Crown Solicitor. On

6th June.—Arrangements made in Melbourne with Mr. Smart, who was instructed by Comptroller to inquire into matter, and goods held since 17th November, 1902, were allowed to go through on simple security bond being given for the invoice value without any deposit.

Mr. THOMSON.—That was offered at first.

Mr. SYDNEY SMITH.—It was offered and I think paid in November, 1902, notwithstanding which the Department held the goods till the 6th June of the present year, and then informed Goldring that they would accept the duty without any further payment. After holding and preventing the delivery of the goods for eight months, they delivered the goods.

Sir WILLIAM McMILLAN.—Thereby they abandoned even the suspicion of fraud.

Mr. SYDNEY SMITH.—Exactly. There could have been no suspicion of fraud, otherwise the Minister for Trade and Customs would have seized the goods. But instead, the Department, after holding Goldring's goods, books, and invoices for eight months, intimated that it was quite willing to allow delivery of the goods practically under Goldring's own terms. Mr. Goldring went to Sydney, and, in pursuance of the agreement entered into in Melbourne with Mr. Smart, made application for the goods in possession of the Sydney Customs authorities to be handed over to him. The goods in Sydney were of the same value as those which in Melbourne had been delivered; but Mr. Lockyer in Sydney demanded security equal to 25 per cent. on the invoice value, and a cash deposit of 25 per cent. extra, refusing to adopt the course which had been followed in Melbourne. On the 12th of June a letter was

received by Mr. Goldring in reply to the letter of the 9th of that month, stating that the matter had been referred to the Attorney-General in Melbourne; and, I believe, that last Friday, the 19th inst., the Melbourne Collector of Customs advised the Sydney Customs officers that they should accept the value placed on the goods by Mr. Goldring, plus 10 per cent. Mr. Goldring, as I have said, was referred to the Crown Solicitor on several occasions, and on 9th May of this year Mr. Goldring wrote the following letter to the Collector of Customs:—

Re entry for one box watches. Duty paid 1.5.03—W. 171. Having called repeatedly since 4.5.03 respecting these goods, must now ask you to kindly favour us with reply as to whether we can obtain delivery of them or not.

On 11th May, Mr. Lockyer, the Collector of Customs, replied as follows:—

I beg to acknowledge receipt of your letter of the 9th instant relative to a box of watches which formed the subject of previous correspondence, and would suggest that you communicate with the State Crown Solicitor.

Mr. Mitchell, acting for Mr. Goldring, then communicated with the Crown Solicitor in the following terms:—

My client, Mr. Goldring, has been writing to the Collector of Customs with respect to the further stoppage of his goods, and in a letter to him by the Collector of Customs of the 21st instant he has been referred to you. I understand that the Collector made some remark to his clerk about the inability to get the goods on getting some bond; but my client, writing for particulars, was only referred to you. May I ask you to furnish a reply to my client's letter?

Mr. Mitchell had been referred to the Crown Solicitor some days previously, and, on the 4th of the month, he wrote this second letter to that official.—

On the 27th ulto., I wrote you for information respecting Mr. Goldring's goods which were being detained at the Customs. I sent this letter on to you, as my client was referred to you by the Collector of Customs. May I ask for the favour of an immediate reply. I am writing to the Collector of Customs also on the matter.

On 4th June Mr. Mitchell addressed the following letter to the Collector of Customs:—

Mr. Goldring handed me your letter of the 21st ulto., wherein you referred him to the Crown Solicitor. I have written to the Crown Solicitor, and am writing him again to-day. May I ask the favour of a reply to my client's letter, either by yourself or by the Crown Solicitor without further delay. I may mention that my client endeavoured to get his goods in Melbourne and offered a bond, but his agents, after repeated

inquiries, were informed that although the goods could be got upon giving a bond, they could not furnish a bond or particulars, as the papers were with the Crown Solicitor, and they could not see their way clear to get them.

On 6th June Mr. Lockyer replied as follows:—

I beg to acknowledge receipt of your letter of the 4th inst., relative to a letter addressed from this office to Mr. Magnus Goldring in which he was referred to the Crown Solicitor to whom I have forwarded your letter.

That is all the information which could be obtained from the Crown Solicitor. It will be observed that in the first instance Mr. Goldring was referred to Melbourne for information, and when he there applied to the Minister, he was told that the matter was in the hands of the Crown Solicitor, who, in turn, admitted that he knew very little of the circumstances. It will be further observed that Mr. Goldring could not obtain replies to his letters. Mr. Goldring sums up his complaints against the Minister for Trade and Customs, or the Customs authorities, as follows:—

1. That letters and telegrams of the utmost importance have never been answered or even acknowledged.

2. That they seized my books and invoices seven months ago, and are still detaining them, without giving any reason for so doing.

3. That they stopped my imports throughout the Commonwealth, refusing or ignoring my offers of cash deposit, bank guarantee, or to suggest any terms on which I could obtain delivery to enable me to carry on my business.

4. That they, without my knowledge or consent, opened my goods in bond and extracted samples therefrom. Goods referred to—X over 1272, case jewellery, ex *Omrah*.

5. That in order to obtain valuations they have exposed my imports, prices, and trade secrets to my competitors and clients, and in one case at least have resorted to absolute falsehood to obtain their ends.

Sir WILLIAM McMILLAN.—There is an indictment!

Mr. SYDNEY SMITH.—It is an indictment which the Minister will have to answer. Mr. Goldring's summary of his complaints proceeds—

6. Under clause 38, I have had to attend the Collector of Customs, at the Sydney Customs House (16th February), and though no reason was given, was put through severe cross-examination—Reporter being present behind screen.

7. That an endeavour was made to force me into signing, under threats of seizure, a guarantee form as follows:—

"I hereby deposit £_____, being amount of duty short paid," by which the depositor incriminates himself. This I refused to do, and I finally secured the addition only of the word "claimed" before signing.

It will be seen that in the first place an attempt was made to get Mr. Goldring to incriminate himself, and, that attempt failing, the Customs authorities altered the guarantee form in the manner indicated.

8. That the actions of the Department were such that they must have been aware that it would be ruin to the commercial interests and reputation of the firms I represent and myself.

If Mr. Goldring had signed this guarantee form the Minister would be in a position to say that he had admitted short payment in the duty, and had thus incriminated himself as a person who had attempted to commit a fraud on the Customs Department. But Mr. Goldring refused to do anything of the kind; and eventually the Customs authorities altered the words of the guarantee form.

Sir WILLIAM McMILLAN.—They accepted Mr. Goldring's word.

Mr. SYDNEY SMITH.—That is so.

Sir WILLIAM McMILLAN.—Then why did Mr. Goldring not get the goods?

Mr. SYDNEY SMITH.—I understand that this is one of the cases in which Mr. Goldring did get the goods; but the Customs authorities subsequently made a demand for the goods to be returned.

Sir WILLIAM McMILLAN.—But Mr. Goldring was willing to give a bond in every case.

Mr. SYDNEY SMITH.—Mr. Goldring was willing to give any bond, but he could not get the goods. Mr. Goldring's summary proceeds—

9. That for a period extending over nearly twelve months, they have collected invoices, &c., from my customers, without giving any reason. Having started in Tasmania in July last, they have pursued this course through South Australia, Victoria, New South Wales, and Queensland.

Sir WILLIAM McMILLAN.—The Customs authorities seem to have a regular criminal jurisdiction.

Mr. SYDNEY SMITH.—Mr. Goldring further states—

As recently as March last, they were heard of in Mackay and Bundaberg, although since 17th November last they have held my private stock book, which gives them every detail, viz., cost and selling prices, when and to whom sold, and although both the firms whom I represent and I have offered the fullest information and courted every inquiry both here and in London.

10. That they have unlawfully detained free goods for days, and have endeavoured to force me to give a security bond for them.

Of course it is difficult, if not impossible, for a private member to make as full an inquiry as can be made by the Customs authorities into matters of this kind. What I complain of is, that the Customs authorities, as far back as 17th November of last year, seized Mr. Goldring's goods, and have since refused either to give them up or state any reason why they are detained, although Mr. Goldring has throughout been willing to deposit any reasonable amount, or to enter into any reasonable bond.

Sir WILLIAM McMILLAN.—If Mr. Goldring had committed an offence the Customs authorities ought to have prosecuted.

Mr. SYDNEY SMITH.—I am now speaking on the authority of the information at my disposal; and honorable members know well that had Mr. Goldring been guilty of any fraud, it is not likely that the invoices submitted in November last year would have been accepted on 6th June this year, unless the authorities were satisfied that his conduct was honorable and straightforward. If Mr. Goldring had undervalued the goods, or had attempted any kind of fraud, it was the clear duty of the Customs authorities to immediately inquire into the case, and to institute a prosecution. But the Customs authorities never attempted to do anything of the kind, and have afforded no reasons whatever for the course they adopted. The papers to which I have referred show that Mr. Goldring applied, not once or twice, but dozens of times to the Customs authorities, and, in asking for delivery, offered, as I have said, to make any reasonable cash deposit or enter into any bond which might be desired. From the Customs authorities Mr. Goldring applied to the Supreme Court, which was the only tribunal available, as Parliament was not in session; and the Attorney-General instructed Sir Julian Salomons, the leading counsel in New South Wales, to raise the question of no jurisdiction, and by this means prevented Mr. Goldring from obtaining redress. The position taken up by Mr. Goldring was that the Customs authorities must either return the goods or give reasons for detaining them. All he asked the Government to do was to allow an impartial tribunal to go into the whole facts, and, if satisfied that there had been no fraud, but that his conduct had been perfectly straightforward, to order the return of the goods. If the Court was not satisfied

that Mr. Goldring's conduct had been honest and straightforward, he asked that reasons should be given for any dissatisfaction.

Sir WILLIAM MCMILLAN.—It is common robbery.

Mr. SYDNEY SMITH.—Mr. Goldring took up what was a fair position for a business man to assume, but the Customs authorities said—"We will not allow the courts to deal with this matter. We take the objection that they have no jurisdiction." The result was that he could not proceed with his case. That happened about the date of the meeting of Parliament. I saw in the newspapers an account of the proceedings, and a report of the decision of the Judge, and on the face of it the case seemed such a hard one that, although I did not at the time know Mr. Goldring, I felt it my duty, when speaking on the motion for the adoption of the address in reply, to bring forward the whole matter for the consideration of the Government, and to ask that it might be inquired into, so that any wrong which might have been done might be redressed as early as possible. Mr. Goldring, seeing that I had brought the matter before the House, wired to me to ask if I would grant him an interview, and I felt it my duty to accede to his request. I think it is our duty as Members of Parliament to listen to the grievances of those, no matter what their position in life, who assert that injustice has been done to them for which they cannot obtain redress from the Government or from the Law Courts, and, if we think necessary, to bring their cases before Parliament. I thereupon looked through all the papers in the case, and it appeared to be a very hard one. Mr. Goldring's action throughout shows that he was not afraid to submit his case to the light of day. Had he been afraid to do so, he would not have appealed to the Law Courts and to Parliament for redress. He came to Melbourne at considerable expense, and while here interviewed the Customs authorities, who, after a detention of his goods for seven months, and having made inquiries of his customers and competitors as to the correctness of his invoices—thus practically branding him as a criminal throughout Australia—were forced, on the 6th June, to admit that the valuation which he made on the 17th November was correct, and gave him delivery of his goods without any extra bond or duty.

Sir WILLIAM MCMILLAN.—Have all his goods now been delivered to him?

Mr. SYDNEY SMITH.—No. He then went to Sydney, and endeavoured to obtain the same terms there. He told the Customs officials in Sydney what had been done in Melbourne, but they refused point-blank to be guided by that, and demanded an extra bond of 25 per cent., and an extra cash payment of 25 per cent., before the delivery of the goods.

Mr. THOMSON.—A different treatment in each port.

Mr. BAMFORD.—Did not the Customs authorities in Melbourne acquaint the Sydney officials with what had been done?

Mr. SYDNEY SMITH.—If I were Minister for Trade and Customs I should be able to tell the honorable member all the facts; but, as it is, I cannot answer that question. I brought the matter up in the House some weeks back, and I think that an inquiry should have been made by this time. Mr. Goldring's business has been practically ruined. I happened to meet a jeweller in the town of Penrith, in which I reside—a Mr. Tennant—who waited upon me, and said—"I notice that you brought Goldring's case before the House the other day." I said—"Yes; what do you know about it?" He said—"I have been dealing with Goldring for a number of years, and have always found him an honorable and straightforward man. I gave him an order as far back as July last for a number of Boehm and Co.'s watches. These watches are in port now, and have my name printed on their dials, but I cannot get delivery of them; though my customers are waiting. I have appealed to Mr. Goldring, but he tells me that it is impossible for him to take any action in the matter, because the Customs authorities have seized all his goods, including those indented to my order." Mr. Tennant added that, although he had been buying Boehm and Co.'s watches for a number of years, he could not neglect the interests of his customers, and that therefore he would be forced, if some action were not taken immediately, to go elsewhere in future. Honorable members can see from that statement how seriously these proceedings have interfered with Mr. Goldring's business. I ask honorable members to place themselves in his position. He is an importer of watches, with customers all over Australia. But if in these days of keen competition he

cannot supply his customers with what they want, they will go elsewhere, and he will then lose their business. So serious has the matter become, that I have been told that Mr. Goldring, finding that he could not get redress, either at the hands of the Minister or from the Law Courts, has asked Messrs. Boehm and Co. not to send out any more watches until the matter has been settled.

Sir WILLIAM McMILLAN.—How is he protected by insurance in regard to the goods while they are in the possession of the Customs? Has he to take all risk of fire and damage?

Mr. SYDNEY SMITH.—I do not know what his position is in that respect. From whatever aspect the case is viewed, it is a most serious one, and demands the most prompt and searching inquiry. I have been told that the firm of Boehm and Co. is one of the largest in London, and I do not think it would be a breach of confidence if I were to refer to a letter in my possession, to show its reputation in the country whence most of these goods come. The letter to which I refer was sent by a member of the Swiss Government to Lord Lansdowne, and it shows that the firm is of very high standing. I am told further that this Government have received a communication from the Imperial Government, asking that the whole matter may be inquired into, so that justice may be done. If Goldring has been guilty of fraud I, and every member of the House, will support the Minister in punishing him.

Mr. THOMSON.—But we cannot counteract the long drawn-out process which he has adopted.

Mr. SYDNEY SMITH.—No. If fraud is alleged the Government should have taken action long ago. They have had Mr. Goldring's papers, books, and invoices in their possession since the 17th November. When the Customs officers went to his office, he said to his clerk—"Give them everything they require. I do not want to handle the papers myself, because I have nothing to conceal. Let them go through my books, and do what they like in regard to them."

Sir WILLIAM McMILLAN.—But are we to understand that the Customs authorities, after taking possession of his books, refused to supply him with copies of their contents?

Mr. SYDNEY SMITH.—Mr. Goldring, finding that he could not get his books returned, applied for certified copies of their

contents, so that he could, if necessary, proceed in the courts of law against any of his customers with whom he might have disputes in matters of account. Section 215 of the Customs Act provides that—

The Collector may impound or retain any document presented in connexion with any entry or required to be produced under this Act, but the person otherwise entitled to such document shall in lieu thereof be entitled to a copy certified as correct by the Collector, and such certified copy shall be received in all courts as evidence and of equal validity with the original.

Between November and May Mr. Goldring was unable to get any copies at all. He was then supplied with what purported to be copies of the original invoices and papers, but they were not certified copies as provided for by the Act. Any one looking at the papers in this case would find it difficult to believe that we are living under British rule. I have heard of administrative acts perhaps worse than this in Russia, but during the whole course of my parliamentary career, extending over twenty years, I have never had to submit a more glaring case. In fact, unless a satisfactory explanation is forthcoming, I do not think the matter should end here. I am told that there are other cases equally as bad as this. I have seen a letter from a prominent firm of solicitors in Sydney expressing sympathy with Mr. Goldring, and telling him that they had been consulted regarding a case on all fours with his. Suppose Mr. Goldring had been a man who was unable to prosecute his claims in the law courts, and also unable to come to Melbourne in order to claim that justice should be done. It seems, according to the information supplied to me, that either the Minister or his officers have perpetrated a gross injustice. I think it will be found that the Minister himself ordered the stoppage of some of these goods; but the right honorable gentleman may have some explanation to offer upon that point. I understand that the Minister himself has now ordered the delivery of some of the goods, and has accepted the value placed upon them by Mr. Goldring eight months ago. This shows he is satisfied, after having made the fullest inquiries, that Mr. Goldring's valuation was a correct one, and yet that unfortunate importer is unable to obtain any reply or explanation from the Minister, or to get his books or papers to enable him to carry on his business. The Minister

should have fully investigated the matter, and, if he considered that Mr. Goldring had been guilty of any fraud, should have proceeded against him, instead of preventing him from doing any business for a period of eight months. I have endeavoured to place the case before honorable members without any feeling. If the facts as stated by Mr. Goldring are wrong, all I ask is that the Minister shall give to honorable members the explanation which he has refused to Mr. Goldring, so that we may judge who is to blame. If the Minister is satisfied that an injustice has been done, let him order not only the delivery of the goods, but also the restoration of Mr. Goldring's books and papers.

Mr. THOMSON.—That cannot compensate him.

Mr. SYDNEY SMITH.—No; but it will enable him to carry on his business. The question of compensation will have to be considered afterwards, and, no doubt, a large amount will be required to recompense Mr. Goldring for the loss of his business for over eight months.

Mr. RONALD.—We can give him a seat in the Senate.

Mr. SYDNEY SMITH.—If one of the honorable member's constituents had been treated in the same way as Mr. Goldring, he would be the very first to bring the case before the House. I make no distinction between the rich and the poor, and I think it is our duty to submit for consideration any case which may appear to call for redress. Mr. Goldring appears to have a substantial grievance against the Government, and I demand—and I believe Parliament will demand—that the Government should explain why, if in the wrong, Mr. Goldring had not been proceeded against months ago, and if in the right, why the Minister has not long since directed the return of his goods, invoices and books. Before I sit down I may explain that I received a letter from Mr. Mitchell to-day, stating that yesterday morning he received a letter from the Attorney-General's Department appointing a nominal defendant.

Mr. CROUCH.—It is very late in the day for the honorable member to say that, after all the statements he has made.

Mr. SYDNEY SMITH.—I think the Attorney-General will do me the justice to say that I pointed out in my opening remarks that I had referred this matter to three prominent barristers in the House,

and that they had stated that, even supposing that the Attorney-General had consented to appoint himself as nominal defendant, the case would not be *sub judice*, and that I should be justified in bringing it before the House.

Mr. DEAKIN (Ballarat—Attorney-General).—The honorable and learned members who advised the honorable member for Macquarie were technically right, but every other honorable member will see that in a question of this kind, technicalities count for nothing. The case is *sub judice* in every sense of the term, except the narrowest. The complainant has intimated his intention to challenge the action of the Government in the Law Courts, and has asked them to provide him with the means of doing so by appointing a nominal defendant. That request has been complied with. As I told the House on a previous occasion, I heard of this matter for the first time from the honorable member for Macquarie, who mentioned it in the House. On the same day I received an application for the appointment of a nominal defendant to represent the Commonwealth Government. My minute was drawn up and signed on that day, and submitted to the Executive Council on the 16th instant. An intimation was sent to Mr. Goldring, I presume in Sydney, the letter being posted on the 22nd.

Mr. THOMSON.—That is a week after it had been passed by the Executive Council.

Mr. DEAKIN.—Six days after. The memorandum sent to me does not state why the letter was delayed, but the fact that a nominal defendant had been appointed was conveyed to Mr. Goldring, as he mentions in his petition, by the statement to that effect made by me in the House. The letter conveying the formal intimation that his request had been complied with was posted to Mr. Goldring on the 22nd instant and on the next day he would receive it.

Mr. THOMSON.—He would not receive it until the 24th.

Mr. DEAKIN.—However that may be, this case is now *sub judice* once more. Mr. Goldring brought a case against the Government of the Commonwealth in the Courts of New South Wales. He, or his adviser, is responsible for the form which that case assumed. When that case was disposed of to his disadvantage, he asked authority from us to commence another case, and he obtained that permission practically without a

moment's delay—although it appears that a few days elapsed before he received the letter conveying a formal intimation that a nominal defendant had been appointed. The effect of the proceedings to-day is to put before the public an *ex parte* statement by Mr. Goldring. It may be true in every particular, or it may be false in every particular—I am not sufficiently informed to know. But the public have his case put before them. I take it that this gives Mr. Goldring one very improper advantage. There is a second and decidedly more improper advantage which he is seeking to gain, namely, a statement by the Minister who acts as defendant for the Commonwealth in this action. He will, however, fail in this, because I have advised my honorable colleague not to make any such statement in regard to the case.

Mr. SYDNEY SMITH.—That is a nice way of evading the question.

Mr. ISAACS.—It is the proper course to take.

Mr. DEAKIN.—Mr. Goldring is, with our consent, suing the Commonwealth in the New South Wales Courts for the recovery of damages.

Mr. THOMSON.—He has not issued a writ.

Mr. DEAKIN.—We have done all we can to give him an opportunity of suing us, and we can do no more. If he has not issued a writ, that is not our fault. We have submitted to the State Court; but now an endeavour is being made on behalf of Mr. Goldring to obtain a statement which may assist him in prosecuting his case against the Commonwealth. That is a most improper proceeding. Any matter connected with this case which may be deserving of parliamentary scrutiny will, I hope, receive it, and no action on the part of the Government will for a moment prevent that scrutiny when it can be permitted without injury to the public interests. At present, however, Mr. Goldring has chosen to put us at arm's length. He does not appear before this House with a statement that he does not propose to seek his legal remedy, and that he comes to this, the highest court of the Commonwealth, to appeal for justice; but he comes before us at a time when he is applying to the State Courts, and is seeking to hold us pecuniarily responsible for the detention of the books and papers which he claims.

Mr. POYNTON.—When he signed that petition he was not sufficiently informed upon the matter.

Mr. DEAKIN.—He had received a statement—

Mr. SYDNEY SMITH.—A statement from the Department presided over by the Attorney-General.

Mr. DEAKIN.—He had received no statement from my Department. Having placed ourselves in this position before the court; having come forward to defend any action which he may institute against us, it is clearly most improper to ask Ministers to make any statement which will assist a litigant, who, if he has cause of complaint, will receive every justice. This suit is to be heard by a tribunal for which honorable members opposite entertain a decided preference—a State Supreme Court. Mr. Goldring has presented a formal petition to the Governor-General in Council informing him of his desire to proceed against the Commonwealth, and asking that a nominal defendant be appointed. That nominal defendant was appointed without a day's delay. Mr. Goldring has, therefore, obtained all he has asked, and he has given us formal notice of his intention to sue us for the recovery of damages.

Sir WILLIAM McMILLAN.—Did he not repeatedly offer to sign any bond necessary to enable him to obtain delivery of his goods?

Mr. DEAKIN.—I do not know. I have no knowledge of the particulars. I have not previously heard that statement made, and do not know whether it is correct. This case never came before me personally, except as to a formal intimation of the progress of the suit which Goldring was instituting in New South Wales, until the request was made by him for the appointment of a nominal defendant.

Sir WILLIAM McMILLAN.—But he is not dealing with the honorable gentleman.

Mr. DEAKIN.—Unfortunately he has chosen to deal with me. He has not asked Parliament to try his cause—he has not submitted himself with confidence to our decision. On the contrary, he has preferred that his cause shall be tried where he can be heard as soon as the judicial arrangements permit of that course being adopted, and where he can obtain the compensation which he seeks. He asks for damages. If he has been injured in any way he will obtain damages. He can either obtain the monetary damages which

he is asking from the court, or he can appeal to this House to grant him that relief to which he thinks he is entitled. He has chosen to take the former course. We have consented to the case being tried, in order that the court may determine whether he is entitled to damages on account of the detention of his goods, books, and papers. There has been no delay upon our part in this matter. He is now called upon to prove his case, and if he is entitled to compensation he will obtain it.

Mr. JOSEPH COOK.—The Attorney-General knows very well that he cannot obtain it.

Mr. DEAKIN.—He has informed me that he is petitioning for the return of his books and papers, and for the recovery of damages for their detention, as well as for injury to his business. No doubt he has been advised that this is the proper course to take.

Sir MALCOLM MCEACHARN.—If there is nothing in the case why force him to law at all?

Mr. DEAKIN.—We do not force him to law. Mr. Goldring might have appeared before Parliament, or he might have appealed to the Government.

Mr. JOSEPH COOK.—After the lapse of eight months.

Mr. DEAKIN.—But I would point out to the honorable member that Mr. Goldring has been prosecuting his case in the New South Wales Courts for some time. It was *sub judice* there for several months.

Mr. PAGE.—Why does not the Minister for Trade and Customs prosecute him if he has been guilty of fraud?

Mr. DEAKIN.—I have not been instructed to prosecute him, and have no desire to prosecute any one. He has chosen a certain method of making his complaint for the detention of his goods.

AN HONORABLE MEMBER.—He cannot do anything else.

Mr. DEAKIN.—But we can do something else.

Sir MALCOLM MCEACHARN.—The Attorney-General knows whether or not he has been guilty of fraud. If he has not, why compel him to go to law?

Mr. DEAKIN.—I do not know whether he has been guilty of fraud. This case originated in Sydney.

Mr. SYDNEY SMITH.—No, in Melbourne.

Mr. DEAKIN.—It occurred in Sydney, and has been dealt with by the Crown

Solicitor's office there. The first application received by me in Melbourne in connexion with the present case was that to which I have previously referred, and that was dealt with at once. I repeat that Mr. Goldring has chosen his own line. If, after his case has been judicially disposed of, honorable members are not satisfied with the manner in which he has been treated—apart from the particular matter which is decided by the court—that will be the time to bring it before Parliament. But it is clearly not the time to bring it forward when Goldring, of his own choice, is appealing to a court of law in connexion with the very incidents which are now being challenged in this House. Honorable members represent not only the people as a whole, but the Commonwealth, which is being sued, and it is not for us, because we are Members of Parliament, to assist a litigant who is attacking the Commonwealth, by endeavouring to draw from the Minister for Trade and Customs a statement of his defence which is shortly to be put before the law courts. That would be a most unfair and improper position to take up. Mr. Goldring has already gained the advantage of getting an *ex parte* statement of his case placed before the public. Strictly speaking, that was not within the bounds of propriety. But, irrespective of whether or not it was proper, I hold that it would be decidedly improper to ask the Minister for Trade and Customs to disclose upon the floor of this House information which might be used against the Commonwealth in the suit that is now pending. I have no hesitation, therefore, in saying that any statement as to the details regarding the manner in which Goldring has been treated by the Customs Department in connexion with the detention of his books or goods would be highly objectionable at the present time. In court the plaintiff will be able to elicit the defence of the Government, but this House is certainly not the place in which to put forward the defence relied upon in the suit now pending.

Mr. THOMSON (North Sydney).—The attitude taken up by the Attorney-General and the Minister for Trade and Customs upon this matter is a most surprising one. The honorable member for Macquarie has raised no question as to the propriety of the detention by the Customs of the goods in question, or as to the legal liability of the

Commonwealth for the action of the Ministry, because that will depend upon whether the latter can show that the goods in question were not entered at their proper value. That is a matter into which this House has no right to inquire, and the honorable member for Macquarie has not attempted to discuss it. No prosecution against Goldring has yet been instituted, but the Minister states that the mere appointment of a defendant at his request—which only places the complainant in the same position that we all occupy in regard to every other court in the Commonwealth—

Mr. L. E. GROOM.—Has Goldring not informed us that he intends to take action?

Mr. THOMSON.—In what way has he informed us? He has merely asked for the appointment of a nominal defendant. Why?

Mr. L. E. GROOM.—Because he intends to institute an action.

Mr. THOMSON.—He asks to be placed in the same position that is occupied by every other citizen in regard to actions other than those against the Commonwealth. When he has been placed in that position, if he sees fit, he can institute proceedings; but he need not do so.

Mr. DEAKIN.—He has already given me formal notice of his intention to take action.

Mr. THOMSON.—When the Ministry have no defence, we always witness this exhibition of soreness. The position is that no information has been asked from Ministers which will have any effect whatever upon the case now pending.

Mr. DEAKIN.—That is not correct.

Mr. THOMSON.—The Minister has not been asked if these goods were properly valued by Goldring. The honorable member for Macquarie has merely declared that in the administration of the Customs Department the state of affairs particularized by him should not be allowed to exist. Is a man to have his goods detained without reason, and is every application to discover the cause of such action to elicit no reply for months? The position in connexion with Customs administration is becoming almost intolerable—indeed, it has been so for some time past. The continuous delays which occur during which no answer is obtainable from the Department, and the consequent stoppage of trade, are far reaching in their results. The imputations which are

directed against the characters of business people would be all very well if they were followed by action, but frequently they are not. The parties concerned can obtain no information. I could give instance after instance in support of my statement. I know of one case in which a particular firm said to the Department—"Tell us the duty that has to be paid. We believe it is so much, but if it is more we will pay it—only decide." Yet, in that instance, six months were occupied in obtaining a decision. If the goods in Goldring's case were not properly valued, why did not the Department institute proceedings against him? But even after this lapse of time, the Customs authorities have taken no such action. Surely if there is to be any liberty of the subject, if he is to have any right to his own possessions, we shall be neglecting the best traditions of Parliament if we do not take a stand upon some of these cases.

Mr. L. E. GROOM.—Why not pick out a case which is not likely to come before the courts?

Mr. THOMSON.—May I point out that this matter was brought up before any question was raised as to the appointment of a nominal defendant.

Mr. L. E. GROOM.—Not to-day.

Mr. THOMSON.—Where was the reply? If I had occupied the office of Minister for Trade and Customs I should have considered it a reflection upon me had I not taken the first opportunity of placing a full reply before Parliament. What advantage would such a reply confer upon the plaintiff in the present case? It would merely be an explanation of why these delays occur—not as to whether Mr. Goldring had been guilty of any false dealing, but whether a reasonable and proper method of conducting the business of the Department had been adopted, so that he could get some answer, and not be forced into court to ask for his goods, or for some reason for their detention.

Mr. DEAKIN.—That is the very thing upon which Mr. Goldring is suing.

Mr. THOMSON.—No; he is, according to the Attorney-General's own statement, suing for compensation.

Mr. DEAKIN.—For those very delays.

Mr. THOMSON.—Instead of telling Mr. Goldring why the goods were detained, a defence was entered on behalf of the Customs authorities denying jurisdiction. This is a most extraordinary proceeding. We have two Ministers concerned, and the

one who knows nothing about the subject is put up to give us information, while the other sits alongside absolutely still, although he is the one who ought to know all about it. But there is no information that the Minister for Trade and Customs could give which would in any way assist the plaintiff if we have correct information, and if the Minister made a clear statement of the case, apart altogether from the question of fraud, and put us in possession of the facts as to the procedure of the Department. Is it not most extraordinary that the Customs authorities are so frightened about their action that, while they take every information from the man himself—while they seize his books, his documents, and goods—they will not open their mouths to say a word about the strength or weakness of their own procedure? That this question has been raised in Parliament is not the fault of the party concerned, who took every means that were open to him of otherwise obtaining satisfaction. Why did the appointment of a nominal defendant not take place months ago?

Mr. DEAKIN.—Because it was not asked.

Mr. THOMSON.—Did not Mr. Goldring months ago ask for the clearance of the goods on any condition, or, if they could not be cleared, to be informed as to what means he was to take to get possession of them? Could the Minister not have said that he was going to detain the goods for what he thought good cause, but that if Mr. Goldring thought it necessary to take action a nominal defendant would be appointed? But there was not a word said, and Mr. Goldring was left perfectly helpless. Would any business man remain in such a position if he saw any way out of it? He could not do business; indeed, I saw from one of Mr. Goldring's letters that if it had not been for the fact that his firm at home supported him in his attitude, he would practically have had to cease operations. Mr. Goldring took every possible means of relief, but he received no help from the Customs authorities. If any question before us were *sub judice*, or likely to become so, I would be the last to discuss it; but, apart from the questions which may go into court, there is enough in the treatment of this man by the Department to demand condemnation from the members of the House. The position is so serious that unless the

statements made by Mr. Goldring can be refuted—and the Government have had every opportunity of refutation in the weeks which have elapsed—somebody ought to go, either some officer of the Customs who is responsible, or the Minister for Trade and Customs himself.

Mr. CONROY.—The Minister is responsible for the acts of every officer.

Mr. THOMSON.—The Minister is responsible in a certain sense, but if action has been taken without his knowledge or instruction, and is utterly out of reason, then it may be somebody else who ought to go. I am very sorry that it has been necessary to bring this matter under the notice of honorable members. But one of the principal functions of Parliament, and one which in the older Parliaments was strongly fought for, was the redress of grievances and especially the right to protect a man's life, liberty, and possessions. The action of the Customs authorities, so far as the facts have been laid before us, has been tyrannical, and opportunities for denial were afforded long before the *sub judice* question arose to prevent an explanation. I know of other cases in which the action taken by the authorities has been both improper and tyrannical, and such action as would not be approved by Parliament. I cannot say whether the Minister for Trade and Customs knows of all those cases, but there is sufficient in this case alone, outside the questions which may come before the court, to justify an expression of opinion from this House. If the goods of Mr. Goldring were not properly entered, the Customs authorities had a case for prosecution which should have been entered upon long ago. Why should the Customs authorities have detained these goods unless they were prepared to defend their action? That, however, is the question which will come before the court; what is before us is the arbitrary action of the Customs authorities—the absolute carelessness they showed as to this man's interests, when they would not even reply to repeated letters and applications. The Customs authorities pay not the least attention, although a man's whole interests may be involved, and finally they do what could have been done at first, namely, appoint a nominal defendant, so that the person who feels aggrieved may go into court. That, however, was not done until after eight or nine months of delay.

Mr. ISAACS.—Surely Mr. Goldring knew he could go into the court if he desired to do so?

Mr. THOMSON.—Then why was a nominal defendant not appointed when Mr. Goldring took action?

Mr. ISAACS.—I understand that a nominal defendant was appointed the moment Mr. Goldring asked that it should be done.

Mr. THOMSON.—But why was it not done when Mr. Goldring took action in Sydney?

Mr. DEAKIN.—Mr. Goldring chose to bring his action in another form, and did not ask for a nominal defendant.

Mr. THOMSON.—Mr. Goldring did not take action for damages or compensation, but only in order that his goods should be given up, or reasons shown for their detention. Mr. Goldring asked for his books, or certified copies of them; and if the honorable and learned member for Indi had been in the House during the last hour—

Mr. ISAACS.—I have heard it all; and I am very sorry to hear it.

Mr. DEAKIN.—Hear, hear!

Mr. THOMSON.—I should think that the honorable and learned member for Indi is very sorry; and the Attorney-General's "hear, hear" is very appropriate. There is every reason for sorrow when a citizen of the Commonwealth can be dealt with as Mr. Goldring was dealt with, apart altogether from the question of guilt, with which we are not concerned now.

Mr. ISAACS.—I did not use the words in the sense which the honorable member attributes to me.

Mr. THOMSON.—I am putting my meaning on the words. Instead of complying with Mr. Goldring's reasonable request, the Government employed the leading barrister of New South Wales to enter a plea of no jurisdiction.

Mr. DEAKIN.—That barrister has a general retainer from the Government.

Mr. THOMSON.—What is the use of quibbling? The Government employed this barrister to enter a plea of no jurisdiction, although Mr. Goldring had only made the reasonable request which I have indicated. This is a most astounding state of affairs, apart altogether from the question of guilt which will have to be settled by the court. The Government in this matter have shown utter callousness, and have entered an evasive plea in the New South Wales court; and if all citizens are to be treated

in this way, we had better not cast slurs which are often cast on arbitrary powers such as Russia, but admit that we have come down to the same level.

Mr. TUDOR (Yarra).—It is not my intention to deal with the case of Mr. Goldring, but to bring under the notice of the Prime Minister a matter which has been mentioned in this House many times previously, and to ask what are the intentions of the Government in connexion with it. On referring to *Hansard* of the 5th June, 1901, I see that the honorable and learned member for Bendigo asked the Minister representing the Postmaster-General when the Victorian officers who were transferred were going to receive the salaries to which they were entitled under section 19 of the Victorian Public Service Act. To that question the honorable member for Tasmania, Sir Philip Fysh, replied that the matter of determining the salaries to which the officers were entitled under this particular section was referred to the Public Service Board of Victoria; that it was understood that the board was dealing with the question; and that as soon as a decision was arrived at the salaries would be paid. Over two years have elapsed since that question was asked, and the matter has since been referred to many times by the honorable and learned member for Bendigo, and the honorable member for Bourke, and myself. The Victorian Public Service Board asked for the loan of a Federal officer to visit the several States, in order to inquire as to the salaries paid to officers occupying corresponding positions, and the report of that officer was presented to the Victorian Government in December, 1901. The honorable member for Bourke and myself have asked questions in reference to this report, but it was evidently so favorable to the men that it has never been presented to this House. I have seen the report, and, so far as I can understand it, and I have gone through it carefully, I consider it is favorable to the claims of the men. On the 13th February last year I raised the question in the House, and the Treasurer, in speaking of the Victorian Public Service Act, and of this particular section, is reported on page 9996 to have said—

I would have preferred that that provision had not been inserted, but the House was practically unanimous in the view that it should find a place in the Bill.

Then, referring to the officer who made the report, the Treasurer said—

The officer whose services were requisitioned had been secretary of the Reclassification Board, and had a very full knowledge of all the difficulties of the position. Naturally he gained much information on these debatable points while acting as secretary to the Reclassification Board.

It has been said that the Victorian Parliament was guilty of sharp practice in passing the measure to which I have alluded, instead of leaving it to the Federal Government to deal with the officers transferred from the Victorian service as they thought fit. It is not my intention to debate that matter now. It is sufficient for me that the Act was passed, and, that being so, the Victorian Government should have seen that the law was carried out while the men were under their authority. The Treasurer is reported on page 9998 to have stated—

In New South Wales a reclassification took place just before the transfer of the Departments, by virtue of their Act.

I have observed that, under the regulations governing the New South Wales public service, practically the whole of the transferred officers obtained increments about that time. Officers who have been transferred from the Victorian service have been waiting for what they consider the recognition of their just rights, and what I and other honorable members ask is that the Government should say whether they intend to give effect to the decision of the Full Court of Victoria. The honorable member for Bourke and the honorable member for Melbourne Ports both concur in the views which I am now expressing, though they have waived their right to speak on the question so as not to unduly detain the House. The men, finding that they could not obtain from the Victorian Government what they were entitled to under the Act, wrote to the Prime Minister and to the Premier of Victoria, stating that they were willing to take the case of any officer to the Supreme Court. A case in the Supreme Court went against the men, but the Full Court has on two occasions given a verdict in their favour. They are now anxious to know what their position is, and what action the Federal Government intend to take. I admit that I do not take very much notice of what the newspapers say, but it is quite possible that they may tell the truth sometimes, and it is very likely that they were telling the truth when, in October last, they published the statement that the Victorian Premier had

waited upon the Attorney-General, who was then acting for the Prime Minister, and asked him not to give effect to the Act in question, because to do so would involve Victoria in a certain loss. To my mind, that is not the question with which we have to deal. We have not to consider the needs of any particular State in this connexion, but to ascertain what are the provisions of the law. I am surprised that a man of the legal knowledge and repute of the Premier of Victoria should have asked the Government to set aside an Act of the Parliament of this State. It is said, however, that he advised the repudiation of the Act while the case was pending in the law courts.

Mr. HUME COOK.—Was not he himself a party to the passing of the measure?

Mr. TUDOR.—Yes. The Treasurer has informed us that the Victorian Parliament was practically unanimous in supporting the measure, and I cannot learn from the *Hansard* reports that the Victorian Premier offered any objection to it. Many of the States increased their expenditure prior to federation, because they overlooked the fact that during the bookkeeping period the increase would have to be borne by themselves; but they are bound now to stand by what they did then. The men do not make threats, but they want to know what are the intentions of the Government, and they are quite willing, if the Government say that they will not give effect to the Act, to take their case into the law courts. We have heard a great deal this afternoon about the grievances of importers, but if the Full Court of Victoria had given a decision in favour of as many importers as there are officers affected by the Act to which I refer, and the Government refused to give effect to it, we should have heard enough now in this Chamber to stir any Ministry.

Mr. JOSEPH COOK.—Does the honorable member think it fair to set one class against another in that way? Is that the way to obtain justice?

Mr. TUDOR.—I am not anxious to set one class against another; I only wish to point out that these men have obtained a verdict in their favour from the Full Court of Victoria, and that the Victorian Government has, from the first, been reluctant to give effect to it. They are anxious to know now how their claims will be treated by the Commonwealth Government. I do not know how many men are affected, but I

trust that justice will not be denied to them. I do not intend to go into the matter any further now, but I hope that the Prime Minister will give us the assurance that he intends to carry the provisions of the Act into effect.

Sir MALCOLM McEACHARN (Melbourne).—I listened very carefully to the reading of the petition presented by the honorable member for Macquarie on behalf of Mr. Goldring, and to the honorable member's remarks upon the case, but I kept my mind free in the hope that the Minister for Trade and Customs would make some explanation on the subject. The reason given why no answer is forthcoming from the Minister is, I think, a very poor one. When I, on a former occasion, alluded to some tea prosecutions, the Minister not only gave a full explanation of the case, but made a most furious attack upon those who were defendants at the time. That case was *sub judice*, but I understand that in this case all that has happened is that an application has been made for the appointment of a nominal defendant to represent the Crown, and that the request has been granted, but that there has been no intimation of any intention on the part of the plaintiff to proceed with his prosecution. I want to be fair, and though I consider that I have a grievance against the Minister, I cannot believe that he has been acquainted with what has been going on in this case.

Mr. CONROY.—Does he say so?

Sir MALCOLM McEACHARN.—I do not know what he says. A downright mess has been made, and I do not think it would have occurred if the Minister had had the matter in hand. But the position of affairs is so serious that I was not surprised to hear the honorable member for Macquarie say that we might as well be living in Siberia as under the present administration. I hope, however, that the Government, if a muddle has been made by its Customs officials, will not put Mr. Goldring to the cost of going to law, but will at once acknowledge their mistake and put matters right. I am sure that in doing that they will have the hearty support of the House. But if they put him to serious cost, unfairly, and do not give a full and satisfactory explanation of their action to the House, I feel that they will be deserving of hearty censure.

Mr. PAGE (Maranoa).—On Thursday last, I asked the Minister representing the Postmaster-General the following question upon notice :—

Whether, in view of the fact that the Telegraph Department has authorized the construction of a telegraph line to Tarcoola, in South Australia, without requiring any cash guarantee for construction and maintenance, the Postmaster-General will treat the State of Queensland similarly, and place an amount on the Estimates for the construction of a telegraph line from Jundah to Stonehenge (Queensland).

To that question I received the following answer from the honorable member for Tasmania, Sir Philip Fysh—

If it can be shown that the same conditions exist in connexion with a telegraph line from Jundah to Stonehenge, in Queensland, as were shown in connexion with the telegraph line to Tarcoola, in South Australia, the Postmaster-General will consider whether the line to Stonehenge should not be constructed under similar conditions.

We have no gold-fields in the Maranoa electorate, and therefore cannot give the same guarantee as has been given for the Tarcoola line; but the district through which the Stonehenge line would go is permanently settled, and one of the best pastoral areas in the world. It is within 40 miles of the telegraph line at Jundah, and within 100 miles of another telegraph line at Longreach. Of course, like everything else in South Australia, every little rush to a mining field is magnified until it becomes the biggest thing on the Continent, though subsequently it falls to about the smallest thing upon it.

Mr. POYNTON.—Cannot the honorable member fight his own case without trying to damage that of some one else? South Australia will have to pay for the Tarcoola line.

Mr. PAGE.—Well, Queensland is quite willing to pay for the Stonehenge line; but directly we ask for it we are met with the startling request for a cash guarantee of some thousands of pounds. Why should the Government require such a guarantee when asked to put a telegraph line through a permanently settled district in Queensland, while they are prepared to construct a telegraph line in South Australia without any guarantee? I do not object to South Australia being provided with telegraph lines, but I think that Queensland should be treated in the same way as the other States. We are not able to give a cash guarantee,

but we can assure the Government of permanent business. The departmental officers are in possession of all the facts and figures relating to the case, and yet they have the coolness to say that they will not construct the line unless it can be shown that the same conditions exist as were shown to exist in connexion with the telegraph line to Tarcoola. All I ask is that the district which I represent shall have the same fair and square deal as is being given to others. I should also like the Prime Minister to give us some definite information as to the present position in respect to the printing of the electoral rolls for Queensland.

Mr. POYNTON (South Australia).—I wish to bring one or two small matters under the notice of Ministers. I was under the impression, when we were passing the Post and Telegraph Act, that it contained a condition which prevented the farming out of mail contracts. Only last week, however, a case was mentioned to me which appeared to afford a glaring instance of sweating. I shall give the names of the parties concerned, and I trust that the Postmaster-General will make the fullest inquiries. There is a gentleman at Ballarat, named Mr. Vines, trading under the name of Cobb and Co., who has taken a number of contracts for the carriage of mails. Some of the smaller of these have been sublet to different men for amounts very considerably below those which Mr. Vines receives from the Government. In other words, the sub-contractors do all the work, and Mr. Vines derives a fine income from the proceeds of the contracts. For carrying the mails between Ballarat and Rokewood Mr. Vines receives £160 per annum, but the contract has been sublet to a man named Livingstone, who is receiving only £72 per annum for doing the work. I am sure that we do not wish cases of that kind to occur under the Postal Department. It would appear either that we are paying £80 too much for the work or that the sub-contractor is performing it for £80 less than he should receive. It has been stated since I notified my intention to bring this matter before the House that Mr. Livingstone is an employé of Mr. Vines, but I have it on the authority of a resident of the district that Mr. Livingstone told him that he had taken the contract from Mr. Vines as stated. Whatever the facts may be, the subject is one which calls for the closest inquiry. I desire to direct attention to some of the

circumstances under which the construction of the Tarcoola telegraph line is being proceeded with. The work is being carried on by two gangs of permanent line repairers, one having been drawn from the Gladstone district, and the other from the west coast of South Australia. These repairers have been removed to undertake, not a small work, but the erection of nearly 200 miles of telegraph, which will probably occupy them for twelve months—although I see that it is reported that the work may be completed before the end of the year. If these gangs can be taken out of their proper districts and put on construction work, there is something radically wrong somewhere. Either the men are not required in the districts to which they have been attached, or the work which they usually perform must suffer during their absence. Moreover we may safely conclude that instances of a similar kind might be found in other parts of the Commonwealth. I do not know whether the course to which I have referred has been adopted for economical reasons, but if the repairing work in the Gladstone and west coast districts is to be allowed to fall into arrears, no real economy will be served by withdrawing the men. If, on the other hand, there is not sufficient work for the men to do in the ordinary course, the sooner the Minister takes action the better. I recently asked the Treasurer—

Why have the annual increments not been paid for the current year to South Australian Federal officers who are entitled to the same by virtue of section 60 of the Public Service Act?

The Treasurer replied—

Mr. McLachlan explains that in certain cases the increments of South Australian officers have not been paid, pending a decision of the Attorney-General. In these cases, if the increments were granted, the effect would be to place the officer in a higher class, e.g.—Increments have been allowed in cases where the salary, plus the increment, would not exceed £184, £185 being the minimum of the fourth class.

The right honorable gentleman added that it would not be wise to do anything until the classification took place, because it might have the effect of removing an officer from one class to another. I was under the impression that when the Commonwealth took over the various transferred services, the officers had preserved to them their existing rights, and the Treasurer made no attempt to deny that the officers to whom my question referred were entitled to their increments. The increases have been paid to

officers earning certain salaries, but have been withheld from those earning higher incomes, the first reason assigned being that the decision of the Attorney-General is awaited, and the second, that it is thought best not to do anything until the classification takes place. I do not know what is the proper course to adopt, but I think that the Attorney-General, who must have had the matter in his hands for some time, should give his decision with the utmost possible speed. It is not fair to the officers that their increments should be withheld for month after month. It would be better to receive an unfavorable reply than to be kept upon the tenterhooks of expectation for so long.

Mr. HUME COOK (Bourke).—One of the matters which I had desired to bring under the notice of the House has already been referred to by the honorable member for Yarra. As he stated, it was agreed by several honorable members who were interested that he should state the case to the House, and that others should not address themselves to it. I should have strictly adhered to that understanding except that I wish to refer to one point which has been omitted. Under one section of the Victorian Public Service Act No. 1721, officers who are receiving more than £156 a year are entitled to certain increments ranging from £10 up to the large sum of £180 additional. Immediately the Act was passed the Public Service Board set to work, and I believe that in every case the officers who were receiving more than £156 were granted their increments, whereas those who were being paid salaries below that amount have had their increments withheld. Thus, the men who were better able to do without the additions to their pay received them, whilst those who were in receipt of small salaries, and who, in anticipation of some small addition to their incomes, had entered into various engagements, have not received any benefit from the promise contained in the State Act. I also wish to refer to what may be regarded as a cognate matter. The Commonwealth Public Service Act provides for the payment of a minimum wage of £110 per annum under certain conditions. I think I am correct in saying that very few members understood that it would be necessary for officers in the clerical division to pass another examination before they would be entitled to receive that salary.

What was intended was that, in whatever division of the service an officer might be, he was to be paid the minimum wage irrespective of any examination or other test. The result of imposing the examination condition has been that officers who are occupying fairly responsible positions have been placed over others who are receiving more pay than they are. In the Postal Department, the heads of the accountant's, money-order, and despatch branches receive less money than the officers under their charge. Some of these responsible officers have been in the service for eighteen or twenty years, and although thoroughly efficient, were not so ready to pass a purely technical examination as others who had more recently left school. Therefore, we have presented to us the extraordinary spectacle I have described. I should like to add that the ladies in the branches to which I have referred, were also placed under a disadvantage, in that whilst six subjects were prescribed for the clerks, only one was set for the operators. Amongst the subjects set down for the clerks was an examination upon the newly established telegraph rates. In this connexion, I am informed that even the heads of the Department themselves entertained very grave doubts as to what rates were chargeable in certain cases under that Act. For instance, officers were constantly compelled to consult the heads of their Department to ascertain what amount should be charged upon press messages. Yet these lady clerks were required to pass an examination in that subject in addition to five others, whereas the operators were required to pass in only one subject. These difficulties, added to the fact that the ladies in question had left school for many years, placed them in the position that I have indicated. I would further point out that they do not receive any pension, nor do they come under the insurance clauses of the State Act. It is therefore of great importance that they should be paid at least as much as are those whom they command. The amount involved is a small one, representing only £25 or £26 a year, but it is of very great moment to them. It is also worthy of notice that all these lady clerks were recommended by the Reclassification Board, which was appointed in Victoria prior to the accomplishment of Federation, for a salary of £110 a year. That tribunal recommended that precisely the sum fixed by this Parliament as a minimum wage should

be paid to them without the necessity of their having to pass any examination, but merely as a reward of the fitness which they had displayed in the discharge of their duties. As a matter of fact, some of them are daily in charge of stamps and money representing a total value of between £600 and £700. For the discharge of their onerous duties they receive only £84 annually. Further, some of them have to supply statistical information, to keep a record of all the revenue received by the Telegraph Department, and in various ways to do work which calls for the exercise of more than ordinary ability. In short, they are sub-officers, and as such their services ought to be recognised. I submit these facts in order that the Government may consider them, with a view to overcoming the difficulty that has arisen, and doing that justice to these public servants to which every reasonable man will admit they are entitled. The only other matter to which I wish to refer has reference to the Defence Department. I am rather surprised to find that an extraordinary state of affairs obtains in connexion with that Department. Notwithstanding that no Defence Act has yet been passed by this House, we see by the *Government Gazette*, and by unofficial press notices, that the Minister, with the consent of the Government, is daily issuing regulations with respect to the forces. I should have thought that until a Defence Act was passed it would be absolutely idle to alter the regulations which previously existed, because the adoption of such a course would render it more difficult to deal with that measure when it is presented to Parliament. Under the old regulations everything worked very smoothly, and I am of opinion that they would have been quite sufficient for all purposes until a Defence Act is passed.

Mr. CROUCH.—The new regulations are necessary to cover past illegalities.

Sir JOHN FORREST.—Not at all.

Mr. HUME COOK.—At any rate I have heard that a great many of the new regulations have been framed with a view to covering up, if not illegalities, at any rate blunders on the part of the Defence Department.

Sir JOHN FORREST.—There is no truth whatever in that statement.

Mr. CROUCH.—In some cases the new regulations were necessary.

Mr. HUME COOK.—My impression is that there is a good deal of truth in the statement, but I cannot speak with authority, as I have not inquired into the matter. I wish, however, to draw particular attention to the fact that waste of time is involved in making new regulations regarding powers and privileges acquired under certain State Acts. I do not suppose that any one can foretell how far those regulations will prejudice the Defence Bill which we shall presently be called upon to consider. I should have thought that in the new Act certain provisions would be made for the framing of fresh regulations, and that those regulations would be issued under the authority of that Act. But until that authority has been given, it is not wise to frame new regulations. Another matter connected with the Defence Department to which I wish to draw attention has reference to the General Officer Commanding the forces. He appears to think it incumbent upon him to make statements in public which I think ought to be made only to the Minister. Some of these statements are of a confidential nature, and others refer to matters of policy in regard to which he, as a public officer of the Commonwealth, ought not to express an opinion. In a speech which he made at Adelaide a few days ago he referred to the transcontinental railway. The question of whether or not that railway should be constructed is one of public policy. If it be constructed it will not necessarily be a line for defence purposes only. It will be a commercial undertaking as well, and the wisdom or otherwise of constructing it is not a matter upon which an officer of the Commonwealth should make any public remark. This Parliament has to determine matters of policy, and public statements by servants of the Commonwealth, which are prejudicial to the Government policy, are, in my view, injudicious and unwise. I also notice that General Hutton refers to the poor equipment of the forces and to the lack of ammunition. I do not think that public comments should be made by him concerning these matters. If there be any lack of ammunition, or equipment; if the defence forces are short of supplies, and if, as a result, we should be unable to meet an attack, those facts ought to be made known to the Minister in charge of the Department. Therefore, without desiring to say anything offensive regarding this particular officer,

who is apparently doing his best according to his lights—I say according to his lights, because I disagree with most of what he is doing—I hold that no public statement should be made by him upon matters of public policy.

Mr. HENRY WILLIS.—Lord Charles Beresford made various statements which resulted in improvements in the Imperial navy.

Mr. HUME COOK.—I do not know what is the practice in the United Kingdom, but in regard to matters of public policy, the citizens of Australia are exceedingly jealous of the utterances of public servants either of the States or of the Commonwealth. All such subjects should be dealt with by the responsible Minister, and I make this protest to emphasize what I consider to be the public view of the matter.

Mr. ISAACS (Indi).—There are only two matters to which I desire very briefly to refer. The first is that which was introduced by the honorable member for Macquarie. I am quite sure that he would not wittingly offend against the canons of good taste by introducing a subject that would have been better left untouched. I refer to this matter only for the purpose of showing that we ought to respect the silence of the Minister for Trade and Customs. I believe, under the circumstances, that the right honorable gentleman is following the proper course by declining to utter a single word.

Mr. SYDNEY SMITH.—He was not silent when the honorable member for Melbourne attacked his administration regarding the admission of certain consignments of tea.

Mr. ISAACS.—I do not remember all the circumstances connected with that matter.

Mr. SYDNEY SMITH.—It suited the right honorable gentleman to reply then, and to appeal to the feelings of honorable members.

Mr. ISAACS.—I repeat that in this case the Minister is adopting the proper course by preserving absolute silence. I am sure that we all credit him with thinking that he is right.

Mr. SYDNEY SMITH.—Does he think that he is right?

Mr. ISAACS.—I am sure that every honorable member believes that the Minister does think so. If he were to rise and attempt to justify himself, he would clearly be doing what might be prejudicial to the

individual whose cause the honorable member for Macquarie has urged to-day. By taking that course, he would also expose the position of the Department, and, under all the circumstances, I think that the advice given by the Attorney-General, and followed by the Minister for Trade and Customs, is the only one consistent with his position.

Sir MALCOLM MCEACHARN.—If he will put things right now we will forgive him.

Mr. ISAACS.—The other matter to which I wish to address myself has reference to the public servants, whose case was so ably put by the honorable member for Yarra. I have only a suggestion to make in reference to that matter, but before doing so I wish to put myself right before the House. It is well known that the other day I acted as one of the counsel engaged in two cases which were contested in the Supreme Court of Victoria. I hope, therefore, that honorable members will not misunderstand me. So far as Victoria is concerned, the matter has been determined, but it is impossible at the present moment to say that there is a final determination for all purposes. I believe that when the law is finally determined the Government will have no hesitation in acting on the law, and I wish to make the suggestion that the matter be allowed to rest, perhaps it may be necessary for a few days only, in order that we may see whether some more definite position may not be attained. It may facilitate the final determination of the law if we are able at some no distant date to say that the matter has reached a conclusion.

Mr. McDONALD.—A man may be ruined if the matter be left for another month or six weeks.

Mr. ISAACS.—I only make a suggestion; I have explained my position to the House, and I am unable to say more. I think it might save the time of the House, and facilitate the settlement of the matter if my suggestion were followed.

Mr. CONROY (Werriwa).—I contend that the case which has been put before us cannot be regarded as *sub judice*. We have an admission from the Attorney-General, that it may not be technically *sub judice*, but he appealed to laymen to say that it was practically *sub judice*. What a contrast that is to the action taken on behalf of the Government in Sydney! On that occasion who so technical as the Attorney-General when he raised

the plea of no jurisdiction? When there was a technical defence, the Attorney-General made use of it; but now, when there is no technical defence, he takes another line, and appeals to laymen, whose common sense will guide them, to say that the case is really *sub judice*. The plaintiff in this case has merely claimed what is the right of every other citizen. He has claimed to know the name and station of the person against whom he has a grievance, in order that he may, after thinking the matter over, institute proceedings if he considers such a step necessary. But I am sorry to say that this is one of those cases in which the plaintiff has no remedy, and when the Attorney-General said that the plaintiff had a remedy he spoke without a knowledge of the present law. I do not blame the Attorney-General for that, because none of us can be expected to know the law unless we look up Acts and authorities. Great as I thought the enormities of the Ministry were, I did not anticipate that we should have a reign of terror introduced, or that there would be a denial of justice if there happened to be no remedy at law. I was under the impression that Ministers, in ordinary circumstances, would say to a person who felt that he was aggrieved, "If, owing to various causes, we have not been able to initiate a system of law which enables justice to be done by the courts, we, as men, will at least see that justice is done as far as possible." I thought that, under the circumstances, the Government would be specially careful; but that has not proved to be the case. When the Claims Against the Commonwealth Bill was under consideration on the 3rd October last, I pointed out that under its provisions there was no remedy for any citizen against the Commonwealth Government, and that in order to supply that defect the Bill, even as it then stood, should be passed. I pointed out, however, that the measure was not so wide in its scope as it ought to be, and asked how any one could sue the Minister for Trade and Customs under its provisions for any wrong done. To that remark one honorable member interjected that the Bill did provide a remedy for wrong done; but I pointed out that no writ of mandamus or injunction could be obtained against the Minister, and said:—

The Minister can detain goods at his own sweet will to-morrow, and no one has any remedy against him; and we know the nice idea of justice

which the Minister for Trade and Customs has shown in some cases already. The Government do not propose to remedy that state of affairs, although half-a-dozen alterations in this Bill would secure what was necessary, and give the people of the country a remedy for wrongs done to them.

A case has arisen, just as I then foresaw, and no writ of mandamus or injunction lies against the Minister. In respect of wrongs done in this way, we have given no rights to citizens; yet the Government assented to this law with their eyes open. The Attorney-General now says that in the event of the failure of the forms of action I have mentioned, a plaintiff has a remedy for *detenus*; but I ask him whether there is any such remedy under section 207 of the Customs Act? I pointed out last year that there was no remedy in law against the Minister.

Mr. ISAACS.—Is the honorable and learned member discussing the legal rights of the plaintiff?

Mr. CONROY.—I am discussing the remark of the Attorney-General, who said that a remedy can be obtained, and that the case is *sub judice*. My contention is that this case can never be *sub judice*, because the plaintiff has no remedy according to the Customs Act.

Mr. L. E. GROOM.—The honorable and learned member is giving an opinion on the plaintiff's case.

Mr. CONROY.—I am giving an opinion on the statement made by the honorable and learned member for Darling Downs that I was wrong in an expression of opinion, and I am showing that, according to law, I was perfectly right. The law, as I read it, applies not only to the plaintiff whose case is before us, but to every other man, and I am merely showing how careful we should be to see that the Minister for Trade and Customs administers the law as soundly as possible. When justice is denied to individuals through the courts, it is imperative that the Minister for Trade and Customs should see that justice is done to those who come under his administration. Section 203 of the Customs Act gives the right to seize and detain goods; and then comes section 207—

Whenever any goods have been seized by an officer and claim to such goods has been served on the Collector by the owner of such goods—

In the case of Mr. Goldring that claim was made on the 2nd December in the first case, and again on 2nd February, but to neither

communication was any reply given by the Customs authorities.

Mr. JOSEPH COOK.—Why should the Minister for Trade and Customs deign to reply to anybody?

Mr. CONROY.—I admit that it is outrageous on the part of anybody to expect to obtain justice in the Customs Department; but I am supposing that matters of this kind come under the notice of the Minister. Section 207 of the Customs Act proceeds—

—*the Collector may retain possession of the goods without taking any proceedings for their condemnation*—

It will be seen that in one sense the Minister was justified; but the section continues—

—*and may by notice under his hand require the claimant to enter an action against him for the recovery of the goods*.

The Customs authorities gave no notice, although they were the only parties who could do so; and unless such notice be given, an unfortunate plaintiff is in the position of having no remedy. The Customs Act also provides that if a claimant does not within four months enter an action, the goods shall be deemed to be condemned. It was perfectly open to the Customs authorities, if they thought the goods should be condemned, to send a reply to that effect in answer to the claim made by Mr. Goldring. But no such course was followed; and it is the fact that if a plaintiff proceeds for the recovery of goods he may be met with section 207, which, as a matter of law, decides the case. If a plaintiff proceeds for the recovery of documents, he may be met with the proposition that section 215 settles the matter, because it is there declared that the Collector may impound or retain “any documents presented in connexion with any entry, or required to be produced under the Act.” Honorable members will see the nice way in which the Attorney-General tries to coax plaintiffs to believe that they have a remedy.

Sir JOHN QUICK.—Sir Julian Salomons said that the plaintiff had a remedy.

Mr. CONROY.—Sir Julian Salomons, appearing as he did on behalf of the Government, made a statement furnished to him by the Attorney-General, and probably made it without himself looking into the two sections to which I have referred. The honorable and learned member for Bendigo is aware that if the Attorney-General repassed over such an instruction to Sir

Julian Salomons, the latter might possibly make the statement on such an authority without further investigation. But if Sir Julian Salomons had looked into the matter, I guarantee that he would take the same view as I do, and as I believe the honorable and learned member for Bendigo, or even any layman, so clear is the law, would take on reading the section. There is no remedy at the present time for a plaintiff unless and until section 207 or some part of it is complied with by the Minister. If the Minister likes to give notice in writing requiring a claimant to enter an action, then an action will lie. In the present case, however, the Minister did nothing of the sort, and there is no way in which he can be compelled except by writ of mandamus. A case of this sort must impress on the Minister the necessity of proceeding most carefully in cases where men who may be wronged have no remedy at law. I can scarcely conceive a worse state of affairs. I do not doubt that if other Ministers, who are not supported by stringent sections in an Act, were to do certain things, an action of tort would lie in various cases; but no action lies against the Minister for Trade and Customs when he seizes and retains goods or documents. Under the circumstances I think that the position taken up by the Attorney-General is unworthy of the Ministry as a whole. It is the absence of legal remedy which causes trouble in other countries. If honorable members on the other side had had the foresight and knowledge of members of the Opposition, when some of these Acts were under consideration, provisions such as those to which I have referred would have been guarded against. I remember that even the honorable member for Melbourne supported members of the Opposition and myself when we spoke against the arbitrary power given to the Minister for Trade and Customs. As the Minister declines to give an answer, and there is no motion before the House, I have taken on myself to answer those of the Attorney-General's remarks which represent this case as practically, if not technically, *sub judice*. I shall take an opportunity at a subsequent period of again bringing this matter under the notice of honorable members. I wish now to refer to the administration of the Post and Telegraph Department. I am glad to see that the Minister representing the Postmaster-General is in the

Chamber. What we, who represent New South Wales, have to complain of is that all proposed extensions of telephone services throughout country districts are absolutely blocked. Those who apply for such extensions are asked to furnish cash guarantees, which often greatly exceed the amounts for which they could construct the lines they ask for. I will mention such an instance. The Government were asked to construct a telephone from Goulburn to Bungonia, and they required a cash deposit of £400 from the applicants. Those who wanted the line advertised in the newspapers for tenders for its construction, and found that the posts and wires could be furnished and erected for less than £200, though not, of course, in the same substantial manner. But they are not allowed to construct the line themselves, although they are willing to do so, and by doing so would do no injury to the Post and Telegraph Department. If it were proposed to use the line for messages which would deprive the Government of revenue, one could understand the objection to its erection. But they wish to use it purely for their own business, and the interests of the public could not suffer by its construction by private hands. That being so, is there any reason or fairness in the action of the Department in refusing to construct the line, and in declining to allow those who want it to do so? I know, not one or two, but half-a-dozen similar cases, some of which I referred to the other day, in which the parties interested are willing to furnish their own material, and to do the work, but they are not allowed. In all cases cash guarantees are required, and these guarantees are out of all proportion to the advantages to be looked for. Why are telephones required, if it is not to bring the residents in country districts easily within the reach of civilization, and to compensate them to some extent for the many disadvantages which they suffer in being far away from large centres of population. It is those who are engaged in the occupation of the land, whether for pastoral, agricultural, or mining purposes, who are doing most to develop the country, and upon whom we all rely for the production of wealth, who require this convenience. Yet, ever since the present Postmaster-General came into office, the members of those three great classes have been practically denied extensions of the telephone service. The Minister is letting matters get behind in this

respect in the most ridiculous way, so that one cannot see how things will end. Many of the applications for telephone extensions come from centres of population which would have been connected by telephone long since, if, under one pretext or another, that advantage had not been denied to them. To my mind, the question is of such importance that when the Post and Telegraph Estimates come before us, I intend to move their reduction by an amount equivalent to the salary of the head of the Department, and I have not the slightest doubt that other honorable members will support me, if not in striking out that amount, in reducing his salary by the £400 which he receives as a member of the Senate. Representations to him are absolutely useless, and it is high time that action was taken. I am not one of those who believe that Ministers receive too much. I do not think that they receive enough. But it is clear to me that, in the case of the Postmaster-General, too much is being given to a man who is so mismanaging affairs that, in a great State like New South Wales, practically no extension of the telephone service is possible.

Mr. JOSEPH COOK.—Applicants for extensions are practically held by the throat, and all because the Department has lost a few pounds in the past.

Mr. CONROY.—Because on former occasions the guarantees were not examined with the necessary strictness, and a little money was lost. Instead of strictly examining the guarantees, the Department are preventing all extension. Why should a country like New South Wales be governed in this matter by a gentleman who has come from Queensland, and who—possibly because he has practically had nothing to do with telephonic communication in the past—does not understand that others should feel the want of it. With his attitude of mind, I can only think that if he had not been taught to read he would say—"I do not read myself, and therefore I consider all books to be useless." Possibly he is a man whose friends never telephone to him, because he would have nothing to say to them if they did, and therefore he cannot understand that any one else should have something to say. He apparently never requires to use the telephone for business purposes, and, therefore, he cannot be made to see that it is a

necessary requirement for others. However, when the Estimates come before us, I will take action for the reduction of his salary by way of protest.

Mr. E. SOLOMON (Fremantle).—I think it is to be deplored that occasion has arisen for the discussion which we have had to-night in regard to a certain case, and which has occupied nearly three hours, though now that the Minister has decided not to give any explanation at this stage, no doubt it must come to an end. My reason for rising is to bring before the Government one or two matters to which the attention of the Minister for Home Affairs was directed when he visited Western Australia two or three months back. He promised to look into those matters, and I am rather surprised that nothing has been done. One of the matters to which his attention was directed was the state of the Custom-house at Fremantle, and another the state of the post-office there. Both buildings would be a disgrace to any community, and they were in such a condition that the Minister was afraid to go over the premises where the clerks work. His attention was also called to the high fees which have to be paid by licensed Custom-house agents. They complain very greatly of the regulations which have been framed. It appears that, not only have they to find a guarantee of £500 for the honesty of their clerks generally; but they have to pay £5 per annum for each clerk they employ on Custom-house work, and if, through the illness or temporary incapacity of one of these clerks, they have to employ another, perhaps only for an hour or two, they must pay £5 for him. They complain very bitterly about that requirement of the regulations: I hope that the Minister for Trade and Customs will look into the matter, and, if possible, so alter the regulations that no fee will be charged where a clerk is temporarily employed, the employers being regarded as under the same conditions in respect to his employment as they are in respect to the employment of their ordinary clerks. I trust that the Government will give attention to all these grievances, and that we shall soon have satisfactory replies to the statements of the deputation which waited upon the Minister for Home Affairs.

Sir EDMUND BARTON (Hunter—Minister for External Affairs).—I shall not travel over much of the ground which the

debate has covered; because I intend to confine my remarks to one or two matters. I do not wish to discuss Mr. Goldring's case, because I take it that, if a man applies for the appointment of a nominal defendant, he thereby intimates his intention to bring an action, and the mere fact that he has not issued a writ does not entitle him, or those who represent him, to make what statements they like in order to force the Government whom he intends to sue to disclose the nature of their defence. I do not think that that was ever considered to be the right way of doing things, or that the Minister can be blamed for saying "I will make no disclosure. My defence will be made when the action is brought."

Mr. McDONALD.—No action, no defence.

Sir EDMUND BARTON.—If there is no action one is not called upon for a defence.

Mr. SYDNEY SMITH.—When the honorable member for Melbourne referred to a prosecution for an alleged evasion of the duty on tea, the Minister did not refuse to make a reply, although a summons had been issued in the case. But that was because he thought he could score.

Sir EDMUND BARTON.—I do not think that that is a fair representation of the Minister's action. The Attorney-General looked into this case on behalf of the Government, and made such answer on the legal points involved as was necessary at the time. He has advised—and, in my opinion, rightly—the Minister for Trade and Customs to reserve whatever defence he has until the action which is threatened is brought.

Mr. SYDNEY SMITH.—The action has not been commenced.

Sir EDMUND BARTON.—That is a technical excuse. We hear very much about the technicality of lawyers' defences; but what more miserable quibble could be made than to say, when a man has petitioned for the appointment of a nominal defendant, that, because he has not issued his writ, the circumstances of the case should be ripped up and gone into as they would not be gone into if an action had actually been commenced? It has been urged that Mr. Goldring has no remedy. I do not want to go into that question, but the provisions of the Customs Act do not furnish a ground for such a statement. Section 207 says—

Whenever any goods have been seized by any officer, and claim to such goods has been served

on the Collector by the owner of such goods, the Collector may retain possession of the goods without taking any proceedings for their condemnation, and may, by notice under his hand, require the claimant to enter an action against him for the recovery of the goods, and, if such claimant shall not, within four months after the date of such notice enter such action, the goods shall be deemed to be condemned without any further proceedings.

That section does not interfere with a man's right of action for the detention of goods; but it provides that if the Collector serves a notice upon an owner of goods, requiring him to enter an action — and that was not done in this case — he shall have only four months within which to enter it. But the section has no application to the present case, because no notice was issued by the Collector of Customs.

Mr. JOSEPH COOK.—Can the Prime Minister say why it took nine days to communicate the Attorney-General's minute to Mr. Goldring?

Sir EDMUND BARTON.—I am not dealing with that aspect of the case, or with any aspect which may have any bearing upon the threatened legal proceedings. I simply assert that the section referred to has no application to the case. Now I wish to say a few words with regard to the matter which the honorable member for Yarra has mentioned regarding persons affected by section 19 of the Public Service Act of Victoria 1900. I may as well read the section, so that the whole object of it may be made clear. The Act received the assent of the Governor on the 27th December, 1900, four days only before the Federal Constitution came into operation; and section 19 provides that—

From the commencement of this Act every officer of the Trade and Customs, Defence, and Post and Telegraph Departments shall be entitled to receive a salary equal to the highest salary then payable to an officer of corresponding position in any Australian colony. Provided that this section shall not entitle any officer to receive more than £156 per annum.

I cannot help thinking that it was a pity that anything should have been done in Victoria, or in any other State, which might hamper the Commonwealth. The grading of the Post-office officials in New South Wales, and the passing of the Act just referred to, seem to me to have been equally undesirable, and it was not well conceived to take such steps as might tie the hands of the Commonwealth Government before they could act definitely. However, such steps have been taken, and this Act has been the

subject of legal proceedings. In the case of *Miller v. The King* it was decided that—

To ascertain the salary payable to a Victorian officer by virtue of section 19 of the Public Service Act 1900, it is necessary to select an officer in another colony whose length of service, as well as his duties, correspond with those of the Victorian officer in question, and to then determine what salary was, by the law of that colony, payable to such officer.

It must be evident that that decision, if it is to be regarded as law, puts the Commonwealth to the necessity of an investigation of every one of these cases, because it is necessary to select an officer whose length of service and duties correspond with those of the Victorian officer whose case may be in question. I am not going to say whether that decision is law or not, because that would be dealing with a matter which is, to a certain extent, *sub judice*. Another action was brought by a man named Bond, and a similar decision was given. In the action *Miller v. The King* the amount involved was not sufficient to permit of an appeal being made to the higher court, but in the case of Bond, proceedings are being taken for an appeal, or one is being threatened..

Mr. ISAACS.—The question whether the action is appealable is still in debate.

Sir EDMUND BARTON.—Of course, if it is decided that it is appealable, then it will be still *sub judice*, and I do not wish to discuss it. I wish to refer to the deputation which waited upon me on 8th May last. In answer to representations made on the subject of the officers, whose case has been referred to, I told the deputation that I would consult the Attorney-General, and that if his opinion were that the necessary implication from the judgment in the case of *Miller v. The King* was that the Commonwealth was not liable, the matter need not go further; that if, on the other hand, he entertained a contrary opinion, a close investigation would be necessitated into each case. Especially would that be so in view of the serious effects that might be brought about in regard to the finances of Victoria, because we had received a request from the Premier of that State that we should not take any action until after the most serious consideration.

Mr. CROUCH.—What had he to do with the affairs of the Commonwealth?

Sir EDMUND BARTON.—He was concerned in the extra burden which might

be imposed on the State of Victoria if it were established that fresh charges were imposed by the Act at the time of transfer.

Mr. TUDOR.—But if the claim of the men is established, they will be paid.

Sir EDMUND BARTON.—I do not say that they will not; but I think it was only due to the Victorian Government that we should comply with their request to give the matter the most careful consideration before taking any action. It will be necessary for the Commissioner to re-grade the public service, and, in doing so, he will have to consider the effect of section 19 of the Victorian Public Service Act, and to institute comparisons. We shall have to wait for the re-grading and classification in order to obtain the necessary information.

Mr. ISAACS.—How long?

Sir EDMUND BARTON.—That I cannot say; perhaps some months. I can, however, assure honorable members that the Government have no intention of evading any just operation of the law. When this matter is ultimately decided the Commonwealth will meet its obligations to the fullest extent. At the same time, I hope that nothing I have said will indicate that we are left helpless by a statute of this kind. It will operate only until we take such action as may be deemed necessary on our own account. It would be impossible to suppose that any Act of the States could give excessive privileges to any class of servants, and that the Commonwealth should be helpless to apply a remedy. We have our own rights of legislation, and can fix any particular scale of salaries for our officers.

Mr. ISAACS.—But we cannot affect existing rights.

Sir EDMUND BARTON.—I am not saying so. So far as any decision in this matter may affect the Commonwealth, any rights that accrue up to the time of our taking the necessary action to set ourselves right will be respected by us. I cannot, however, make any promise that the Commonwealth will abstain from legislation, or grading and classification, to the extent of allowing the Victorian Public Service Act to become a continuous burden upon us, because the Commonwealth would have been framed in vain if we could not legislate for the proper administration of our own affairs.

Mr. ISAACS.—Of course, the operation of the Victorian Act is limited by section 84 of the Constitution.

Sir EDMUND BARTON.—Yes, but it may be that section 84 applies only to such matters as pensions and gratuities. There are provisions in sections 107 or 108 which continue the provisions of States Acts until they are dealt with by the Commonwealth, and the effect to be given to these sections will have to be taken into consideration. It may be that if the decision in *Miller v. The King* is sustained, the effect will be to confirm the impression that some payment will have to be made up to the time the Commonwealth exercises its own legislative rights. It must be taken for granted that the Government will meet every legal obligation that may fall upon it in an honest and fair spirit. These cases will involve comparison and investigation in relation to the positions occupied by officers in other States, and the best way in which that can be done is through the Public Service Commissioner. I am taking steps with that end in view. That is as much as I can say. If there is any delay it will arise from the wording of the Victorian Act and not from any default on our part. Whatever the result, we shall act according to the spirit of the law. Probably the law may to some extent bind us, and to that extent we shall follow it.

Sir WILLIAM McMILLAN (Wentworth).—After many years in public life, and after a good deal of experience in office, I look with a certain amount of suspicion on *ex parte* statements, and I honestly confess that if the petition presented on behalf of Mr. Goldring had been placed before me under ordinary circumstances, I should say that the statements contained in it were incredible. Unfortunately, however, the steps taken by the Customs Department have been of such a curiously and extremely legal character, and so utterly disregardful of the interests of laymen conducting ordinary business affairs, that the statements made by Mr. Goldring only seem to add another case to the many which go to prove that the administration is very stupid, if not tyrannical. Apart altogether from any question of party feeling, and with a knowledge of the private views which are held by honorable members, it is almost incredible to me that some honorable members who have ranked themselves behind the Government have not entered a protest against the action of the Minister. The petition now before us is either a tissue of lies or there has been

some gross blundering in the administration of the Department. I do not wish to refer to the legal aspect of the case, as it is said to be *sub judice*; although, in view of what transpired last session, it is not for the Minister for Trade and Customs to set us right upon that matter. I find, however, that on a former occasion he said—

I should like to make a statement which, although it will not be put in the form of an answer to a question, will at the same time convey information to honorable members.

Then he went into the whole case, and in the course of his speech said—

Summons have been taken out against certain firms in connexion with tea stopped in January last.

There is an almost overwhelming proof of disregard of a certain class of the community in the administration of the Customs. I do not believe that in any case which has ever come before him, the Minister for Trade and Customs has been actuated by the slightest personal feeling. It would be simply ridiculous to make such a suggestion. But I do think he has misconceived the whole principle which should underlie the administration of a Department involving great commercial interests, by instituting prosecutions for errors which would be bound to occur, even if angels from heaven came down to transact the business. It is all very well to talk about this case being *sub judice*. Who made it so? Who forced Mr. Goldring into the position which he has taken up. I have a memorandum here, from which I find that this case began upon 17th November of last year. It contains page after page in which dates are recorded of communications forwarded to the Department, and to which no replies have been forthcoming. When Mr. Goldring's business was at last brought to a standstill, he wired to the Minister—“When may I expect to receive reply to my letter?” To that telegram there was no reply. Finally he was compelled to send a letter to the Department, complaining that no answer had been received to his communications, and threatening proceedings by mandamus for detention of his goods. Who brought about that detention? I am sufficient of a business man to know that not even the Minister for Trade and Customs, who has made the police court a sort of annexe to his Department, would do anything without a purpose. But I am told that before this case occurred, the particular

firm was “marked,” and that officers had been instructed to watch its proceedings.

Mr. ISAACS.—That is a very hard thing to say of a man who is not able to defend himself.

Sir WILLIAM McMILLAN.—Who is not able to defend himself? Unless the statements of fact contained in this paper are absolute untruths, I say that the case originated in suspicion on the part of the Department, with the result that persecution followed the man.

Mr. CROUCH.—Does the honorable member know that there was no ground for suspicion?

Sir WILLIAM McMILLAN.—This man imported a special class of goods for a special period of the year. Those goods were intended for the Christmas trade. He states—and I suppose that he would be ready to swear to the fact—that he offered to do anything and everything to comply with the wishes of the Customs authorities. He was prepared to enter into any bond that could fairly be made out, and to put up any deposit to secure delivery of his goods. But he was unable to obtain them. In passing, it is worthy of remark that the administration of the Customs Department, especially under a new Tariff, is necessarily a difficult task. But under the present Tariff, it is doubly difficult. The fact that it contains so many technicalities that the Minister has had to issue a large book to explain them is in itself a condemnation of it. Under these circumstances, every assistance should be rendered to importers, and no man should be considered a rogue until he has been convicted. Unfortunately, however, under the present system of Customs administration every importer is considered a rogue; and even when fraud is not proved, but when the proof to the contrary is overwhelming, the Minister demands that he shall be brought before a police court, branded as a criminal, and either fined or sent to gaol.

Mr. HUME COOK.—Who is the honorable member's authority for the statement that Goldring was a “marked” man?

Sir WILLIAM McMILLAN.—I am not going to tell the honorable member. Probably he has very little regard for common justice. So strong is party feeling in this matter, that not one honorable member upon the other side of the House has risen

to condemn the Minister. I have no desire to labour this question. It has been elaborated in a very able speech by the honorable member for Macquarie, who had no desire to attack the Minister. I know that the facts of the case were placed before that honorable member by Mr. Goldring. Under all the circumstances it is remarkable that not a single honorable member opposite attempts to protect the mercantile community which is so much assailed at the present time.

Mr. MAUGER.—We try to protect the public, and that is more important.

Sir WILLIAM McMILLAN.—The honorable member often protects himself as well as the public. Before concluding I desire to say a few words to the Minister for Trade and Customs, which I had intended saying before I knew that this matter was to be brought up. I do so with every desire to see the Customs Department working as smoothly as possible in the interests of the public. By this time I think the Minister knows well enough that the great majority of the mercantile community would be only too glad to assist him in detecting the fraudulent man, and in seeing that the honest man is not interfered with. I believe that a suggestion was made by the Chamber of Commerce when the Minister was last in Sydney that some tribunal might be constituted—there might be a board appointed in Sydney and Melbourne—to deal with cases of manifest error, to which every business man is liable, instead of the present objectionable practice of hauling people before the courts.

Mr. L. E. GROOM.—Does the honorable member mean a board outside of the Department?

Sir WILLIAM McMILLAN.—I mean a board in connexion with the Department, but one so constituted that it would be perfectly impartial. I think that in cases in which either the Minister or his officers are satisfied that an attempt has been made to defraud the revenue—they would have to take the responsibility of deciding that matter—legal proceedings should be instituted. Similarly, in cases of continued carelessness the offenders might be brought before the police court. But where the Minister himself was satisfied with the reputation of the firm, and the character of the mistake itself clearly evidenced that it was a pure inadvertence, the board should be empowered to levy fines. I know

that the Minister commenced the administration of his Department with certain pre-conceived ideas. He understood, or thought he understood, that a large number of cases were settled *in camera* behind the backs of the public by the Ministers for Customs. Accordingly he said—"I will have nothing to do with that system."

Mr. KINGSTON.—Has the honorable member noticed the published figures which disclose that £16,000 was collected in that way in ten years?

Sir WILLIAM McMILLAN.—I allow that the system is open to abuse, and that everything ought be done in broad daylight. But the Minister has only one alternative presented. He cannot possibly go into the details of every case and the only alternative open to him is to send all cases of error into court. But when Parliament conferred on him these drastic powers it never imagined for a moment that where a trivial error occurred police court proceedings would follow. I give the Minister credit for endeavouring to conscientiously discharge his duty. I do not impute to him the slightest personal motive, or anything savouring of prejudice in his treatment of any individual. At the same time, it is felt by mercantile men that a terrible stigma is cast upon their characters when they are brought before the police court to have it recorded that a fine has been imposed upon them, with the option of fourteen days' imprisonment, because that fact may be used in the future by the unscrupulous when these men, perhaps, come before a court of law in the capacity of witnesses. Furthermore, it is the business of the Minister to attract to his side the whole of the honorable trading community. The idea that a man with a capital of thousands of pounds would act in collusion with a salaried officer who might blackmail him at any time is too ridiculous to entertain for a moment.

Mr. KINGSTON.—We cannot say that it is impossible with any one.

Sir WILLIAM McMILLAN.—It is very improbable, and any man would be a fool to so act. Of course, there are people conducting businesses of a certain size in which they could keep a secret to themselves, and in such instances there might be collusion with perfect safety. But in nine cases out of ten such a state of affairs is impossible. We have a very complicated Tariff under which a duty is imposed upon

goods which are to be used for one purpose, whilst a different charge is levied upon them if they are to be used for another purpose. In cases which have come before me, I say that six persons, in determining the amount of duty payable, might very well take one side and a similar number another.

Mr. KINGSTON.—There is no prosecution now upon that score.

Sir WILLIAM McMILLAN.—I am talking of the difficulties of passing entries. I know that if an importer is in doubt he may pass a sight entry. There have been inconsistencies in the decisions of Customs officers.

Mr. KINGSTON.—There have been no prosecutions on account of differences of opinion as to duties.

Sir WILLIAM McMILLAN.—The Minister is the head of the Department, and his spirit actuates the whole administration. The Minister, with a keen sense of duty, and with a desire perhaps to make a record for thoroughness in the administration of the Department, may have determined to strike terror into the hearts of those whom he thinks to be fraudulent. But the result of carrying such a policy to an extreme—to a point beyond that which common sense sanctions, results very often in fear and paralysis amongst the officers of the Department, and makes them tremble as to what may follow their decisions. In a great continent like this, with 8,000 miles of coast, the administration of the Department presents many difficulties. Instead of the very simple centralization we formerly had in Sydney, Melbourne, and Adelaide, difficulties must occur in matters of interpretation, and broad powers ought to be given to the officers at the different ports. Where mistakes arise the authorities ought to be as lenient and as reasonable as are the mercantile public in regard to the errors and inconsistent decisions of the officers. If there have been mistakes on the part of merchants, I guarantee there have been just as many mistakes of the same character and involving the same results by the Customs officers. I do not desire that any unnecessary heat should be imported into this discussion. I want to see the Tariff administered in a reasonable way. I do not want to see the administration of the customs law at the ports of this country such that men who come here as merchants from other countries

should have to appeal to their own Ministers in Europe in order to get justice done at the hands of our Government. The administration of the Commonwealth ought to be broader and more large-minded than that of the States; but in many respects I am afraid it has been almost more provincial. The case before us is a most extraordinary one, and shows great persecution, if the whole of the information given to us is not as huge a pack of lies as it is possible to put into two or three sheets of foolscap. Although we may demand an inquiry, and perhaps feel some heat on the subject on this side of the House, we recognise that we have decided on a certain Tariff, and our object is to see the law administered in a broad-minded manner—*fré*, as far as is possible, from any friction of a nature calculated to injuriously affect the people of the country.

Sir PHILIP FYSH (Tasmania).—The honorable member for South Australia, Mr. Poynton, has called attention to what he has described as the improper subletting of contracts in the mail service. But the information of the Department with respect to the particular instance to which he refers—namely, the mail contract between Ballarat and Rokewood—is that there is no subletting. The inspector reports that Livingstone is the servant of Messrs Cobb and Co., and is carrying the mails for that firm.

Mr. POYNTON.—That is not so.

Sir PHILIP FYSH.—The Department does not recognise the right of contractors to sublet contracts, and if the honorable member will furnish more explicit information inquiries will be made.

Mr. POYNTON.—I am assured that it is Livingstone's plant and horses which are used in the carriage of the mails.

Sir PHILIP FYSH.—I have given the honorable member the information which is in the possession of the Department, and it will be for him, if he thinks it advisable, to follow the matter up and prove that the inspector has been misled.

Mr. POYNTON.—There are a number of other similar cases.

Sir PHILIP FYSH.—The honorable member for Maranoa has called attention to what he believes to be a grievance, in that the telegraph line to Tarcoola was constructed on conditions different from those which the Department seeks to observe in the provision of similar means of communication to Stonehenge, in Queensland

The honorable member is not satisfied with the reply I gave on a former occasion, and states that there are circumstances associated with the proposed extension to Stonehenge which would warrant the Department in beginning that work at once. The Department wishes it to be understood that the circumstances which warrant the construction of the line to Tarcoola are such that if analogous circumstances be proved in the case of the Stonehenge line, the latter will be constructed on similar conditions. If the Government of Queensland, after inquiring into the prospects of the Stonehenge line, arrive at the conclusion that it is a proper line to be constructed on terms under which the cost will be charged to them, the work will be carried out on the same principle as that observed in the case of the Tarcoola line. The honorable member for Bourke has called attention to a matter which has been mentioned on many occasions. The honorable member asked whether certain officers in the clerical or general division of the public service are entitled to the minimum salary of £110 per annum, and, if so, why they have not received that salary. In every instance where I have had occasion to ask for further information on this subject from the public service officials, the reply has invariably been that no instance is known where officers entitled to this minimum wage have not received it. If there be any complaints with respect to individual cases, these, if mentioned to the Minister, will be inquired into, and any error promptly rectified. As to the remarks of the honorable and learned member for Werrawa on the Post-office administration generally, I laid on the table, within the last few days, a reply to a question asked by an honorable member with regard to the number of telephone extensions which have been asked for. If honorable members will read that reply they will see that the Department is not at all warranted in making extensions unless there be reasonable prospects of the lines paying.

Mr. FULLER.—The Department will not construct lines even where there is a reasonable prospect of their paying.

Sir PHILIP FYSH.—I am satisfied that where the Department sees a fair prospect of the cost of construction and interest being paid, they will readily undertake the work.

Mr. FULLER.—The Department will not do so.

Sir PHILIP FYSH.—I ask honorable members to give me specific instances where the construction of telephone lines at a moderate cost is likely to pay, and I shall take care to lay them before the Postmaster-General.

Mr. FULLER.—I have brought one such instance under the notice of the House two or three times.

Sir PHILIP FYSH.—In every instance brought under observation, the Postmaster-General has had sufficient reason for declining to undertake the suggested work, whether it has been the extension of the telegraph or telephone system, or the erection of buildings. However, if honorable members will lay before me specific instances where they deem that telephone lines may be profitably constructed, they will be properly inquired into, and good reasons given if the work cannot be carried out.

Mr. FULLER (Illawarra).—In reply to the invitation of the Minister for specific instances where telephone lines might profitably be constructed, I desire to say that some twelve months ago I brought under the notice of the Postmaster-General the advisability of establishing such communication between the Illawarra district of New South Wales and Sydney. The Illawarra district is the second largest industrial centre in that State. There are on the south coast fifteen or sixteen coal mines in full swing, large smelting works, at least nine or ten large coke works, and a number of other large industries. A report obtained by the Postmaster-General showed that the telephone line which I advocate can be constructed for about £3,000 odd. Personally I should be very glad to have the opportunity of constructing this line, because I feel perfectly satisfied that it would pay splendidly from the outset. But the Postal Department will not do anything towards the work until they receive a cash guarantee of £700. Under ordinary circumstances there is no difficulty in finding £700 in the Illawarra district, but what people are to be asked to put down a cash guarantee of £700 for five years in order to have a work carried out for the benefit of every resident in the district? The result is that the whole proposal is in abeyance because, under the circumstances, nobody is prepared to produce the money.

This is a specific instance where the construction of a telephone would, in the opinion of everybody who knows the district, pay from the very start; and yet the Postal Department, in asking for a guarantee, are really keeping back the industries of the locality. There is another matter to which I should like to call attention. Yesterday I asked the Minister representing the Postmaster-General a question in connexion with the payment of overtime due to certain clerical officers in the General Post Office at Sydney. These officers were brought back night after night for weeks, and in some cases for months, and worked until half-past ten or eleven o'clock; and some months ago application was made for the payment of overtime in accordance with the custom which has hitherto prevailed in the Postal Department in New South Wales. I am sure every honorable member will agree that men who work overtime as these men have done are entitled to extra remuneration. The answer I received when I brought this matter under the notice of the Postmaster-General some months ago was that inquiries were being made in the other States as to whether similar application for overtime had there been made. That is no excuse for not dealing with the case of these men, who either are or are not entitled to remuneration, irrespective of what is done in the other States. This matter has been allowed to stand over for an inexcusable length of time, and I trust that the Postmaster-General will, in the interests of the men who have done this extra work, deal with it without further delay.

Mr. GLYNN (South Australia).—I shall not detain the House more than a few minutes. I wish to refer to the Goldring case merely for the purpose of stating that I think that, technically, it cannot be said to be *sub judice*. It is not long since I had occasion to look into the question—"When is an action pending?" and the decision I came to upon the authorities was that an action is not pending until a writ has been issued, even though proceedings may be threatened. The position of the Government is merely this—that they have an idea that an action may be brought against them.

Mr. DEAKIN.—We have had a request to appoint a nominal defendant, coupled with the formal intimation that the application

was being made for the purpose of bringing an action for damages against us.

Mr. GLYNN.—That notice only amounted to a notice of intention to take action, and, strictly speaking, proceedings have not yet been commenced. The Government is simply in the position in which an ordinary individual to whom an intimation had been given that proceedings would be taken would be. One can nevertheless understand the action of the Minister in allowing "silence to sit drooping" upon him, instead of obeying his usual inclination to defend his Customs administration. I think, however, that he should defend his action in detaining goods in this case for eight months. I know of one case in which he detained goods for twelve months. There were two prosecutions within that period, one of which succeeded, and the other of which failed, but the goods were not released, and the Minister did not declare whether he intended to proceed to forfeiture. Why? Possibly because he was fishing for further evidence. In this instance I suppose he saw that he had on the evidence no case on which to proceed, and therefore said, "I will exercise my statutory power to retain the goods while I look round for sufficient evidence." Surely Parliament did not intend that he should have these extraordinary powers of seizure except as ancillary to the taking of proceedings. It was not intended that goods should be seized upon mere suspicion, and without the existence of facts upon which an information could be laid.

Mr. DEAKIN.—There is another side to the case.

Mr. GLYNN.—I cannot see that there is another side to the case, if the Department were not ready to take action. When the Claims Against the Commonwealth Bill was before this House, it was pointed out by the honorable and learned member for Werriwa and by myself, that if the Minister kept goods for twelve years the owner could not obtain a writ of mandamus to compel him to deliver them. That remedy was refused then, though it is being given by the Judiciary Bill. In this case, however, an opportunity might and should have been given by the Minister to the owner of the goods to test his position by action. When the goods were detained under section 207 of the Customs Act, the Minister should have given the owner notice to proceed. But, as that notice was

not given, Goldring was practically debarred from obtaining redress. He might have brought an action at common law for conversion, but it is very doubtful that he would have succeeded, because the Minister has a statutory power to seize goods without explanation, and is not bound to commence proceedings in regard to the seizure for a period of five years. That indicates that if Goldring had brought an action at common law, he might have been met with the defence that the Minister was entitled to seize the goods, and could not be made to deliver them up, because the Act allowed him to defer the taking of proceedings for five years, and he had given no indication of his intention not to proceed. The court might say that the reasonableness of the duration of the detention depended upon the time within which proceedings might be taken, and under the Act proceedings need not be taken for five years. Surely the Minister ought either to have laid an information against Goldring, or to have given notice to him under the provisions of section 207 of the Customs Act. That section contains what is really a moral injunction to the Minister to give such notice after a formal claim had been made and no information laid. It was a very harsh thing to leave the owner of the goods in his present position, with the mere possibility of an action at common law, in which he might be defeated. There is another matter with relation to the administration of the Customs which I regret to have to bring forward on this occasion, but I see no other way of making it public. In a letter which I have received, a complaint is made by a firm that duties are being collected by the Minister upon goods in respect to which there is no liability under the Tariff. In one instance, the Collector of Customs for New South Wales proceeded against Messrs. Mason Brothers to recover duty upon certain cartridges which were imported by them. As will be seen by a reference to our *Hansard* reports, honorable members were of the opinion, when they were dealing with the Tariff, that cartridges should be admitted duty free, and they are free; but the Minister, actuated by the desire to collect as much revenue as possible, decided that the Tariff exemption applied only to blank cartridges, and that duty should be levied upon the quantity of shot contained in loaded cartridges. When the matter came before the

Full Court in Sydney, however, the contention of the Government was almost laughed at by the Judges. It might naturally be asked—What became of the duty wrongfully collected previous to this decision? Was the money returned to those from whom it was wrongly taken? Of course, the fact is that once money goes into the coffers of the Customs Department there is no getting it out again. It almost invariably happens that where a mistake is made by a Government in the interpretation of the law, there is neither the recognition by them of the moral obligation to make good the wrong they have done, nor statutory power to enable private individuals to compel them to do so. But, inasmuch as duties wrongfully collected are never returned to those from whom they were taken, surely we should have, if not a liberal, a fair interpretation of the Tariff. Let us look at one of the many instances in which the Minister, it is alleged, has, by his interpretation of the Tariff, collected thousands of pounds of duty which should not have gone into the Commonwealth revenue. There is no such line in the Tariff as flax or jute-tarpaulin canvas. But the Minister has, for some reason, decided that jute tarpaulin canvas must be admitted free, and that a duty of 5 per cent. is to be imposed upon flax tarpaulin canvas as linen and cotton piece goods. This is not only an unfair interpretation from the point of view of the importer, but it is an absurd one from the point of view of the protectionist, inasmuch as he is taxing the manufactured article only at the same rate as that at which he taxes the material from which it is made. In the letter to which I have alluded, the Minister's action is commented upon in very strong terms, and it concludes with this statement—

There is no doubt that thousands of pounds are collected which the Department is not entitled to. It is all very well for Mr. Kingston to cry protect the revenue, but there is no justification for collecting one penny more than the Legislature authorizes him to. There is a very evident desire on the part of the Customs, not only to take their pound of flesh, but to read into the Tariff, duties which were never contemplated by the framers.

I should not have quoted that paragraph if I did not think that the instances given, and of which I have mentioned one, justify the statements of the writer.

Mr. CROUCH (Corio).—I should like to say a word or two in reference to the cases about which we have heard so much this

afternoon. With regard to the Goldring matter, upon which the honorable member for Macquarie made such an exhaustive speech I should like to say that although formerly I thought that solicitors in Melbourne knew pretty well how to conduct their cases, I now find that they must go to Sydney to learn points. I can see that it would be wise for a solicitor who has a client to defend against the Customs Department to go to his parliamentary representative and ask him to bring the case up in Parliament, and demand, almost at the point of the bayonet, the disclosure of the intended line of defence.

Mr. SYDNEY SMITH.—That is a suggestion worthy of the honorable and learned member, seeing that I brought the matter up in the House before I so much as knew Mr. Goldring.

Mr. CROUCH.—I am glad that my honorable friend considers the suggestion worthy of me. Looking at the matter from the solicitor's point of view, I can see that a large part of the correspondence, written before the solicitor's letter, bears internal evidence of having been dictated and prepared by a solicitor. That being so, it is hardly right to expect that the defendant should show his hand.

Mr. SYDNEY SMITH.—I defy the Minister to contradict any of the statements it contains.

Mr. CROUCH.—I think that those who have referred to the Minister's position relating to a certain prosecution in regard to an evasion of the tea duty should remember that in that case the Minister was the prosecutor, and the defendant himself really brought the case into this House so as to make it necessary for the Minister to speak. That was quite a different case. In this instance, there can be no obligation upon the Minister to injure the interests of the Commonwealth by a disclosure of his defence. I listened with a great deal of appreciation to the statement of the Prime Minister with regard to the officers who are affected by the operation of section 19 of the Victorian Public Service Act of 1900. I feel sure that those officers who asked the honorable member for Yarra to bring the matter before the House do not want any more than their legal rights, and that they will be satisfied with the promise that their interests will be protected to the fullest extent. I feel certain that the Prime Minister's careful consideration will show that

they are entitled to all they ask, and I therefore view the result with confidence. I thank him. My principal purpose in rising was to direct attention to a matter regarding which a question was asked this afternoon by the honorable member for Wide Bay. It is not necessary to criticise the action of the Governor-General; it is quite sufficient to direct attention to the dates of the correspondence which took place. On the 30th September, 1902, His Excellency the Governor-General wrote to Mr. Chamberlain, and in the fifth and sixth paragraphs of his communication said:—

In section 25 you will perceive that Mr. Deakin makes a strong point of there being no regulations to prescribe the method in which effect is to be given to the deportation provisions of the Federal Act. It seems to me important that these regulations should be drawn up and approved of by Parliament as explanatory of the Kanaka Bill before the Royal assent is given.

The Prime Minister recognised the unfortunate character of that phrase, and stated that it had not been used with his knowledge or upon his advice. Further, he attempted to excuse it by saying that he understood that the document in which it occurred was a confidential communication. No doubt the communication was of a confidential character, because if honorable members will note the reply of Mr. Chamberlain, dated 14th November, they will see the following words:—

I have the honour to acknowledge the receipt of your confidential despatch of 30th September. I wish honorable members, and Ministers particularly, to consider whether the Governor-General has any right to send a despatch, confidential or otherwise, to the Secretary of State for the Colonies without his Ministers' consent. In order to show that the communication was not confidential in the same sense as an ordinary private note, I should like to point out that in the very letter which I have just quoted, Mr. Chamberlain refers to a letter which was forwarded from—

your Acting Prime Minister, on the subject of a petition from certain Pacific Islanders residing in Queensland, with regard to the Pacific Island Labourers Act 1901.

I think that any self-respecting Ministry should object to the terms of the letter forwarded by His Excellency the Governor-General to Mr. Chamberlain, particularly after he knew the Colonial-office had refused to veto the Bill. It is an attempt to defy his Minister, and to alter the Imperial

Government's approval of action already sanctioned. In a communication dated the 16th May, Mr. Chamberlain wrote to the Governor of Queensland, Sir H. Chermside, as follows :—

I have the honour to acquaint you, for the information of your Ministers, that I have received from the Governor-General of Australia a copy of the representations made to him by your Government on the subject of the Pacific Island Labourers Act, but that I have not felt justified in advising His Majesty to disallow the measure.

In a further communication, dated 30th August, 1902, Mr. Chamberlain says—

You have already been informed that it has been decided not to advise His Majesty to disallow the Act. That decision was taken on the broad constitutional ground that the Act involves no Imperial public interest, and that in other matters His Majesty's Government are not prepared to take upon themselves the functions of a Court of Appeal for the Parliament of a self-governing colony.

It will thus be seen that communications had already passed between Mr. Chamberlain and the Government of Queensland, stating that it was not intended to advise His Majesty to disallow the Act, and yet we find the Governor-General, acting without the advice of his Ministers, stating on 3rd September—

It seems to me important that these regulations should be drawn up and approved of by Parliament as explanatory of the Kanaka Bill before the Royal assent is given.

I think that whether the communication was confidential or not it was the duty of the Government immediately, upon ascertaining its nature, to tell the Governor-General that unless he withdrew his recommendation they would decline to act any further as his Ministers. I feel perfectly sure that the late Chief Justice Higinbotham, of Victoria, who had a very keen appreciation of the rights and responsibilities of the advisers to the Crown, would have taken up a position such as I have indicated at the time when he was acting as Attorney-General of that State. The course adopted by His Excellency the Governor-General reminds one of the time when George II. and George III. were writing private letters to members of the House of Commons with a view to discredit their Ministers and to secure the rejection of their Bills. The positions are parallel, because both were against the deliberate advice of their responsible Ministers. I feel that my protest in this matter may be passed

Mr. Crouch.

unheeded at present, but I regard it as absolutely necessary that we should safeguard our constitutional rights, and allow the Governor-General to act only upon the advice of his Ministers. Otherwise we may as well give up all idea of responsible Government. I have from time to time raised my voice in protest against the indifference displayed by the Ministry to the dignity attached to their position as Ministers, and their duty in this direction, and to the extent to which they are surrendering the rights which properly belong to us under our free institutions. It has been announced in regard to the Electoral Act, the Post and Telegraph Act, and other measures which do not in the slightest degree affect Imperial interests, that by recommendation from the Colonial-office they had not been disallowed. We should not submit to being placed in such a position as this. Certain of our rights are being thrown away, and it will take us years and years in the future to recover them. My voice may now be as that of one crying in the wilderness, but I have not the slightest hesitation in saying that in years to come the greatest regret will be expressed at the creation of such precedents—not only at the want of protest on the part of Ministers against the Governor-General's action, but in regard to the whole course which the Ministry are pursuing in respect to communications with Colonial-office direction and dictation.

Mr. HENRY WILLIS (Robertson).—I wish to direct attention to the conditions prevailing throughout New South Wales, and especially in the electorate which I represent, with regard to the post and telegraph services. We have heard to-day that in certain parts of Victoria the telegraph service is very badly managed, and I can say the same thing with regard to the telephone services in my own district. The authorities appear to be disinclined to provide telephone exchanges, even though quite a large number of people signify their intention to become subscribers. The greatest difficulty is experienced in transacting business, owing to the want of reasonable facilities. At Wellington, for instance, a large and populous town, the business people are urgently in need of a telephone service, and have signified their desire to be connected with an exchange. They have satisfied the Department that the service would pay from the outset; but the Government, although they have sent material into the

district, and have called for tenders for the erection of the telephone wires, have for some reason stayed their hand. This has been going on for the last two years, and although I have made repeated applications to the Minister, no satisfactory explanation has been given. At the last moment we have been told that there will have to be some alterations made at the local post-office, and that the new work must be held in abeyance until that change can be effected. In the meantime, apparently, the whole of the people in the town are to be kept waiting for facilities which should be immediately provided. The tradespeople are placed at a great disadvantage, and I think the Postmaster-General should make some satisfactory explanation with regard to the delay. The residents of Trangie have for sometime past urged that they should have opportunities of carrying on their business with the settlers in the neighbourhood who are connected by telephone, in some cases, at their own expense. The Government will not open a telephone exchange in the town or provide a service between the town and the railway station, a half-mile distant, and the consequence is that it is really difficult to make the fullest use of the facilities which have been provided partly by private enterprise. The residents have gone the length of saying that they will bear the cost of making the necessary connexions by telephone, but the authorities will neither put up the lines nor permit the townspeople to do so. The Department appears to be in a state of stagnation, and it would seem that the Ministerial head of it is incompetent. Mr. Scott appears to direct all post and telegraph affairs, and from one end of Australia to the other the same complaints are made. Therefore I think it is time that we should have some explanation of the delay now occurring and as to the inefficiency and incompetence displayed. I have received the following letter from a resident of Goolma written under date 20th June :—

Over two years ago a numerously-signed petition was presented to the Deputy Postmaster-General, Sydney, asking to have the place connected by telephone with either Mudgee or Yamble, the former for preference. Several reputable well-to-do settlers gave their signatures as willing to become guarantors. After a lapse of over a year we received a letter from the Deputy Postmaster-General, Sydney, offering to connect with Mudgee providing a deposit of £236 13s. 4d. be lodged in cash, or with Yamble for a cash deposit of £116 13s. 4d. The proposed

guarantors are not agreeable to part with so much cash for the merely nominal interest paid by the Savings Bank. On these terms it is impossible to get the connexion. I have seen in the papers and have heard from other sources that you have interested yourself in our behalf in this direction, and on behalf of the residents of Goolma I have to thank you heartily for your past efforts and request that you again exert yourself to secure us the convenience of telephonic communication. I would have no difficulty in getting reliable men as guarantors.

It is the duty of the Government, which enjoys a monopoly of the postal and telegraphic communication within the Commonwealth, to confer upon the people the facilities which are ordinarily enjoyed by every civilized community. In the district which I have the honour to represent there is a place called Bodangara, the residents of which are urgently in need of a post-office. The population is a large one, and yet the people are compelled to obtain their correspondence through the medium of a general store. The tradespeople complain that all their business orders are transmitted by telephone, and repeated aloud in the store. That is an undesirable state of affairs, which the Government seem desirous of perpetuating, because whilst the inspector recommended some time ago that a separate post-office should be erected, no steps have yet been taken in that direction. I trust that the Attorney-General will bring these matters under the notice of the Postmaster-General, with a view to providing the districts I have mentioned with facilities which are urgently needed.

Mr. JOSEPH COOK (Parramatta). — I sympathize with the honorable member who has just resumed his seat. Indeed, any one who is acquainted with the postal and telegraphic conditions obtaining in New South Wales at the present time must do so. If honorable members from the other States are satisfied with the present administration of that Department, either they are very easily satisfied or grave distinctions are being made in the treatment meted out to the different States. It is a singular circumstance that nearly all the complaints regarding this Department come from New South Wales. The representatives of other States are apparently able to get their grievances remedied, but it is like running one's head against a brick wall to get anything done in New South Wales. I would remind the honorable member for Robertson that, so far as the Postal Department is concerned, the net result of

federation has been to put the Minister far off, whilst Heaven is very high. We were told by the Attorney-General in his glowing periods that with centralized control we would secure greater efficiency. But that efficiency has not yet been realized. Indeed, the net result of federation in this Department seems to have been the evolution of a stamp which no one save the Postmaster-General is able to appreciate. I read this morning that he was in a glowing state of fervour over the beauties of that stamp, and was wondering why he was born into a world which needed, as this world undoubtedly does, to be set right artistically. That stamp is one of the results of the centralized control of the Post-office for which we ought to be profoundly thankful. It is, however, a poor set-off against the continued neglect of postal matters in New South Wales. Again I complain of the seeming ineptitude of some of the departmental officers. I am afraid that much Ministerial trouble arises from neglect to look after these officers. We are told that the reason why the cash guarantee system has been initiated in New South Wales is that that State, during a long course of years, made a few bad debts. I acknowledge freely that during my term of office as Postmaster-General there, I made some of those bad debts. I would do the same thing again. The Post-office is a business Department, and as such it must be prepared to incur a few bad debts in the multiplication and expansion of its agencies.

Sir JOHN FORREST.—But surely we must not lose money?

Mr. JOSEPH COOK.—It is quite certain that the present Government will make no bad debts in the Postal Department because it has practically stopped all new undertakings. It is as impossible to procure telephonic communication between any two points now as it is to fly to the moon. There will be no bad debts incurred by the Postmaster-General; but there is a sad side to the picture in the fact that the people of the continent are deprived of the ordinary telephonic facilities, which are spreading as rapidly as possible in every other part of the world, at a time when they most need them. I venture to say that since the introduction of these cash guarantees there have not been a dozen lines constructed throughout the Commonwealth. The present method is not calculated to lead to any expansion of

business. It is rather a way not to make the Post-office pay. For some time past I have been criticising the Postmaster-General seemingly without effect. He is away in the cloistered seclusion of another place, and we can say nothing to him except through the medium of another Minister. That honorable gentleman invariably tells us that he will communicate all our criticisms to the Postmaster-General, and there is an end to them. A very grave wrong was committed by this Government when they placed the Postmaster-General in the other Chamber, which has not the direct relations with him that this House has. The members of this Chamber represent the State electorates. It is to us that applications are made in connexion with postal and telegraphic wants. Yet we can address the Minister only through the medium of another Minister. That is the initial trouble, and even at this late period it ought to be remedied as soon as possible. The other day I asked for a return of the bad debts incurred in New South Wales, about which we have heard so much. We are told that in that State the sum of £8,000 had to be written off. I want a return showing the relation of these bad debts to the totality of the business. Three weeks have elapsed since I asked for the information, and so far the particulars desired have not been furnished, despite the fact that they ought to be forthcoming in an hour. It seems to me that the whole gravamen of the charges brought by the honorable member for Macquarie against the Minister for Trade and Customs and the Attorney-General turns upon the conduct of some of the subordinate officers in their respective Departments. What is complained of tonight? Nobody wishes to discuss the merits of the Goldring case, although it seems to me a very peculiar defence to the charges which have been made to urge that that case is *sub judice*. How long is it to be so? If Mr. Goldring does not take his case into court, will it be *sub judice* ever after? At what point is it to be decided whether it is *sub judice* or otherwise? If Goldring does not proceed further, are we to be prevented from discussing his case for all time upon the plea that it is *sub judice*? I always understood that a matter was *sub judice* when it was before the court, when some actual charge had been made, when a writ had been served, and the matter was at direct

issue between the plaintiff and the defendant. No such thing has occurred here. I presume that for all time hereafter the Minister will plead that the Goldring case is *sub judice*, because once in 1903 it was held to be so.

Mr. DEAKIN.—If Goldring withdraws his action we will lay the whole of the papers upon the table to-morrow.

Mr. JOSEPH COOK.—Goldring has taken no action.

Mr. DEAKIN.—He has informed me that he intends to do so.

Mr. JOSEPH COOK.—When will this bar to the discussion of the matter be removed? If Goldring has endeavoured to defraud the Customs Department, honorable members will acclaim the Minister for setting the law in motion. But irrespective of whether or not the case is *sub judice*, statements have been made as to simple matters of fact which have aggravated it, and as to which any explanation would not prejudice its merits. For example, why has not Mr. Goldring been able to obtain replies to his correspondence? Why, the greatest criminal in the country is entitled to receive an answer. But not a word can be got out of the Department in this connexion. Strange to say, the Attorney-General's Department is pervaded with the same tired feeling that is to be found in the Customs Department. The honorable gentleman declares that steps were taken promptly by the Cabinet to allow Goldring to prosecute his claim. But it was nine days after the Cabinet had decided to name a nominal defendant before this man received the paper:

Mr. DEAKIN.—It was six days, and I have learned since where the blame rests. The blame does not rest with the Attorney-General's Department. On looking up the papers, I find that on the day we received the document it was forwarded to Mr. Goldring. The delay lies somewhere between the Executive Council and the Attorney-General's Department, but not in the latter, I am happy to say.

Mr. JOSEPH COOK.—Then it took six days for a simple paper to go from the Executive Chamber to the Attorney-General's Department?

Mr. DEAKIN.—Apparently; but the Governor-General had been in Sydney.

Mr. JOSEPH COOK.—If I were at the head of the Attorney-General's Department some one would have to answer for such

a scandalous state of affairs. It is the same sort of thing multiplied indefinitely through the Customs Department that is making it impossible to get business attended to there. Surely such delays are not necessary in order to guard the revenue of the country, or to see that criminals do not escape. All the requisite steps could be taken to protect the revenue, and at the same time observe the ordinary courtesies of business life. It was because of the delays and the absence of answers to letters that Mr. Goldring was, in the first instance, compelled to go to law. He could come to no other conclusion than that the Department was treating him with absolute contempt, and he did what any other man of spirit would have done—he went for redress to the law courts. These are matters within the control of Ministers, who ought to see that the clerks of their Departments attend to the correspondence work as they would be compelled to do if employed by any ordinary business firm. It seems to me that this House will tolerate almost anything in connexion with the Minister for Trade and Customs, because he now and then wins a case in court. We only hear of, and applaud him for, the cases he wins; we never hear anything about the cases in which his action amounts to right down oppression, and consequent ruin to the people who come under his administration. I am not blaming the Minister personally, but he must be held responsible for the conduct of his officers; and a drastic revolution in the methods of his office would obviate many of the troubles which are so irritating to the people concerned. I applaud the Minister for hunting down fraud; but people in matters affecting their business, and, so to speak, their very life, are at least entitled to ordinary courtesy. Like other honorable members, I have grievances which I should like to bring before the House, but I do not intend to touch on them to-night. I recognise that we must deal with the Judiciary Bill, which is regarded as a matter of superior importance. But I thought I heard a voice from Corio uttering the words—“Responsible Government.” These words seem to have a strange sound in an Assembly like this. They strike one almost as a voice from the dead—as the voice of a man who has been suddenly awakened after sleeping, say, a quarter of a century, and who is under the impression that in these days we are still following the

constitutional lines followed by our forefathers in the British Parliament. At any rate, the words "Responsible Government" have a strange sound in the Federal Parliament, where there has been no evidence of the principle up to date. The latest evidence of an utter and total disregard of the principle lies in the fact that a measure like the Judiciary Bill—

Mr. SPEAKER.—The honorable member must not discuss the Judiciary Bill at present.

Mr. JOSEPH COOK.—I am not going to discuss the Judiciary Bill, but merely to refer to it as evidence of Ministerial delinquencies.

Mr. SPEAKER.—So long as the honorable member goes no further he is entitled to do that.

Mr. JOSEPH COOK.—Ministers have declared that the Judiciary Bill is vital to the Constitution, and that it is mandatory, by the direct voice and vote of the people, to create a High Court at the earliest possible moment. Surely this is a matter in which Ministers should feel responsibility; but how have they allowed the measure to be treated by the House? Do we see any evidence of that keen and delicate sense of responsibility of which we heard so much in the olden days? The honorable member to whom I have referred had better wake up and find that Ministerial responsibility, in the Federal Parliament at any rate, is a dead and done-for thing, and will remain so until we have a Ministry in power who will revive the principle and bring us into line with the great mother of Parliaments, of which we are so proud.

Question resolved in the negative.

JUDICIARY BILL.

In Committee:

(Consideration resumed from 24th June
vide page 1355).

Postponed clause 4—

The qualification of a Justice of the High Court shall be as follows:—He must be either a Judge of the Supreme Court of a State, or a practising barrister or solicitor of the High Court or of the Supreme Court of a State of not less than five years' standing.

Mr. POYNTON (South Australia).—I wish to move an amendment to this clause, but before doing so I must express the opinion that the Bill, since its introduction, has been very much improved. It is a measure so technical in its construction and

operation that it is with some diffidence, as a layman, that I submit an amendment, which I believe will improve the clause very materially. The honorable and learned members of the House may not altogether agree with the phraseology of the amendment, but it has the merit of being perfectly clear in its meaning. It has the further merit that it will afford a complete reply to the Kyabramites, not that I for a moment suggest that any honorable member would take the slightest notice of what the Kyabram people may say. If my legal friends want a precedent for the amendment it can be found in a similar provision which is in operation in nearly every State throughout the Commonwealth. I move—

That the following words be added: "Provided that no member of the Federal Parliament shall be deemed qualified unless he has ceased to be a member of such Parliament for not less than twelve months"

Mr. WILKS.—It is a self denying ordinance.

Mr. POYNTON.—It is, but it will not affect myself as it may affect others. In a young national Parliament, when we are being accused outside of creating positions for ourselves, an amendment of the kind will show to future generations, that in the creation of a Judiciary, we, by passing an amendment of this character, showed patriotism worthy of the first legislative body of the Commonwealth. I expect to hear it said that the best men are in Parliament, and I believe there are very good men here. I decline, however, to believe that within these walls we have all the wisdom of Australia, because in my opinion there are men outside quite capable of filling these positions.

Mr. SPENCE.—Do you think future generations will trouble about the matter?

Mr. POYNTON.—Our legislation is not for to-day only—we are merely the custodians of the people's rights for the time being. The honorable member for Darling knows well how pleased we of this generation are when we read of patriotic actions in the past; and I think there is sufficient patriotism in the Committee to secure a unanimous vote for the amendment.

Mr. DEAKIN (Ballarat — Attorney-General).—I am in the fortunate position occupied by the honorable and learned member for South Australia, Mr. Poynton, inasmuch as I could accept the amendment

without personal sacrifice. But I should hesitate a long time before asking the Committee to agree to such a proposal. In the first place it is a reflection upon the whole Parliament, as well as upon some of the foremost lawyers of Australia. A proposal similar in many respects was defeated in the Convention.

Mr. POYNTON.—By a small majority.

Mr. DEAKIN.—I do not remember the majorities in the Convention.

Mr. HIGGINS.—It was carried first, and afterwards rejected.

Mr. DEAKIN.—I know that it was finally rejected, as conveying an entirely unnecessary imputation upon those who would constitute this Parliament. The amendment is also a reflection upon our system of government. These are Executive appointments of the highest responsibility for which a Ministry would be certain to be called to account, unless its choice had fallen upon men so eminently qualified that their nomination gave satisfaction to the profession, was approved by the public, and gave evidence of full consideration of the interests of the Commonwealth. While much might be said in support of the proposal, a great deal more could be urged against it if it were desirable to discuss the question in Parliament. In opposing it, members would be placed in the awkward position of appearing to study their personal interests, when, in effect, there are no such selfish interests. I doubt if there are as many as a dozen members of the legal profession in both Houses of this Parliament whose experience qualifies them to aspire to a seat on the Bench either of a State Court or of the High Court. On the other hand, if we passed the amendment the public might be expected to think that we were performing an act of great self-sacrifice, whereas we should be doing nothing of the kind, inasmuch as there are at least 100 members who have not the possibility of appointment. To agree to the honorable and learned member's proposal would be to place another barrier in the way of the absolutely free choice which, in the interests of the Commonwealth, should be left to the Executive.

Amendment negatived.

Clause agreed to.

Postponed clauses 5 and 6 agreed to.

Postponed clause 7—

A Justice of the High Court shall not be capable of accepting or holding any other office

or place of profit within the Commonwealth, except any such office as is granted to him under the King's sign-manual or by the authority of the Lords of the Admiralty of the United Kingdom in matters of prize, or as is conferred upon him by law, and the acceptance or holding of any other such office or place shall be deemed an avoidance of his office of Justice of the High Court and his office and commission shall be thereby superseded.

Mr. GLYNN (South Australia).—This clause provides that the acceptance or holding of any other office, or place of profit within the Commonwealth, shall be deemed an avoidance of the office of Justice of the High Court. But we have no power under the Constitution to make such a provision.

Mr. DEAKIN.—That is so, and I have given notice of an amendment for the omission of the provision to which the honorable and learned member refers. I move—

That all the words after the word "law," line 8, be omitted.

Mr. CONROY (Werriwa).—Under this clause, as it stands, the Government could not appoint a Judge of the Supreme Court in any of the States to act temporarily as a Judge of the High Court.

Mr. DEAKIN.—The Constitution does not allow that.

Mr. CONROY.—Is there no provision for the appointment of an acting Justice of the High Court?

Mr. DEAKIN.—No.

Amendment agreed to.

Clause, as amended, agreed to.

Postponed clause 8 agreed to.

Postponed clause 9 (Seat of the High Court).

Mr. CROUCH (Corio).—This clause provides that—

Until the seat of government is established, the principal seat of the High Court shall be at such place as the Governor-General from time to time appoints.

I should like to know why the rights of Melbourne, under section 125 of the Constitution, in respect to the sittings of Parliament, are not preserved in this clause in respect to the seat of the High Court?

Mr. CONROY.—The only right of Melbourne under the Constitution is to have the sittings of Parliament here "until it meets at the seat of government."

Mr. CROUCH.—No doubt the honorable and learned member is technically correct; but, from the admissions of every Premier who attended the conference at which the

Constitution Bill was amended, the intention was that Melbourne should be the seat of government until the time came to establish it at some other place.

Mr. CONROY.—No. When Parliament is not sitting, the seat of government may be in Sydney.

Mr. CROUCH.—I hold that it is an advantage to Melbourne to have the seat of government here, and I think that our rights should not be disregarded in the matter of the High Court. As it is, the Governor-General is conspicuous by his absence from Melbourne. He very rarely comes here. He spends a great deal of his time in Adelaide, and when he is not there he is often, for political reasons, in Sydney. I suggest to the Attorney-General that he should carry out the intention, if not the technical meaning, of section 125 of the Constitution by omitting the words "such place as the Governor-General from time to time appoints," and inserting the word "Melbourne."

Mr. CONROY (Werrawa).—The honorable and learned member seems to have overlooked the fact that the Acts Interpretation Act provides that "Governor-General" means the Governor-General with the advice of the Executive Council, and the Executive Council would naturally fix the seat of the High Court where the capital was for the time established.

Clause agreed to.

Postponed clause 10—(Registries).

Sir JOHN QUICK (Bendigo).—I draw the attention of the Attorney-General to the wording of sub-clause (3), which provides that the Governor-General may establish district registries—

On the recommendation of the Justices of the High Court or a majority of them.

I think it would be sufficient to say—

On the recommendation of a majority of the Justices of the High Court.

Mr. McCAY (Corinella).—Does the Attorney-General think that he will require district registries and registrars now that the High Court has a much smaller jurisdiction than he proposed?

Mr. DEAKIN.—With regard to the point raised by the honorable and learned member for Bendigo, the words to which he takes objection may perhaps not be strictly necessary, but they were adopted from an existing Act, and there appears to be no objection to them. In reply to the honorable and learned member for Corinella,

I desire to say that district registries will still be necessary, but inasmuch as the jurisdiction of the High Court has been reduced, the work of the States officers who will be employed as registrars will also be reduced, and the amount which we shall have to pay for their services will be smaller than it would have been had the original jurisdiction provided for remained to the High Court. I anticipate no difficulty in obtaining the services of States officials for these duties.

Mr. CROUCH (Corio).—As it is probable that the Commonwealth may take over certain other territories, and particularly New Guinea, perhaps it would be as well to substitute the words "within the Commonwealth" for the words "within any State."

Mr. DEAKIN.—We have prepared for that to a certain extent under clause 85, dealing with rules of court, because we take power to prescribe the extent to which the Act shall be applicable to the courts of territories of the Commonwealth.

Clause agreed to.

Postponed clause 11—

Sittings of the High Court shall be held from time to time as is required at the principal seat of the court and at each place at which there is a District Registry.

Mr. HIGGINS (Northern Melbourne).—I should like to know whether the Attorney-General thinks it necessary to make it compulsory to have sittings of the High Court wherever there is a district registry?

Mr. DEAKIN.—Yes; as required.

Mr. HIGGINS.—It appears to me that the clause makes it compulsory. As the Bill originally stood, it might have been essential to have sittings in each of the six capitals, and perhaps also at other places, in connexion with circuit work, but having regard to the fact that the business of the court will be confined almost wholly to the hearing of appeals, there will be no need for the Judges to waste their time in travelling about. I suggest that we should provide that the courts should sit at such places as the Governor-General may appoint. Of course, it will be understood that the Governor-General will fix the places of sitting as the Judges may recommend. If the clause is passed in its present form, the Judges may feel constrained to hold sittings wherever there is a district registry, whether there is any business to transact or not.

Mr. DEAKIN.—The words at the end of the clause might be altered to read "and may be held at any place at which there is a district registry." That would involve less alteration than the suggestion of the honorable and learned member.

Mr. ISAACS (Indi).—I do not think there is very much trouble to be apprehended under the clause as it stands, because of the saving words, "as is required." The court will not sit at any of the places at which there is a district registry, unless there is business that will require them to do so.

Mr. HIGGINS.—I can conceive that the Judges would feel constrained to sit at each place at which there is a district registry, and I think it would be much better to amend the clause in the manner I suggest. I therefore move—

That all the words after the word "time," line 2, be omitted, with a view to insert in lieu thereof the words "at such place as the Governor-General may prescribe."

Mr. CONROY (Werriwa).—I think it would be advisable to make the clause as elastic as possible, because there is a good deal of force in the view taken by the honorable and learned member for Northern Melbourne. We may not be able to accommodate our Judges with any degree of comfort at the federal capital for some time to come, and yet it is required that the court shall be held from time to time at the principal seat of the court. I shall support the amendment.

Mr. ISAACS (Indi).—I would ask the honorable and learned member for Northern Melbourne whether the amendment would not be to some extent contradictory to what we have already done. In clause 10 it is provided that there shall be a principal registry of the High Court which shall be at the principal seat of the court. That is compulsory. It is also provided that there shall be district registries at the capitals of the States. Power is also to be taken to appoint other places if necessary. If the whole of Australia is to bear the expense connected with the High Court, I think that it should be understood that the High Court is to sit in each capital at some time or other, if required. The matter should not be left in such an indefinite form that it might be considered sufficient if the Governor-General appointed the two larger capitals as the places of sitting for the court.

Mr. WINTER COOKE (Wannon).—I quite agree with the honorable and learned member for Indi, and I think it is undesirable to make any amendments in the clause unless very good reasons are shown. It is to be assumed that the court will sit only when and where it may be necessary for it to transact business.

Mr. GLYNN (South Australia).—I was struck by the same point as the honorable and learned member for Indi, namely, that the effect of the proposed amendment would be to make it optional with the Governor-General to say whether the High Court should sit at a district registry or not; whereas under clause 10, it is provided that the court must sit as required, wherever there is a district registry. The honorable and learned member for Northern Melbourne could effect his object by striking out all the words after the word "and" and adding at the end of the clause those which he proposes to insert.

Mr. HIGGINS (Northern Melbourne).—Under the clause as it stands it is compulsory for the court to hold sittings not only at the principal seat, but at every place where there is a district registry, as required. The court would consider that they were bound to hold sittings in every place where was a district registry, and in the event of an appeal case arising in Perth, for instance, they would regard it as their duty to travel to that city in order to hold a court. We should not encourage this travelling about any more than we can possibly help. Although I adhere to the position that we shall be imposing an obligation on the Judges to hold sittings to no purpose, the Committee do not appear to agree with me, and therefore I shall withdraw the amendment.

Amendment, by leave, withdrawn.

Mr. CONROY (Werriwa).—I think that this clause is worthy of more consideration than has been bestowed upon it. To my mind its provisions should be made more elastic. Perhaps in twelve months' time an argument will be founded upon it for the appointment of additional Judges. I could quite understand the honorable and learned member for Indi using it for that purpose if he were arguing against the view which he now indorses. The more I look at this provision, the more I can see the force of the contention of the honorable and learned member for Northern Melbourne.

Mr. HIGGINS.—It is an excuse for providing the Judges with work when there is none.

Mr. CONROY.—Exactly.

Mr. ISAACS.—Does the honorable and learned member suggest that the High court ought to sit at one place in Australia only?

Mr. CONROY.—The places at which it shall sit should be determined by the Judges themselves, with the advice of the Executive. If a case does arise in a certain State, the court ought to be prepared to go there if necessary. But I would point out that in some instances its members would have to start travelling a week before they were aware that any cases were set down for hearing. Take the experience of the States Circuit Courts. Frequently up to almost the day prior to the holding of these courts no cases are listed. Then two or three are brought forward almost at the last moment. The fact is, that endeavours are usually made by both sides to effect a settlement so as to avoid the expense of the parties going into court. If we allow the clause to stand in its present form, who can say that the court will not be required to sit at any of the other State capitals?

Mr. McCAY.—The court ought to determine where it should sit.

Mr. CONROY.—The court should only determine it subject to the consent of the Executive Council. I have not the slightest doubt that within the next two years this very clause will be used by certain honorable members to support an argument in favour of the appointment of additional Judges. I trust that the honorable and learned member for Northern Melbourne will press his amendment.

Mr. McCAY (Corinella).—Surely the Committee, having divided several times upon matters of grave importance in this Bill, is not going to vote upon a matter of this kind. I think that the clause is in proper form. The words “is required” cover all the contingencies feared, and if the High Court—irrespective of whether it is constituted of three Justices or more—cannot be trusted to control its own business without abusing its powers, it certainly cannot be intrusted with the interpretation of the Constitution.

Clause agreed to.

Postponed clauses 12 to 15 agreed to.

Postponed clause 16—

The jurisdiction of the High Court may be exercised by a Justice sitting in chambers in the cases following:—

- (a) Applications relating to the conduct of a cause or matter;
- (b) Applications relating to the custody, management or preservation of property, or to the sale of property and the disposition of the purchase money;
- (c) Applications for orders or directions as to any matter which by this Act or by rules of court is made subject to the direction of a Justice sitting in chambers;
- (d) Any other applications which by this or any Act or by rules of court are authorized to be made to a Justice sitting in chambers.

But on the application of either party the Justice may order the application to be adjourned into court and heard in open court.

Mr. HIGGINS (Northern Melbourne).—This clause needs revision, owing to the changes which have been made in the Bill. It provides, amongst other things, that the High Court may exercise jurisdiction by a Justice sitting in chambers, in applications relating to the custody, management, or preservation of property, or to the sale of property and the disposition of the purchase money. That drags into the cognizance of the High Court ordinary equitable applications.

Mr. DEAKIN.—Only upon matters of Federal jurisdiction.

Mr. HIGGINS.—Suppose that in the course of a mortgage suit involving £100,000 there was a single question of £50 which was affected by the Federal law. The whole of that particular action could be dragged before the High Court. The original idea was that the High Court should have original jurisdiction in a host of matters in which it has been deprived of that jurisdiction. There are two kinds of functions which courts perform, first, the awarding of damages, and secondly the administration of property. This clause involves questions of the administration of property. I cannot conceive of any case being brought before the High Court.

Mr. McCAY.—Supposing there is a suit between residents of different States?

Mr. HIGGINS.—These matters are not dealt with in chambers in the States Supreme Courts. They are dealt with in open court by petition or upon motion. To my mind we ought not to allow these applications, which may involve an infant's whole patrimony, to be entertained anywhere but in

open court. Why should this power be given to the High Court, seeing that that tribunal is now only a Court of Appeal. I fail to see any distinction between paragraphs (c) and (d) of this clause. To my mind they traverse the same ground. I think that this chamber jurisdiction might very well be allowed to stand over till we know what the other machinery of the court is to be. It has been suggested that this provision is intended to provide for suits between residents of different States, but I can hardly conceive of there being any need for an application for the custody or sale of property. Further, why should we allow the High court to do in chambers what the other courts have to do in the open? There is no class of application in which so much hanky-panky can be played as that having reference to the property of helpless infants. As the High Court is endowed with only a very slight original jurisdiction, these matters might well be dealt with in the ordinary way upon motion.

Mr. DEAKIN.—The honorable and learned member for Northern Melbourne has correctly stated that the alteration in the jurisdiction which has been made will certainly deprive the High Court of the great bulk of the original jurisdiction work that would have been transacted there. I do not know that under any circumstances it was likely to have been large, but I confess that it will now be much smaller. Although it may be rarely exercised, the power conferred by this clause is a convenient one to have, especially if it be read in conjunction with the provisions which I purpose asking the Committee to substitute for the next clause. It is the same in effect, though different in form. It provides—

1. The Supreme Court of a State shall, subject to any rules of court, be invested with Federal jurisdiction, to hear and determine at the request of the Chief Justice, any applications in matters pending in the High Court which may be made before a Justice of the High Court sitting in chambers.

2. Such jurisdiction may be exercised by a single Judge of the Supreme Court sitting in chambers.

I have submitted this proposal as an alternative to the clause in the Bill. The object is, if it be possible, and I think it is, to provide that under certain circumstances a Judge of the Supreme Court of a State may undertake some subordinate or ancillary matters proper to be dealt with in chambers, and

may be deputed to do so in order to avoid a visit to a particular district or capital of one of the Federal Justices. I think the honorable and learned member will see that it would be a very convenient arrangement. I am willing to admit, however, that this power has necessarily been deprived of much of the value it would otherwise have had, by the extreme rarity of the necessity that is now likely to arise of making any such demands. Still the fact that the power may be required or exercised only on few occasions, is no reason why this provision should not be made. No additional jurisdiction is conferred; it is simply a convenient mode of dealing with minor interlocutory matters. Those questions are scarcely of the nature which the honorable and learned member has suggested that may hereafter arise when Commonwealth legislation relates to infants, parental rights, and other subjects on which legislation is possible. Then this business may become of some importance; but at the present time its intention is to provide for ancillary and minor matters.

Mr. HIGGINS.—The provision will compel the court to have a Chief Clerk or some officer qualified to sell property and apply purchase money—it means more officials.

Mr. DEAKIN.—I think not, though it means the use of more State officials.

Mr. ISAACS.—I doubt it very much. It is only doing in chambers what the court otherwise would do.

Mr. DEAKIN.—The fact that the power will be little used, may be thought an argument in its favour. When it is used, it will mean a saving of expense and of time and travelling, even if it is only of a single Judge; and these considerations are worth weighing.

Mr. HIGGINS (Northern Melbourne).—My idea is that the power will mean expense in the employment of more officials; and that is what we ought to try to avoid. I think I speak with more experience than any one here in regard to this particular class of work; and I repeat that if we adopt more administrative machinery for the High Court it means more administrative officers. We cannot have applications for the sale and administration of property without having an officer qualified for the purpose. Of course, the Attorney-General will say that he intends to obtain the services of the Chief Clerk of a States Court.

Mr. DEAKIN.—Some such officer.

Mr. HIGGINS.—It may, or may not, be possible to obtain the offices of such an officer. The Chief Clerk of the States Court may say that he is busy with State work ; there may arise a conflict between his duty to the State and his duty to the Commonwealth, and eventually we shall be driven to employing such an officer.

Mr. McCAY.—Would it make any difference in the number of officers if these matters were dealt with in chambers instead of in open court ?

Mr. HIGGINS.—That is another point altogether. The proposal as to hearing these applications in chambers is a novelty to me, and I think it would be better to follow the ordinary course of hearing them in open court.

Mr. McCAY (Corinella).—It does not seem to me to make any difference, so far as the officials beyond the Judges are concerned, whether the applications are made in court or in chambers. The power will be in the court, consisting of either a single Judge or three Judges to make those orders, and if the power is there, the necessary officials beyond the Judges will be required. But there would be a saving of time and expense by allowing the applications to be made in chambers to the Judge, instead of to a court consisting of one or more Judges.

Mr. CONROY.—Does not paragraph (b) go further and give original jurisdiction ?

Mr. McCAY.—No ; the clause begins—“The jurisdiction of the High Court may be exercised . . . in the cases following.” If apart from clause 16 there was no jurisdiction to do what is mentioned in paragraph (b), the clause would not of itself give any additional jurisdiction, and consequently the abolition of the power to hear applicants in chambers would not save a single farthing or a single officer. I may point out that if there is any suspicion of “hanky-panky,” the matter can be adjourned into open court.

Mr. GLYNN (South Australia).—Such cases as have been referred to will not very often arise, because the original jurisdiction has been cut down ; but the power may be required under section 75 of the Constitution.

Mr. ISAACS.—It may be required in some appellate cases.

Mr. GLYNN.—It may be required in an application to a Judge for a new trial, and I do not know why we should not allow such applications, where new evidence has

been discovered, without the necessity of bringing the matter before the Full Court of three Judges. In a question of law, three Judges would be necessary ; but in a case of mistake, or where more evidence had been obtained, a single Judge might be sufficient. A mandamus is not a matter which can be waited for, and if one is applied for under section 75 of the Constitution against the Commonwealth, it might be expedient to grant it in some cases in chambers. That can be done in some of the States, and I think it should be possible in all.

Mr. CONROY (Werriwa).—At first I was inclined to agree with the honorable and learned member for Northern Melbourne, but now I think that the distinction pointed out by the honorable and learned member for Corinella is sufficient. All that Justices sitting in chambers can do is merely that which can be done in the High Court in certain cases ; sub-paragraph (b) does not give any power beyond that which the Full Court has.

Mr. HIGGINS.—May I ask the Attorney-General for an explanation of paragraphs (c) and (d) ?

Mr. DEAKIN.—Paragraph (c) applies to cases in which an application may be made for an order or special direction. But there are cases in which applications of another sort may be made ; and to meet those cases paragraph (d) is inserted. No order or direction may be expected, but the court is made acquainted at some stage with interlocutory matter which arises, and of which it is desirable the court should be informed. Paragraph (d) is a drag-net proposal to cover anything which is not embraced by other sub-clauses of an administrative nature, suitable to be mentioned in chambers.

Clause agreed to.

Postponed clause 17 (Supreme Court Judges may be empowered to act as Justices of the High Court in chambers).

Mr. DEAKIN.—I propose to omit this clause with a view of substituting a new clause hereafter.

Clause negatived.

Postponed clauses 18 and 19 agreed to.

Postponed clause 20—

(1) The jurisdiction of the High Court to hear and determine appeals from judgments—

(a) of a Justice of the High Court exercising the original jurisdiction of the High Court ; or

(b) of a Judge of the Supreme Court of a State exercising Federal jurisdiction ; or
 (c) of the Inter-State Commission ;

and to hear and determine applications for a new trial of any cause or matter, after a trial before any such Justice or such Judge exercising Federal jurisdiction, shall be exercised by a Full Court consisting of not less than three Justices.

(2) Appeals from judgments of any other court exercising Federal jurisdiction may be heard and determined by a Full Court consisting of two or Justices.

Mr. DEAKIN.—Honorable members will notice that the clause provides that appeals from the judgment of any other court exercising Federal jurisdiction may be heard and determined by the Full Court, consisting of two or more Justices ; and we have already made the quorum in sub-clause 2 two Justices. I suggest that we transpose this sub-clause, and insert it between paragraphs (b) and (c), and as sub-clause (b2), make it read "of any other court exercising Federal jurisdiction."

Mr. ISAACS (Indi).—I desire the Attorney-General to make an alteration, which, although it may appear small, involves a large principle. In paragraph (b) I suggest that we should strike out the first three words, "of a Judge." There is all the distinction between a Judge of the Supreme Court of a State and the Supreme Court of a State, because under the Constitution, we have only power to invest jurisdiction in a State Court. I draw attention to this because I think it is important.

Mr. DEAKIN.—In clause 20 we are dealing, or wish to deal, with the Supreme Court of a State only when its jurisdiction is exercised by a single Judge. In clause 21 we propose to deal with appeals from the Full Court of a State, and to make the necessary distinction between them.

Mr. ISAACS.—That can be done if the Attorney-General uses the words "The Supreme Court of a State consisting of a single Judge exercising Federal jurisdiction."

Mr. McCAY (Corinella).—The provision for two Judges may be left out altogether, because clause 19 fixes two Judges as a minimum ; and we may make clause 21 provide three Judges. The Attorney-General, now that we have only three Judges, desires to fix the cases in which all the three Judges must be sitting. Under clause 19, the Full Court, consisting of any two or more Judges, will be entitled

to hear any case which under subsequent clauses does not require the attendance of three Judges. The honorable and learned member for Indi suggests that the clause does not say what the court so constituted may do, but I take it that it will be entitled to do whatever the Constitution authorizes it to do, subject to the restrictions of subsequent clauses.

Mr. DEAKIN.—It seems to me that we lose nothing in being specific, though I confess that if we had started as we are now starting, we might have condensed these clauses. I think it is better now to make them perfectly plain. I move—

That the words "of a Judge," paragraph (b), be omitted.

Amendment agreed to.

Amendments (by Mr. DEAKIN) agreed to—

That after the word "jurisdiction," line 7, the words "when such jurisdiction is exercised by a single Judge" be inserted.

That after the word "or," line 7, the following words be inserted :—"(b 2) of any other court exercising Federal jurisdiction."

Sir JOHN QUICK (Bendigo).—I think provision should be made here for appeals from the Full Court of a State. Clause 21 merely provides for a quorum of Justices on appeals from the Supreme Courts of the States.

Mr. DEAKIN.—The whole appellate power is dealt with in clauses 35 and 36. Here we are dealing simply with procedure.

Mr. GLYNN (South Australia).—I think it is inexpedient to require applications for a new trial to be made to two Judges. Of course, the original jurisdiction of the court will be important, but I cannot see why an application for a new trial should not be made to an ordinary Judge. I could understand it being made compulsory to apply to two Judges of the High Court where there was a mistake in law, but not where there was only a mistake in fact. The clause prevents a Judge of the Supreme Court of a State from hearing these applications, and thus may force suitors to go to the very heart of Australia to make their applications before the High Court. I think the Attorney-General might consider whether it is not possible to provide, as under clause 16, for the exercise of the jurisdiction of the High Court by Justices sitting in chambers in regard to such an application.

Mr. DEAKIN.—I have made a note of the honorable and learned member's suggestion. I move—

That the words "consisting of not less than three Justices," line 13, be omitted.

Amendment (by Mr. DEAKIN) agreed to—

That sub-clause (2) be omitted.

Clause, as amended, agreed to.

Postponed clause 21—

1. The jurisdiction of the High Court to hear and determine appeals from judgments of the Supreme Court of a State, or of any other Court of a State from which at the establishment of the Commonwealth an appeal lay to the Queen in Council, shall be exercised by a Full Court consisting of not less than four Justices.

2. The concurrence of three Justices at the least shall be necessary in a judgment of the High Court by which any such judgment is reversed set aside or varied.

Mr. ISAACS. (Indi).—Does not the Attorney-General consider it advisable to insert after the word "State," line 3, the words "sitting as a Full Court?" I think that a distinction should be made between the Supreme Court of a State sitting as a Full Court and a single Judge of the Supreme Court.

Mr. HIGGINS (Northern Melbourne).—I understand that the intention is that appeals from judgments of a single Judge shall be heard by not less than two Justices of the High Court, and appeals from the Full Court of a State by three Justices. I agree with the honorable and learned member for Indi that the term "Supreme Court of a State" is too general, and that the words "sitting in Full Court" should be inserted. I do not understand the words—

Or of any other Court of a State from which at the establishment of the Commonwealth an appeal lay to the Queen in Council.

Mr. DEAKIN.—Under statute a special appeal lies to the Queen in Council from the decisions of the Judge in Equity in New South Wales.

Mr. HIGGINS.—Does the Attorney-General wish an appeal from that court to be heard by the Full Court?

Mr. DEAKIN.—Yes. I move—

That after the word "State," line 3, the words "sitting as a Full Court or Court of Appeal" be inserted.

Amendment agreed to.

Amendments (by Mr. DEAKIN) agreed to—

That the word "four," line 7 be omitted with a view to the insertion of the word "three." That sub-clause (2) be omitted.

Mr. CROUCH (Corio).—In Victoria, when a single Judge makes an order of review, his judgment is a judgment of a Supreme Court of a State sitting as a Court of Appeal, and the Bill provides that an appeal from such a judgment to the High Court can be heard only by the three Justices.

Mr. DEAKIN.—I will consider that point.

Clause, as amended, agreed to.

Postponed clause 22—

1. The concurrence of three Justices at the least shall be necessary in certifying that a question as to the limits *inter se* of the Constitutional powers of the Commonwealth and those of any State or States, or as to the limits *inter se* of the Constitutional powers of any two or more States, which has been decided by the High Court, is one which ought to be determined by the King in Council.

2. Applications for leave or special leave to appeal to the High Court from a judgment of the Supreme Court of a State, or of any other Court of a State from which at the establishment of the Commonwealth an appeal lay to the Queen in Council, shall be heard and determined by a Full Court consisting of not less than three Justices.

Amendment (by Mr. DEAKIN) agreed to—

That the words "The concurrence of three Justices at the least shall be necessary in certifying" be omitted with a view to insert the words "Applications to the High Court for a certificate."

Mr. HIGGINS (Northern Melbourne).—I should like to see if we can, in this clause, prevent an obscurity in the Constitution which arises from an amendment made by the Imperial Parliament at the instance of the Imperial Government. Section 74 of the Constitution provides that—

No appeal shall be permitted to the Queen in Council from a decision of the High Court upon any question however arising as to the limits *inter se* of the constitutional powers of the Commonwealth, and those of any State.

That phraseology would be all very well if there were only one question involved in every case, but we can readily conceive of a big suit imposing a host of issues. Supposing that there was only a small item, involving a question as to the limits *inter se* of the constitutional powers of the Commonwealth and those of a State, and that there were other issues in the same case involving perhaps £100,000. There is power to grant special leave to appeal

without the consent of the High Court in regard to almost all points except the one to which I have referred. Is the appeal to go on to the Privy Council under special leave as to all points except one, unless the High Court gives its consent? Why should a man be allowed to appeal as to the main body of a case, and not with regard to a specific point involved in it. This seems to be a remarkable method of legislating and adjusting.

Mr. McCAY.—The United States are experiencing a very similar trouble in connexion with Federal and State questions.

Mr. HIGGINS.—I have received a letter on this point from a very thoughtful man, who says that we are making confusion worse confounded. I confess that I have no definite proposal to make, but I was hoping that the Attorney-General would suggest some way in which litigants would be able to deal with these matters.

Mr. DEAKIN.—I am afraid that I cannot help the honorable and learned member much further on the road which he desires to travel. The section of the Constitution as it stands is the result of a conflict of opinion between the law officers of the Crown in the mother country and the delegates from Australia. The desire on our part was to retain as far as possible the power of final decision for the High Court in all matters affecting the new Constitution or affecting States Constitutions, but we were unsuccessful. The proposal which the Imperial Government embodied in the measure submitted to the House of Commons would have swept away the autonomous power of the High Court, and what we now have is the spar saved from the wreck of our ideals. It was intended that in spite of all its obvious difficulties and some disadvantages, the American practice should be followed here, and that a whole judgment should not necessarily be suspended because it involved a point affecting the distribution of constitutional powers as between the Commonwealth and a State, or between State and State; the utmost concession we could obtain was that such a point should be separated and dealt with independently. That is to say if the parties to a suit were dissatisfied with a judgment of the High Court, they might, by special leave, be enabled to take the case further, but in regard to those constitutional matters

of profound interest and importance to Australia, to which reference has been made, it should not be possible to take them beyond the High Court without the consent of that body. Where the High Court is satisfied with its own judgment, their decision cannot be questioned even on appeal to the King in Council. Whatever may be the defects of construction of the clause, its intention is plain, and I have not been able to consider any method by which we might gain further ground, or to see any point upon which it would be desirable for us to make a sacrifice.

Mr. CROUCH.—The proper course would be to avail ourselves of the power given in the latter part of section 74, and further limit the subject upon which appeals can be made to the Privy Council.

Mr. DEAKIN.—Yes; that will probably have to be done sooner or later. In the meantime, we have taken the words of the Constitution and embodied them in this clause. We can only rely upon the test of time and experience to show how soon it will be necessary for a future Parliament to bring order out of the disorder which to some extent prevails. It is a matter of the greatest difficulty, and the position at present is quite unsatisfactory. The Bill is only an approximation to what we desire, because the Constitution is defective here, and we must trust to the future to create better relations between the courts in this country and between our system and that of the mother country.

Mr. CROUCH (Corio).—The Attorney-General desires to avoid the necessity for reserving the Bill for the Royal assent, and therefore he does not feel disposed to take advantage of the power conferred by section 74 of the Constitution to make laws limiting the matters in which leave to appeal to the Privy Council may be asked. I do not agree with him in this regard, because I should like to see the High Court clothed with the fullest possible power. What I submit is this: By section 14 it is possible that one Judge of the High Court can exercise its powers, and that being so, section 74 of the Constitution provides that appeals from the High Court to the Privy Council can be ordered by the High Court, that is, by a single Judge; and if any limitation of this power is made by the Parliament, the Governor-General has to reserve such legislation for the King's assent. I consider the requirement of the

concurrence of three Judges is such a limitation, and would direct the Attorney-General's attention to it.

Mr. DEAKIN.—I see the honorable members point, and will consider it.

Amendment (by Mr. DEAKIN) agreed to—

That the words "shall be heard and determined by a Full Court consisting of not less than three Justices" be added to sub-clause (1).

Sir JOHN QUICK (Bendigo).—In the preceding clause we have drawn a distinction between a single Judge of the Supreme Court and the Full Court of the State sitting as a court of appeal. The express "judgment of the Supreme Court of the State" is used in this clause, and I would suggest to the Attorney-General whether some distinction ought not to be drawn between granting leave to appeal from a Supreme Court Judge sitting alone and from the Supreme Court Judges sitting as a Full Court.

Mr. DEAKIN.—I think we have provided for that, but I shall consider the point.

Amendment (by Mr. DEAKIN) agreed to—

That the words "consisting of not less than three Justices," line 16, be omitted.

Mr. GLYNN (South Australia).—I think it is rather a pity that we have not given more powers to the State Supreme Courts to grant appeals to the High Court. To my mind the States Courts might well be placed in the same relation to the High Court that they occupy to the Privy Council.

Mr. DEAKIN.—I have promised to consider that matter when clause 36 is under discussion.

Clause, as amended, agreed to.

Postponed clause 23 :—

No Justice of the High Court shall sit on the hearing of—

- (a) an appeal from a judgment or order made by himself; or
- (b) a motion for a new trial of a cause tried before himself; or
- (c) a question of law reserved on the trial before himself of a criminal case.

Mr. CONROY (Werriwa).—I suppose, in view of what has already occurred, the Attorney-General will consent to the omission of this clause.

Mr. DEAKIN.—No; I will retain it. I do not attach much importance to it, but the public never have the same confidence in a court upon which a Judge sits whose

decision is under review that they have in a tribunal which is constituted differently.

Mr. CONROY.—I think that we should be acting wisely by omitting the clause. In certain cases it might be very necessary that a single Judge should be able to sit on appeal against his own decision with the other two Justices.

Sir JOHN QUICK (Bendigo).—In view of the limited number of Justices to be appointed to the High Court, and of its very limited primary jurisdiction, it seems to me there is no necessity for the retention of this disqualifying provision. At any rate, I think that paragraph (c) ought to be excised, because there is no criminal jurisdiction vested in the High Court. But even if it possessed criminal jurisdiction, there is no reason why we should disqualify a Judge, who has reserved a case for the Full Court, from sitting upon the Bench. Under our State laws the Judge of a Supreme Court, who reserves a case, says, in effect—"I do not give a final decision." He is, therefore, quite capable of taking an unbiased view of the case when it comes before the Full Court. I move—

That paragraph (c) be omitted.

Mr. GLYNN (South Australia).—I think it would be better to omit the clause. In South Australia it is the practice for Judges to sit in judgment from their own decisions in appeal cases, and experience shows that their assistance have been very useful. They have a knowledge of the evidence which has been previously given, and can explain points upon which there is no record. Time after time Judges have reserved their own *prima facie* decisions, so that no danger exists of a Justice obstinately adhering to a hasty judgment, such as is necessarily given sometimes in *nisi prius* cases.

Mr. ISAACS (Indi).—I know that there is a diversity of opinion upon the matter which is dealt with under this clause. The later trend of opinion is that Judges should not sit upon appeals from their own decisions, and I can see advantages—even with a Bench composed of three Justices—in allowing two minds to come to a conclusion upon a case unhampered by the presence of a Judge whose decision is under review. After all, there is a lot of human nature even in Judges. Personally, I am inclined to leave the decision of this matter to the Attorney-General.

MR. DEAKIN.—I considered it, and decided to allow the clause to stand.

MR. ISAACS.—If the Attorney-General has no feeling in the matter, I would say that whilst there are advantages and disadvantages in both practices, with the very limited number of Judges constituting the High Court, we shall have to trust each Justice to bring an open mind to the review of his own decisions. Personally, I think that Judges can rise to the occasion of openly and frankly reconsidering their own decisions, and, if necessary, of reversing them.

Amendment, by leave, withdrawn.

Clause negatived.

Postponed clause 24—

Subject to the requirements of this Act as to the concurrence of three Justices at the least in certain cases, when the Justices sitting as a Full Court are divided in opinion as to the decision to be given on any question,—

- (a) the question shall be decided according to the decision of the majority, if there is a majority; but
- (b) if the court is equally divided in opinion, the opinion of the Chief Justice or if he is absent the opinion of the senior Justice present shall prevail, except in the case of an appeal from a decision of a Justice of the High Court or a Judge of the Supreme Court of a State exercising Federal jurisdiction, in which case the decision appealed from shall be affirmed:

Provided that in the last-mentioned case if the Justice or Judge whose decision is appealed from reports to the court that he desires that the matter shall be determined without reference to the fact that he has pronounced or given the decision, the opinion of the Chief Justice or senior Justice present shall prevail.

Amendments (by Mr. DEAKIN) agreed to—

That the words "Subject to the requirements of this Act as to the concurrence of three Justices at the least in certain cases" be omitted.

That the proviso be omitted.

Clause, as amended, agreed to.

Postponed clauses 25 and 26 agreed to.

Postponed clause 27—

The High Court and every Justice thereof, sitting in chambers, shall have jurisdiction to award costs in all matters brought before the court, including matters dismissed for want of jurisdiction.

MR. GLYNN (South Australia).—I suppose that the Attorney-General has considered the means of giving effect to the processes of the court throughout the Commonwealth? The matter, I believe, has caused some trouble in America.

MR. CROUCH (Corio).—I would ask the Attorney-General whether it was intended to include criminal cases among those in which costs can be awarded? The word "causes" covers criminal jurisdiction, but the word "matters" does not. Has the distinction been made designedly?

MR. DEAKIN.—Yes.

MR. CROUCH.—If it has been done designedly, I have no more to say.

Clause agreed to.

Postponed clauses 28 to 30 agreed to.

Postponed clause 39—

The judicial power of the Commonwealth shall be exercised by Federal Courts or by courts of the States which are by the law of the Commonwealth invested with Federal jurisdiction.

Amendment (by Mr. DEAKIN) agreed to—

That the words "Federal Courts" be omitted, with a view to insert in lieu the words "the High Court."

MR. GLYNN (South Australia).—In this provision we proceed to confer a jurisdiction in express words that is specifically conferred under the Constitution. By using words which appear in the Constitution, I fear that it may be assumed that they have been used for the purpose of endowing the High Court with that original jurisdiction which we have already cut down.

MR. DEAKIN.—It is exercised by the High court or the courts of the States. We have given the courts of the States practically the whole of the jurisdiction, so that there can be no supposition that we have endowed the High Court with more jurisdiction.

MR. GLYNN.—I would point out one source of danger. It is declared in the Constitution that—

The judicial power of the Commonwealth shall be vested in a Federal Supreme Court.

It is declared in this clause that the judicial power "shall be exercised" by the court. The word "exercised" not being the word used in the Constitution may be held to mean something more than is meant by the Constitution. It is unnecessary; and why put in a clause which leads to an ambiguity? I can understand why it was put in originally. It was a general declaration that the Federal Courts or the States Courts invested with Federal jurisdiction might exercise this power.

MR. DEAKIN.—The clause is a useful declaration. I fail to see how there can be any construction of it which would give the

High Court more power than the Constitution intends to confer. Although it is declaratory, the clause has a value of its own.

Sir JOHN QUICK (Bendigo).—It seems to me that this clause goes further than a mere declaration of what the Constitution provided. The words of the Constitution—

The judicial power of the Commonwealth shall be vested in a Federal Supreme Court to be called the High Court, and in such other Federal Courts as the Parliament creates, and in such other courts as it invests with Federal jurisdiction—

should be examined very carefully. The words "shall be vested" mean, as I understand them, "shall be and is hereby vested" in the High Court. It is not necessary for this Bill to say that the judicial power shall be vested in the High Court. What is the meaning of "shall be exercised" by the High Court in this clause? The Constitution says the High Court shall be vested with judicial power. Why say the judicial power shall be exercised when it is already vested by the Constitution itself? If we were creating other courts with a certain limited jurisdiction we should have to define that jurisdiction, but the High Court is invested with jurisdiction by the Constitution. We have not created other courts, and we do not need to say that the judicial power shall be exercised by the High Court. There is no necessity for the clause. It is only introducing confusion, and may lead to unexpected results.

Mr. McCAY (Corinella).—So far as I understand the Attorney-General, he says that this is a placard in the Judiciary Bill.

Mr. DEAKIN. — Something more than that; but is the honorable and learned member opposing it?

Mr. McCAY. — I do not see the necessity for it. I am always afraid of unnecessary clauses.

Mr. DEAKIN. — I will leave it to the Committee.

Clause negatived.

Postponed clause 46 agreed to.

Postponed clause 47—

(1) If in any cause removed in whole or part from a court of a State into the High Court it appears to the satisfaction of the High Court at any time after the removal—

(a) that the cause does not really and substantially involve a matter of Federal jurisdiction; or

(b) that any parties to the cause have been improperly or collusively joined either as plaintiffs or defendants for the purpose of instituting a cause removable under this Act; or

(c) that the defendant was not entitled to remove the cause—

the High Court shall proceed no further therein, but shall dismiss the cause or remit it to the court from which it was removed as justice requires, and shall make such order as to costs as is just.

(2) Every such order of remitter shall be carried into execution forthwith, and the proceedings and documents shall be returned to the court from which they were received.

Mr. DEAKIN. — It will be necessary to alter this clause considerably. In the first place we shall have to strike out of paragraph (a) the words "involve a matter of Federal jurisdiction." When clause 45 was passed with an undertaking to recommit, I agreed that upon recommittal I would propose a series of limitations. When we return to clause 45, I propose to ask the Committee to limit its operation to cases involving questions arising under the Constitution, or involving its interpretation. That is the only class of case which I propose to ask powers of removal. I propose to limit that power of removal to the appellate jurisdiction; so that it will not be extended to original jurisdiction. In accordance with that it will be necessary to amend clause 47, and I propose to amend it by making it read in paragraph (a) "that the cause does not really and substantially arise under the Constitution and involve its interpretation." Then I propose to strike out paragraphs (b) and (c). I move—

That the words "involve a matter of Federal jurisdiction or," lines 6 and 7, be omitted, with a view to insert in lieu thereof the words "arise under the Constitution or involve its interpretation."

Mr. GLYNN (South Australia).—That amendment does not carry out the scope of the amendment that was required in clause 45.

Mr. DEAKIN. — This is the power to send back.

Mr. GLYNN. — We have not given original jurisdiction in matters involving the interpretation of the Constitution. Where is the necessity for omitting the words in question if such a case never gets to the High Court?

Mr. DEAKIN. — It does get there in a matter of appellate jurisdiction. Clause 47 is a check upon that. The clause only affects appellate jurisdiction.

Mr. GLYNN.—That is all right.

Amendment agreed to.

Amendment (by Mr. DEAKIN) agreed to.
That paragraphs (b) and (c) be omitted.

Clause, as amended, agreed to.

Postponed clause 48—

When a cause is or ought to be removed into the High Court under this Act, the High Court may—

- (a) issue a writ directed to the Judges of the court from which it is removed commanding them to make return of the records in the cause, and may enforce the writ according to law; or
- (b) allow the party removing the cause, or entitled to remove it, to file in the High Court a sworn copy of the records in such other court, and may thereupon proceed upon that copy.

Mr. DEAKIN.—I propose to omit the words "or ought to be" in the first line of this clause, and in the second line to omit the words "under this Act." In paragraph (b) I shall propose the omission of the words "or entitled to remove it," because no one will be entitled to remove now.

Mr. L. E. GROOM.—The word "certiorari" is used in the margin. Is it intended to take actions from such an inferior court as, for example, a police court, to the High Court—in a case of Customs prosecution for instance?

Mr. DEAKIN.—It will be impossible to remove any case except one arising under the Constitution, or under Federal legislation involving the interpretation of the Constitution. I move—

That the words "or ought to be," line 1, be omitted.

Amendment agreed to.

Amendment (by Mr. DEAKIN) proposed—

That the words "under this Act," line 2, be omitted.

Mr. ISAACS (Indi).—Does not the Attorney-General intend to insert any words in place of the words "or ought to be"?

Mr. DEAKIN.—No. The clause will read, "when a cause is removed," and so on.

Mr. ISAACS.—Do the words "is removed," mean "ordered to be removed"?

Mr. DEAKIN.—It will have to be ordered to be removed.

Amendment agreed to.

Amendment (by Mr. DEAKIN) agreed to—

That the words "or entitled to remove it," lines 9 and 10, be omitted.

Clause, as amended, agreed to.

Postponed clause 49 agreed to.

Postponed clause 50—

Any matter of Federal jurisdiction which is at any time pending in the High Court . . . may be remitted for trial to any court of a State which has Federal jurisdiction . . .

Mr. DEAKIN.—There are three unnecessary words in the first line of this clause. They are the words "of Federal jurisdiction." If a case is not a matter of Federal jurisdiction we shall have no power over it. I move—

That the words "of Federal jurisdiction," line 1, be omitted.

Amendment agreed to.

Clause, as amended, agreed to.

Postponed clause 51 agreed to.

Postponed clause 54 verbally amended and agreed to.

Postponed clause 55—

Any person entitled to practise as a barrister or solicitor in any State shall have the like right to practise as a barrister or solicitor in any Federal Court.

(2) Provided that before so doing he shall produce to the Principal Registrar evidence showing that he is so entitled and in what capacity, and shall procure his name to be entered in a Register of Practitioners to be kept at the Principal Registry.

Mr. McCAY (Corinella).—In some of the States there is what is known as the amalgamation of the legal profession, while in other States there is no such law. Amalgamation prevails in South Australia, Victoria, and Western Australia, but in New South Wales, Queensland, and Tasmania the two branches of the profession are distinct in law as well as in fact.

Mr. L. E. GROOM.—In Queensland a barrister may practise as a solicitor or a solicitor as a barrister.

Mr. McCAY.—I am not sure that this clause will preserve in the Federal Courts the rights that legal practitioners have under amalgamation in the States Courts.

Mr. DEAKIN.—If a legal practitioner is entitled to practise either as a barrister or as a solicitor, he is entitled to practise in the Federal Court.

Mr. McCAY.—I think the clause ought to be made clearer, and that any person entitled to practise as a barrister or solicitor in any State should have the right to practise as a barrister and solicitor in any Federal Court. In Victoria there is a good deal of feeling in this connexion, and some members of the profession, in defiance of the law which they are supposed to expound, refuse to regard the amalgamation

as any more than a legal fiction. The whole tendency in these days is towards the amalgamation of the legal profession, with the right of the practitioner to specialize if he so chooses. In some of the States the law in regard to lawyers is exactly 100 years behind the law in regard to medical practitioners. It is just about a century ago since apothecaries and surgeons became merged into the medical profession, in which each practitioner still specializes in his work. In the United States we have the amalgamation of the legal profession in its completeness and entirety. I think that the simplest way would be to omit the word "like" and insert after the word "solicitor" in the 3rd line the words "or both."

Mr. DEAKIN.—Why omit "like"?

Mr. McCAY.—Because in New South Wales, for example, a man can only practise as a barrister or solicitor, and the clause would not give a "like" right.

Mr. DEAKIN.—Why should we provide for an extra right? What I have done is to endeavour not to interfere with the practice in the States, so that if a State law allows a man to practise as both barrister and solicitor, he may be able to do so in the Federal Court.

Mr. McCAY.—I should prefer to have an amalgamation of the profession, or give the option of amalgamation, so far as the Federal Courts are concerned.

Mr. GLYNN.—We cannot set the standard of education, but the States can.

Mr. McCAY.—I agree that we must preserve existing rights in the States. I move—

That, after the word "solicitor," line 2, the words "or both" be inserted.

Amendment agreed to.

Amendment (by Mr. McCAY) agreed to—

That the words, line 3, "as a barrister or solicitor" be omitted.

Mr. DEAKIN.—I am leaving the words "Federal Court," although, strictly speaking, this clause ought to be limited to the High Court.

Mr. CROUCH (Corio).—Might I suggest that, at the end of the first sub-clause, the words, "or any court exercising Federal jurisdiction" should be added.

Mr. DEAKIN.—I think that will come in time, but I have not ventured to propose it here.

Amendment (by Mr. DEAKIN) agreed to—

That in sub-clause (2) the words "shall procure his name to be entered" be omitted, with a view to insert in lieu thereof the words "the principal registrar shall thereupon enter his name."

Clause, as amended, agreed to.

Postponed clause 56 agreed to.

Postponed clause 57—

Any person entitled to practice as a barrister in any State, shall, when appearing on behalf of the Commonwealth, be entitled to practise as a barrister in any court exercising Federal jurisdiction in any part of the Commonwealth.

Sir JOHN QUICK (Bendigo).—Why should the operation of this clause be limited to a legal practitioner appearing on behalf of the Commonwealth? Why should not every legal practitioner be entitled to appear in any Federal Court?

Mr. DEAKIN.—Every legal practitioner has the right to appear in any Federal Court, but not in every court exercising Federal jurisdiction. If that were allowed it would introduce into every State practitioners from another State; and although I believe that right will be given in time to come, it is too big a stride to take at present.

Mr. CROUCH (Corio).—Unless the words "or solicitor" are inserted after "barrister" the clause will mean that the Crown Solicitor, who may be stationed at the seat of government, and perhaps not able to attend a court at a distance, will have to instruct a barrister. In many cases it has been the practice for the Crown to instruct a solicitor, who does the work in a simpler manner, and at a much cheaper rate.

Mr. DEAKIN.—It will be a barrister and solicitor who will be employed in some cases.

Mr. CROUCH.—But there are States in which there is no amalgamation of the profession, and I think there ought to be the right to instruct a solicitor in another State.

Mr. DEAKIN.—It is thought that the Crown Solicitor will act either by himself or by his representative in each State; but I will consider the point.

Mr. ISAACS (Indi).—I do not feel quite satisfied with the explanation of the Attorney-General. I quite agree that we

should not interfere with the legal profession in the States, but I do not quite see why this privilege should be given only to the barrister whom the Commonwealth selects.

Mr. DEAKIN.—There is a possibility that the barrister may have appeared in similar cases in a particular State, and to employ him again would save instructing another barrister.

Sir JOHN QUICK.—If we have power to let a barrister, appearing on behalf of the Commonwealth, appear in any of the States Courts, why have we not power to let all legal practitioners do so?

Mr. DEAKIN.—I do not say that we have not the power, but I think that it is inexpedient to exercise it at once.

Mr. ISAACS.—I do not see why we should invade the States jurisdiction even for this purpose. I can hardly conceive that it is impossible to get in any of the States a local practitioner capable of doing the work.

Mr. DEAKIN.—It is quite possible. This is merely a convenience. I do not attach much importance to the provision.

Sir JOHN QUICK.—Why discriminate? Let us have all or none.

Mr. CROUCH (Corio).—Is the Attorney-General prepared to give all? I think that this matter should have been dealt with in clause 55, when I suggested an amendment, but I then understood the Attorney-General to say that it would be provided for in the future. That statement I took to be a promise that the matter would be attended to later on.

Mr. DEAKIN.—What I meant was that ultimately we may come to it, but that I do not think it wise to provide for it in this measure.

Sir JOHN QUICK.—If the honorable and learned member moves the omission of the words "if appearing on behalf of the Commonwealth," I will support him.

Mr. CROUCH.—Will clause 55 be recommitted?

Mr. DEAKIN.—I will recommit any clause of that nature in regard to which there is really a request for a recommittal.

Clause negatived.

Postponed clauses 58 to 62 agreed to.

Progress reported.

ADJOURNMENT.

ELECTORAL ROLLS.

Sir EDMUND BARTON (Hunter—Minister for External Affairs).—I move— That the House do now adjourn.

Last night the honorable member for Maranoa placed upon the notice-paper a question about the printing of the electoral rolls for Queensland. I have since obtained from the Minister for Home Affairs, who is unable to leave his room through illness, an answer to that question, which is in these words—

The Premier of Queensland having given his assurance that the whole of the work in connexion with the composition and printing of the Commonwealth rolls for Queensland will be carried out in the Government Printing-office, Brisbane, the order for that service will be placed with the Queensland Government forthwith, and some lists of electors grouped round polling places will be forwarded to the Government Printer during the next week.

Question resolved in the affirmative.

House adjourned at 10.51 p.m.